



General Assembly

February Session, 2024

Raised Bill No. 201

LCO No. 1366



Referred to Committee on GENERAL LAW

Introduced by:
(GL)

***AN ACT CONCERNING THE ATTORNEY GENERAL'S
RECOMMENDATIONS REGARDING PRICE DISCLOSURE, SERVICE
AGREEMENTS, THE NEW HOME CONSTRUCTION GUARANTY FUND
AND THE CONNECTICUT UNFAIR TRADE PRACTICES ACT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2024*) (a) For the purposes of this
2 section, "person" means an individual, corporation, limited liability
3 company, trust, partnership, incorporated or unincorporated
4 association or other legal entity doing business in this state.

5 (b) No person shall advertise, display or offer any price in trade or
6 commerce in this state unless such price clearly and conspicuously
7 discloses the total price, which total price shall include all mandatory
8 fees and charges other than any applicable tax imposed by a
9 government entity.

10 (c) A violation of subsection (b) of this section shall be deemed an
11 unfair or deceptive trade practice under subsection (a) of section 42-110b
12 of the general statutes.

13 Sec. 2. (NEW) (*Effective July 1, 2024*) For the purposes of this section
14 and sections 3 to 7, inclusive, of this act:

15 (1) "Person" has the same meaning as provided in section 20-329a of
16 the general statutes;

17 (2) "Record" means to present any instrument to a town clerk for
18 placement in the land records pursuant to section 7-24 of the general
19 statutes;

20 (3) "Residential real property" means one-family to four-family
21 residential real estate located in this state;

22 (4) "Service agreement" means any contract under which a service
23 provider agrees to provide any service to any person in this state in
24 connection with any maintenance, purchase or sale of residential real
25 property;

26 (5) "Service provider" means any person that provides, or agrees to
27 provide, any service to any other person in this state in connection with
28 any maintenance, purchase or sale of residential real property; and

29 (6) "Unfair service agreement" means any service agreement that (A)
30 is entered into on or after July 1, 2024, (B) does not require the service
31 provider that is a party to such agreement to perform any part of any
32 service pursuant to such agreement within the one-year period
33 immediately following the date on which the parties to such agreement
34 entered into such agreement, and (C) (i) purports to run with the land
35 or bind future owners of interests in the residential real property that is
36 the subject of such agreement, (ii) allows for any assignment of any right
37 to provide any service under such agreement without first providing
38 notice to, and obtaining consent from, the owner of the residential real
39 property that is the subject of such agreement, or (iii) purports to create
40 any lien or encumbrance upon, or other security interest in, the
41 residential real property that is the subject of such agreement.

42 Sec. 3. (NEW) (*Effective July 1, 2024*) (a) No service provider shall enter

43 into any unfair service agreement with any person who holds any
44 interest in residential real property.

45 (b) No unfair service agreement shall be enforceable.

46 (c) A violation of subsection (a) of this section shall be deemed an
47 unfair or deceptive trade practice under subsection (a) of section 42-110b
48 of the general statutes.

49 Sec. 4. (NEW) (*Effective July 1, 2024*) No person shall record, or cause
50 to be recorded, any unfair service agreement or any notice or
51 memorandum thereof. If any such agreement, notice or memorandum
52 is recorded, such agreement, notice or memorandum shall not be
53 deemed to provide actual or constructive notice against an otherwise
54 bona fide purchaser or creditor of the residential real property that is
55 the subject of such agreement. Notwithstanding the provisions of
56 section 7-24 of the general statutes, a town clerk may refuse to receive
57 any unfair service agreement, or any notice or memorandum thereof,
58 for recording.

59 Sec. 5. (NEW) (*Effective July 1, 2024*) (a) If any unfair service
60 agreement, or any notice or memorandum thereof, is recorded, any
61 person with an interest in the residential real property that is the subject
62 of such agreement or the Attorney General may apply to the Superior
63 Court for an order declaring such agreement to be unenforceable. Upon
64 presentment of such order to the town clerk of the town in which such
65 agreement, notice or memorandum is recorded, the recording of such
66 agreement, notice or memorandum shall be dissolved.

67 (b) If any unfair service agreement, or any notice or memorandum
68 thereof, is recorded, any person with an interest in the residential real
69 property that is the subject of such agreement may recover such actual
70 damages, costs and attorney's fees as may be proven against the service
71 provider that recorded such agreement or caused such agreement to be
72 recorded.

73 Sec. 6. (NEW) (*Effective July 1, 2024*) (a) Not later than July 31, 2024,

74 any service provider that entered into a service agreement on or before
75 June 30, 2024, shall record a notice of such service agreement with the
76 town clerk of the town in which the residential real property that is the
77 subject of such service agreement is located.

78 (b) Each notice recorded pursuant to subsection (a) of this section
79 shall include (1) the title "Notice of Service Agreement" printed in not
80 less than fourteen-point bold type, (2) a legal description of the
81 residential real property that is the subject of the service agreement, (3)
82 the amount of the fee specified in the service agreement or the method
83 by which such fee must be calculated, (4) the date or circumstances
84 under which the obligation set forth in the service agreement shall
85 expire, (5) the name, address and telephone number of the service
86 provider, and (6) if the service provider is (A) an individual, the
87 notarized signature of the individual, or (B) an entity, the notarized
88 signature of an authorized officer or employee of the entity.

89 (c) If a service provider fails to record the notice required under
90 subsections (a) and (b) of this section on or before July 31, 2024, the
91 service agreement shall be void and unenforceable and any interest in
92 the residential real property that is the subject of such service agreement
93 may be conveyed free and clear of such service agreement.

94 Sec. 7. (NEW) (*Effective July 1, 2024*) Notwithstanding the provisions
95 of sections 3 to 6, inclusive, of this act, no provision of said sections 3 to
96 6, inclusive, of this act shall be construed to:

97 (1) Apply to any (A) home warranty or similar product that covers
98 the cost of maintaining any major home system, including, but not
99 limited to, the cost of any electrical, plumbing or heating, ventilation
100 and air conditioning work, for a fixed period, (B) insurance contract, (C)
101 option or right of first refusal to purchase residential real property, (D)
102 declaration, as defined in section 47-202 of the general statutes, (E)
103 maintenance or repair agreement entered into by an association, as
104 defined in section 47-202 of the general statutes, (F) mortgage loan or
105 any commitment to make or receive any such loan, (G) security

106 agreement (i) relating to any sale or rental of any personal property or
107 fixture, and (ii) governed by the Uniform Commercial Code, or (H)
108 cable, electrical, sewer, telephone, water or other regulated utility
109 service provider; or

110 (2) Impair the rights granted by any mechanic's lien placed upon any
111 residential real property pursuant to chapter 847 of the general statutes.

112 Sec. 8. Section 20-417i of the general statutes is repealed and the
113 following is substituted in lieu thereof (*Effective from passage*):

114 (a) The commissioner shall establish and maintain the New Home
115 Construction Guaranty Fund.

116 (b) Each person who receives a certificate pursuant to sections 20-
117 417a to 20-417j, inclusive, shall pay a fee of two hundred forty dollars
118 annually to the New Home Construction Guaranty Fund. Such fees shall
119 be payable with the fee for an application for a certificate or renewal of
120 a certificate.

121 (c) (1) For fiscal years commencing on or after July 1, 2003, payments
122 received under subsection (b) of this section shall be credited to the New
123 Home Construction Guaranty Fund until the balance in the fund equals
124 seven hundred fifty thousand dollars. Annually, if the balance in the
125 fund exceeds seven hundred fifty thousand dollars, the first three
126 hundred thousand dollars of the excess shall be deposited in the
127 consumer protection enforcement account established in section 21a-8a.
128 On June 1, 2004, and each June first thereafter, if the balance in the fund
129 exceeds seven hundred fifty thousand dollars, the excess shall be
130 deposited in the General Fund.

131 (2) Any money in the New Home Construction Guaranty Fund may
132 be invested or reinvested in the same manner as funds of the state
133 employees retirement system and the interest arising from such
134 investments shall be credited to the fund.

135 (d) Whenever a consumer obtains a binding arbitration decision, a

136 court judgment, order or decree against or regarding any new home
137 construction contractor holding a certificate or who has held a certificate
138 under sections 20-417a to 20-417j, inclusive, or against or regarding any
139 individual who has an ownership interest in such contractor, within two
140 years of the date [of entering] such contractor entered into the contract
141 with the consumer, for loss or damages sustained by reason of any
142 violation of the provisions of sections 20-417a to 20-417j, inclusive, by a
143 person holding a certificate under said sections, such consumer may,
144 upon the final determination of, or expiration of time for taking, an
145 appeal in connection with any such decision, judgment, order or decree,
146 apply to the commissioner for an order directing payment out of the
147 New Home Construction Guaranty Fund of the amount, not exceeding
148 thirty thousand dollars, unpaid upon the decision, judgment, order or
149 decree for actual damages and costs taxed by the court against such
150 contractor or individual who has an ownership interest in such
151 contractor, exclusive of punitive damages. The application shall be
152 made on forms provided by the commissioner and shall be
153 accompanied by a copy of the decision, court judgment, order or decree
154 obtained against the new home construction contractor or individual
155 who has an ownership interest in such contractor together with a
156 statement signed and sworn to by the consumer, affirming that the
157 consumer has: (1) Complied with all the requirements of this subsection;
158 (2) obtained a decision, judgment, order or decree stating the amount of
159 the decision, judgment, order or decree and the amount owing on the
160 decision, judgment, order or decree at the date of application; and (3)
161 made a good faith effort to satisfy any such decision, judgment, order or
162 decree in accordance with the provisions of chapter 906 which effort
163 may include causing to be issued a writ of execution upon such decision,
164 judgment, order or decree but the officer executing the same has made
165 a return showing that no bank accounts or personal property of such
166 contractor or individual owner liable to be levied upon in satisfaction of
167 the decision, judgment, order or decree could be found, or that the
168 amount realized on the sale of them or of such of them as were found,
169 under the execution, was insufficient to satisfy the actual damage
170 portion of the decision, judgment, order or decree or stating the amount

171 realized and the balance remaining due on the decision, judgment, order
172 or decree after application on the decision, judgment, order or decree of
173 the amount realized, except that the requirements of this subdivision
174 shall not apply to a judgment, order or decree obtained by the consumer
175 in small claims court. A true and attested copy of such executing officer's
176 return, when required, shall be attached to such application. Whenever
177 the consumer satisfies the commissioner or the commissioner's designee
178 that it is not practicable to comply with the requirements of subdivision
179 (3) of this subsection and that the consumer has taken all reasonable
180 steps to collect the amount of the decision, judgment, order or decree or
181 the unsatisfied part of the decision, judgment, order or decree and has
182 been unable to collect the same, the commissioner or the commissioner's
183 designee may, in the commissioner's or the commissioner's designee's
184 discretion, dispense with the necessity for complying with such
185 requirement. No application for an order directing payment out of the
186 fund shall be made later than two years from the final determination of,
187 or expiration of time for taking, an appeal of such decision, court
188 judgment, order or decree and no such application shall be for an
189 amount in excess of thirty thousand dollars.

190 (e) Upon receipt of such application together with such copy of the
191 decision, court judgment, order or decree, statement and, except as
192 otherwise provided in subsection (d) of this section, true and attested
193 copy of the executing officer's return, the commissioner or the
194 commissioner's designee shall inspect such documents for their veracity
195 and upon a determination that such documents are complete and
196 authentic and that the consumer has not been paid, the commissioner
197 shall order payment out of the New Home Construction Guaranty Fund
198 of the amount not exceeding thirty thousand dollars unpaid upon the
199 decision, judgment, order or decree for actual damages and costs taxed
200 by the court against the contractor or individual who has an ownership
201 interest in such contractor, exclusive of punitive damages.

202 (f) (1) [Beginning] During the period beginning on October 1, 2000,
203 and ending on the date immediately preceding the effective date of this
204 section, whenever a consumer is awarded an order of restitution against

205 any new home construction contractor for loss or damages sustained as
206 a result of any violation of the provisions of sections 20-417a to 20-417j,
207 inclusive, by a person holding a certificate or who has held a certificate
208 under said sections within two years of the date [of entering] such
209 contractor entered into the contract with the consumer, in [(1)] (A) a
210 proceeding brought by the commissioner pursuant to subsection [(h)] (i)
211 of this section or subsection (d) of section 42-110d, [(2)] (B) a proceeding
212 brought by the Attorney General pursuant to subsection (a) of section
213 42-110m, as amended by this act, or subsection (d) of section 42-110d, or
214 [(3)] (C) a criminal proceeding pursuant to section 20-417e, such
215 consumer may, upon the final determination of, or expiration of time for
216 taking, an appeal in connection with any such order of restitution, apply
217 to the commissioner for an order directing payment out of the New
218 Home Construction Guaranty Fund of the amount not exceeding thirty
219 thousand dollars unpaid upon the order of restitution. The
220 commissioner may issue such order upon a determination that the
221 consumer has not been paid.

222 (2) Beginning on the effective date of this section, whenever a
223 consumer is awarded an order of restitution against any new home
224 construction contractor, or any individual who has an ownership
225 interest in such contractor, for loss or damages sustained as a result of
226 any violation of the provisions of sections 20-417a to 20-417j, inclusive,
227 by a person holding a certificate or who has held a certificate under said
228 sections within two years of the date such contractor entered into the
229 contract with the consumer, in (A) a proceeding brought by the
230 commissioner pursuant to subsection (i) of this section or subsection (d)
231 of section 42-110d, (B) a proceeding brought by the Attorney General
232 pursuant to subsection (a) of section 42-110m, as amended by this act,
233 or subsection (d) of section 42-110d, or (C) a criminal proceeding
234 pursuant to section 20-417e, such consumer may, upon the final
235 determination of, or expiration of time for taking, an appeal in
236 connection with any such order of restitution, apply to the
237 commissioner for an order directing payment out of the New Home
238 Construction Guaranty Fund of the amount not exceeding thirty

239 thousand dollars unpaid upon the order of restitution. The
240 commissioner may issue such order upon a determination that the
241 consumer has not been paid.

242 (g) Whenever the commissioner orders payment to a consumer out
243 of the New Home Construction Guaranty Fund based upon a decision,
244 judgment, order or decree of restitution against an individual who has
245 an ownership interest in a new home construction contractor holding,
246 or who has held a certificate under sections 20-417a to 20-417k, inclusive,
247 within two years of the date such contractor entered into the contract
248 with the consumer, such individual and contractor shall be jointly and
249 severally liable for the resulting debt to the New Home Construction
250 Guaranty Fund.

251 ~~[(g)]~~ (h) Before the commissioner may issue any order directing
252 payment out of the New Home Construction Guaranty Fund to a
253 consumer pursuant to subsection (e) or (f) of this section, the
254 commissioner shall first notify the new home construction contractor or
255 individual who has an ownership interest in such contractor of the
256 consumer's application for an order directing payment out of the fund
257 and of the new home construction contractor's or individual's right to a
258 hearing to contest the disbursement in the event that such contractor or
259 individual who has an ownership interest in such contractor has already
260 paid the consumer. Such notice shall be given to the new home
261 construction contractor or individual who has an ownership interest in
262 such contractor not later than fifteen days after receipt by the
263 commissioner of the consumer's application for an order directing
264 payment out of the fund. If the new home construction contractor or
265 individual who has an ownership interest in such contractor requests a
266 hearing, in writing, by certified mail not later than fifteen days after
267 receiving the notice from the commissioner, the commissioner shall
268 grant such request and shall conduct a hearing in accordance with the
269 provisions of chapter 54. If the commissioner does not receive a written
270 request for a hearing by certified mail from the new home construction
271 contractor or individual who has an ownership interest in such
272 contractor on or before the fifteenth day from the contractor's or

273 individual's receipt of such notice, the commissioner shall conclude that
274 the consumer has not been paid, and the commissioner shall issue an
275 order directing payment out of the fund for the amount not exceeding
276 thirty thousand dollars unpaid upon the judgment, order or decree for
277 actual damages and costs taxed by the court against the new home
278 construction contractor or individual who has an ownership interest in
279 such contractor, exclusive of punitive damages, or for the amount not
280 exceeding thirty thousand dollars unpaid upon the order of restitution.

281 [(h)] (i) The commissioner or the commissioner's designee may,
282 [proceed against] within two years of the date any new home
283 construction contractor holding a certificate or who has held a certificate
284 under sections 20-417a to 20-417j, inclusive, [within two years of the
285 effective date of entering] entered into the contract with the consumer,
286 proceed against such contractor or any individual who has an
287 ownership interest in such contractor for an order of restitution arising
288 from loss or damages sustained by any consumer as a result of any
289 violation of the provisions of said sections 20-417a to 20-417j, inclusive.
290 Any such proceeding shall be held in accordance with the provisions of
291 chapter 54. In the course of such proceeding, the commissioner or the
292 commissioner's designee shall decide whether to (1) exercise the powers
293 specified in section 20-417c, (2) order restitution arising from loss or
294 damages sustained by any consumer as a result of any violation of the
295 provisions of sections 20-417a to 20-417j, inclusive, and (3) order
296 payment out of the New Home Construction Guaranty Fund.
297 Notwithstanding the provisions of chapter 54, the decision of the
298 commissioner or the commissioner's designee shall be final with respect
299 to any proceeding to order payment out of the fund and the
300 commissioner and the commissioner's designee shall not be subject to
301 the requirements of chapter 54 as such requirements relate to an appeal
302 from any such decision. The commissioner or the commissioner's
303 designee may hear complaints of all consumers submitting claims
304 against a single new home construction contractor in one proceeding.

305 [(i)] (j) No application for an order directing payment out of the New
306 Home Construction Guaranty Fund shall be made later than two years

307 from the final determination of, or expiration of time for, an appeal in
308 connection with any judgment, order or decree of restitution, and no
309 such application shall be for an amount in excess of thirty thousand
310 dollars.

311 [(j)] (k) In order to preserve the integrity of the New Home
312 Construction Guaranty Fund, the commissioner, in the commissioner's
313 sole discretion, may order payment out of the fund of an amount less
314 than the actual loss or damages incurred by the consumer or less than
315 the order of restitution awarded by the commissioner or the Superior
316 Court. In no event shall any payment out of the fund be in excess of
317 thirty thousand dollars for any single claim by a consumer.

318 [(k)] (l) If the money deposited in the New Home Construction
319 Guaranty Fund is insufficient to satisfy any duly authorized claim or
320 portion of a claim, the commissioner shall, when sufficient money has
321 been deposited in the fund, satisfy such unpaid claims or portions of
322 claims not exceeding thirty thousand dollars, in the order that such
323 claims or portions of claims were originally determined.

324 [(l)] (m) Whenever the commissioner has caused any sum to be paid
325 from the New Home Construction Guaranty Fund to a consumer, the
326 commissioner shall be subrogated to all of the rights of the consumer up
327 to the amount paid plus reasonable interest, and prior to receipt of any
328 payment from the fund, the consumer shall assign all of the consumer's
329 right, title and interest in the claim up to such amount to the
330 commissioner, and any amount and interest recovered by the
331 commissioner on the claim shall be deposited in the fund.

332 [(m)] (n) If the commissioner orders the payment of any amount as a
333 result of a claim against a new home construction contractor or an
334 individual who has an ownership interest in a new home construction
335 contractor, the commissioner shall determine if such contractor or
336 individual who has an ownership interest in such contractor is
337 possessed of assets liable to be sold or applied in satisfaction of the claim
338 on the New Home Construction Guaranty Fund. If the commissioner

339 discovers any such assets, the commissioner may request that the
340 Attorney General take any action necessary for the reimbursement of
341 the fund.

342 [(n)] (o) If the commissioner orders the payment of an amount as a
343 result of a claim against a new home construction contractor or an
344 individual who has an ownership interest in a new home construction
345 contractor, the commissioner may, after notice and hearing in
346 accordance with the provisions of chapter 54, revoke the certificate of
347 such contractor and such contractor shall not be eligible to receive a new
348 or renewed certificate until such contractor has repaid such amount in
349 full, plus interest from the time such payment is made from the New
350 Home Construction Guaranty Fund, at a rate to be in accordance with
351 section 37-3b, except that the commissioner may, in the commissioner's
352 sole discretion, permit a new home construction contractor to receive a
353 new or renewed certificate after such contractor has entered into an
354 agreement with the commissioner whereby such contractor agrees to
355 repay the fund in full in the form of periodic payments over a set period
356 of time. Any such agreement shall include a provision providing for the
357 summary suspension of any and all certificates held by the new home
358 construction contractor if payment is not made in accordance with the
359 terms of the agreement.

360 Sec. 9. Section 42-110j of the general statutes is repealed and the
361 following is substituted in lieu thereof (*Effective from passage*):

362 In the administration of this chapter, the commissioner may accept
363 an assurance of voluntary compliance with respect to any method, act
364 or practice deemed in violation of this chapter from any person alleged
365 to be engaged or to have been engaged in such method, act or practice.
366 Such assurance may include an amount as restitution to aggrieved
367 persons and for investigative costs. No such assurance of voluntary
368 compliance shall be considered an admission of violation for any
369 purpose. Matters thus closed may at any time be reopened by the
370 commissioner for further proceedings in the public interest. In the event
371 of any violation of the terms of an assurance of voluntary compliance

372 accepted under this section, the commissioner may request that the
373 Attorney General apply to the Superior Court for relief from such
374 violation consistent with section 42-110m, as amended by this act.

375 Sec. 10. Subsection (a) of section 42-110m of the general statutes is
376 repealed and the following is substituted in lieu thereof (*Effective from*
377 *passage*):

378 (a) Whenever the commissioner has reason to believe that any person
379 has been engaged or is engaged in an alleged violation of any provision
380 of this chapter said commissioner may proceed as provided in sections
381 42-110d and 42-110e or may request the Attorney General to apply in
382 the name of the state of Connecticut to the Superior Court for an order
383 temporarily or permanently restraining and enjoining the continuance
384 of such act or acts or for an order directing restitution and the
385 appointment of a receiver in appropriate instances, or both. Proof of
386 public interest or public injury shall not be required in any action
387 brought pursuant to section 42-110d, section 42-110e or this section.
388 Such action may include an application to enforce any term of an
389 assurance of voluntary compliance accepted under section 42-110j, as
390 amended by this act. The court may award the relief applied for or so
391 much as it may deem proper including reasonable attorney's fees,
392 accounting and such other relief as may be granted in equity. In such
393 action the commissioner shall be responsible for all necessary
394 investigative support.

395 Sec. 11. Subsection (b) of section 42-110o of the general statutes is
396 repealed and the following is substituted in lieu thereof (*Effective from*
397 *passage*):

398 (b) In any action brought under section 42-110m, as amended by this
399 act, if the court finds that a person is wilfully using or has wilfully used
400 a method, act or practice prohibited by section 42-110b, the Attorney
401 General, upon petition to the court, may recover, on behalf of the state,
402 a civil penalty of not more than five thousand dollars for each violation.
403 For purposes of this subsection, a wilful violation occurs when: [the] (1)

404 The party committing the violation knew or should have known that his
 405 conduct was a violation of section 42-110b; or (2) a person violates the
 406 terms of an assurance of voluntary compliance accepted under section
 407 42-110j, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2024</i>	New section
Sec. 2	<i>July 1, 2024</i>	New section
Sec. 3	<i>July 1, 2024</i>	New section
Sec. 4	<i>July 1, 2024</i>	New section
Sec. 5	<i>July 1, 2024</i>	New section
Sec. 6	<i>July 1, 2024</i>	New section
Sec. 7	<i>July 1, 2024</i>	New section
Sec. 8	<i>from passage</i>	20-417i
Sec. 9	<i>from passage</i>	42-110j
Sec. 10	<i>from passage</i>	42-110m(a)
Sec. 11	<i>from passage</i>	42-110o(b)

Statement of Purpose:

To: (1) Provide that no person doing business in this state shall advertise, display or offer any price in trade or commerce unless such price clearly and conspicuously discloses the total price; (2) prohibit unfair service agreements; (3) require certain service providers to record notice concerning certain service agreements; and (4) implement the Attorney General's recommendations concerning (A) the New Home Construction Guaranty Fund, and (B) the Connecticut Unfair Trade Practices Act.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]