



## Agency Legislative Proposal - 2015 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

2015 An Act Making Minor and Technical changes to Department of Consumer Protection Statutes.docx

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

Department of Consumer Protection

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Lead agency division requesting this proposal:

Various divisions

Agency Analyst/Drafter of Proposal: Gary Berner

### Title of Proposal

**An Act Making Minor and Technical Changes to Department of Consumer Protection Statutes**

### Statutory Reference

Sections 7-173 through 7-176; 7-185a; 20-432; 20-417i; 20-515

### Proposal Summary

This proposed bill makes minor and/or technical changes within 5 DCP statutes, as described below.

*Please attach a copy of fully drafted bill (required for review)*

## PROPOSAL BACKGROUND

### • Reason for Proposal

*Please consider the following, if applicable:*

- (1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?*
- (2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?*
- (3) *Have certain constituencies called for this action?*
- (4) *What would happen if this was not enacted in law this session?*

Section 1 proposes a minor expansion of permitted activities under the Golf Ball drop statute. As presently written, this law allows certain charitable organizations to conduct Golf Ball drops by use of helicopters, hot air balloons, and other aircraft. DCP has received requests from organizations to conduct such raffles using less expensive (and less potentially dangerous) methods, such as using a payloader or crane from where the golf balls would be dropped. DCP seeks to tweak this statute to accommodate these requests and to promote safer conduct of golf ball drop raffles.

Section 2 proposes to make a minor change in the process of taking applications and issuing permits for bazaars & raffles. In 2014, a DCP bill significantly amended this process and we propose making a further improvement this year to improve efficiency and consumer satisfaction. Specifically, we propose that charitable organizations wishing to conduct a bazaar or raffle would be required to submit only one application to DCP (rather than duplicates), and to pay to DCP only the amount due



to the state. DCP would review and approve the application and notify the municipality. When the municipality is prepared to issue the permit, the applicant would go to the municipal office, pay the amount owed to the municipality, and receive the permit. There is no change to the permit fees charged, and this change ensures that the municipalities will receive all fees they are owed immediately rather than to rely on DCP to forward their funds at some time in the future.

Section 3 of this bill makes a minor change within the Home Improvement Guaranty Fund statute by adding the words "order" and "decree" in addition to the existing term "court judgment." This proposal clarifies that court orders and court decrees--terms used in probate and bankruptcy courts--are sufficient for consumer access to the Home Improvement Guaranty fund.

Section 4 of the bill makes the same changes as in Section 3 within the New Home Guaranty Fund. Additionally, we propose to remove the need for consumers to submit "certified" copies of court judgments with their applications. "Certified copies" are sometime difficult for consumers to obtain, and are no longer needed by DCP as on-line tools exist to confirm the judgments. A DCP bill in 2012 removed "certified" from the Home Improvement Guaranty Fund statute which has resulted in no processing problems.

Section 5 removes one subsection with the Real Estate Appraiser statute. This change is proposed based on an audit of Connecticut Real Estate Appraisal laws conducted by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council. It was determined that the existing statute's reciprocity language was not in compliance with federal guidelines as being overly restrictive. DCP proposes to comply with the federal audit by deleting the one offending subsection. DCP concurs that the remaining language will continue to ensure that reciprocity is granted only to those license-holders from other states that have substantially the same, or higher, licensing requirements.

- **Origin of Proposal**       **New Proposal**       **Resubmission**

*If this is a resubmission, please share:*

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (4) *What was the last action taken during the past legislative session?*

### PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name:            N/A  
 Agency Contact (name, title, phone):  
 Date Contacted:

Approve of Proposal     YES     NO     Talks Ongoing

#### Summary of Affected Agency's Comments

N/A

Will there need to be further negotiation?     YES     NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)





## Section 2

Section 7-173 of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

Any organization desiring to operate a bazaar or raffle in a municipality which has adopted the provisions of sections 7-170 to 7-186, inclusive, shall make application [~~in duplicate~~], duly executed and verified, to the [chief of police of any municipality having a police department or to the chief executive officer of any town in which there is no police department,] Commissioner of Consumer Protection on a form to be prescribed by the [Commissioner of Consumer Protection] commissioner, in which shall be stated (1) the name and address of the applicant; (2) facts relating to its incorporation or organization; (3) the names, titles and addresses of its officers; (4) the kind of bazaar or raffle intended to be held, operated and conducted by the applicant; (5) the place where such bazaar or raffle is intended to be conducted by the applicant under the permit applied for; (6) the date or dates and the time or times when such bazaar or raffle is intended to be conducted by the applicant under the permit applied for; (7) in the case of a raffle, the number and price of tickets intended to be sold; (8) the items of expense intended to be incurred or paid in connection with the holding, operating and conducting of such bazaar or raffle and the names and addresses of the persons to whom, and the purposes for which, they are to be paid; (9) the items of merchandise offered, the price to be paid by the organization therefor or the retail value of any prize donated, and the names and addresses of the persons from whom purchased or by whom donated; (10) the specific purposes to which the entire net proceeds of such bazaar or raffle are to be devoted and in what manner; and (11) any other information which the commissioner reasonably requires for the protection of the public. In each application there shall be designated three active members of the applicant under whom the bazaar or raffle described in the application is to be held, operated and conducted and to the application shall be appended a statement signed, under penalty of false statement, by such members so designated that they are residents of this state and will be responsible for the holding, operation and conduct of such bazaar or raffle in accordance with the terms of the permit and the provisions of said sections, and that the statements contained in the application are, to the best of their knowledge and belief, true. [Such chief of police or chief executive officer, as the case may be, shall, at least five business days prior to the date of such bazaar or raffle, forward the original copy of such application to said commissioner who shall review such application to determine whether the applicant is qualified to hold, operate and conduct a bazaar or raffle under the provisions of sections 7-170 to 7-186, inclusive, or any regulations



adopted pursuant thereto, and whether other requirements in said statutes and regulations have been satisfied. ] The commissioner shall forward the ~~[duplicate copy of such]~~ application to the chief of police of the municipality or, if there is no police department, to the chief executive officer of the municipality. For the purposes of applying for a "Class No. 7" permit, authorized pursuant to section 7-175, the application required pursuant to this section shall be [made to the Commissioner of Consumer Protection] retained by the commissioner.

Section 7-174 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

[Such] After receipt of an application from the Commissioner of Consumer Protection, the chief of police or chief executive officer, as the case may be, shall, on behalf of the [Commissioner of Consumer Protection] commissioner, make or cause to be made an investigation of the qualifications of the applicant and the facts stated in the application and, if such chief of police or chief executive officer determines that the applicant is qualified to hold, operate and conduct a bazaar or raffle under the provisions of sections 7-170 to 7-186, inclusive, that the members of the applicant designated in the application to hold, operate or conduct such bazaar or raffle are [electors of such municipality] residents of this state, bona fide active members of the applicant and persons of good moral character and have never been convicted of a felony and that such bazaar or raffle is to be held, operated and conducted in accordance with the provisions of said sections and administrative regulations issued pursuant thereto, such chief of police or chief executive officer shall, with the approval of the commissioner, issue a permit to such applicant. [Upon issuing such permit, such chief of police or chief executive officer shall forward to the commissioner the state's share of the permit fee, if any. ] Any investigation required pursuant to this section of the qualifications of an applicant for a "Class No. 7" permit, authorized pursuant to section 7-175, and any issuance of a "Class No. 7" permit shall be made by the [Commissioner of Consumer Protection] commissioner.

Section 7-176 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

The fees to be charged for permits and submitted to the Commissioner of Consumer Protection at the time of application shall be as follows: A "Class No. 1" permit, fifty dollars, twenty-five dollars [to be retained by the] at the time of application to the [municipality] state and twenty-five dollars [remitted to the] upon issuance of the permit to the [state] municipality; a "Class No. 2" permit, twenty dollars, ten dollars [to be retained by the] at the time of application to the [municipality] state and ten dollars [to be remitted to the] upon issuance of the permit to the [state] municipality; a "Class



No. 3" permit, twenty dollars for each day of the bazaar, ten dollars [to be retained by the] at the time of application to the [municipality] state and ten dollars [to be remitted to the] upon issuance of the permit to the [state] municipality; a "Class No. 4" permit, five dollars, to be [retained by] remitted to the municipality; a "Class No. 5" permit, eighty dollars, forty dollars [to be retained by the] at the time of application to the [municipality] state and forty dollars [remitted to the] upon issuance of the permit to the [state] municipality; a "Class No. 6" permit, one hundred dollars, fifty dollars [to be retained by the] at the time of application to the [municipality] state and fifty dollars [remitted to the] upon issuance of the permit to the [state] municipality; and a "Class No. 7" permit, one hundred dollars to be retained by the state.

### **Section 3**

**Sec. 20-432. Home Improvement Guaranty Fund.** (a) The commissioner shall establish and maintain the Home Improvement Guaranty Fund.

(b) Each salesman who receives a certificate pursuant to this chapter shall pay a fee of forty dollars annually. Each contractor who receives a certificate pursuant to this chapter shall pay a fee of one hundred dollars annually to the guaranty fund. Said fee shall be payable with the fee for an application for a certificate or renewal thereof. The annual fee for a contractor who receives a certificate of registration as a home improvement contractor acting solely as the contractor of record for a corporation, shall be waived, provided the contractor of record shall use such registration for the sole purpose of directing, supervising or performing home improvements for such corporation.

(c) Payments received under subsection (b) of this section shall be credited to the guaranty fund until the balance in such fund equals seven hundred fifty thousand dollars. Annually, if such fund has an excess, the first four hundred thousand dollars of the excess shall be deposited into the consumer protection enforcement account established in section 21a-8a. Any excess thereafter shall be deposited in the General Fund. Any money in the guaranty fund may be invested or reinvested in the same manner as funds of the state employees retirement system, and the interest arising from such investments shall be credited to the guaranty fund.

(d) Whenever an owner obtains a court judgment, order or decree against any contractor holding a certificate or who has held a certificate under this chapter within the past two years of the effective date of entering into the contract with the owner,



for loss or damages sustained by reason of performance of or offering to perform a home improvement within this state by a contractor holding a certificate under this chapter, such owner may, upon the final determination of, or expiration of time for, appeal in connection with any such judgment, order or decree apply to the commissioner for an order directing payment out of said guaranty fund of the amount unpaid upon the judgment, order or decree for actual damages and costs taxed by the court against the contractor, exclusive of punitive damages. The application shall be made on forms provided by the commissioner and shall be accompanied by a copy of the court judgment, order or decree obtained against the contractor together with a notarized affidavit, signed and sworn to by the owner, affirming that: (1) He has complied with all the requirements of this subsection; (2) he has obtained a judgment, order or decree stating the amount thereof and the amount owing thereon at the date of application; and (3) he has caused to be issued a writ of execution upon said judgment, and the officer executing the same has made a return showing that no bank accounts or real property of the contractor liable to be levied upon in satisfaction of the judgment, order or decree could be found, or that the amount realized on the sale of them or of such of them as were found, under the execution, was insufficient to satisfy the actual damage portion of the judgment, order or decree or stating the amount realized and the balance remaining due on the judgment, order or decree after application thereon of the amount realized, except that the requirements of this subdivision shall not apply to a judgment, order or decree obtained by the owner in small claims court. A true and attested copy of said executing officer's return, when required, shall be attached to such application and affidavit. No application for an order directing payment out of the guaranty fund shall be made later than two years from the final determination of, or expiration time for, appeal of said court judgment, order or decree.

(e) Upon receipt of said application together with said copy of the court judgment, order or decree notarized affidavit and true and attested copy of the executing officer's return, the commissioner or his designee shall inspect such documents for their veracity and upon a determination that such documents are complete and authentic, and a determination that the owner has not been paid, the commissioner shall order payment out of the guaranty fund of the amount unpaid upon the judgment for actual damages and costs taxed by the court against the contractor, exclusive of punitive damages.

#### **Section 4**



**Sec. 20-417i. New Home Construction Guaranty Fund.** (a) The commissioner shall establish and maintain the New Home Construction Guaranty Fund.

(b) Each person who receives a certificate pursuant to sections 20-417a to 20-417j, inclusive, shall pay a fee of four hundred eighty dollars biennially to the fund. Such fee shall be payable with the fee for an application for a certificate or renewal of a certificate.

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

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

(d) Beginning October 1, 2000, whenever a consumer obtains a court judgment, order or decree against any new home construction contractor holding a certificate or who has held a certificate under sections 20-417a to 20-417j, inclusive, within the past two years of the date of entering into the contract with the consumer, for loss or damages sustained by reason of any violation of the provisions of sections 20-417a to 20-417j, inclusive, by a person holding a certificate under said sections, such consumer may, upon the final determination of, or expiration of time for taking, an appeal in connection with any such judgment, order or decree, apply to the commissioner for an order directing payment out of the New Home Construction Guaranty Fund of the amount not exceeding thirty thousand dollars unpaid upon the judgment, order or decree for actual damages and costs taxed by the court against such contractor, exclusive of punitive damages. The application shall be made on forms provided by the commissioner and shall be accompanied by a [certified] copy of the court judgment, order or decree obtained against the new home construction contractor together with a notarized affidavit, signed and sworn to by the consumer, affirming that the consumer has: (1) Complied with all the requirements of this subsection; (2) obtained a judgment, order or decree, stating the amount of the judgment, order or decree and the amount owing on the judgment, order or decree at the date of application; and (3) made a good faith effort to satisfy any such judgment,



order or decree in accordance with the provisions of chapter 906 which effort may include causing to be issued a writ of execution upon such judgment, order or decree, but the officer executing the same has made a return showing that no bank accounts or real property of such contractor liable to be levied upon in satisfaction of the judgment, order or decree could be found, or that the amount realized on the sale of them or of such of them as were found, under the execution, was insufficient to satisfy the actual damage portion of the judgment, order or decree or stating the amount realized and the balance remaining due on the judgment, order or decree after application on the judgment, order or decree of the amount realized, except that the requirements of this subdivision shall not apply to a judgment, order or decree obtained by the consumer in small claims court. A true and attested copy of such executing officer's return, when required, shall be attached to such application and affidavit. Whenever the consumer satisfies the commissioner or the commissioner's designee that it is not practicable to comply with the requirements of subdivision (3) of this subsection and that the consumer has taken all reasonable steps to collect the amount of the judgment, order or decree or the unsatisfied part of the judgment, order or decree and has been unable to collect the same, the commissioner or the commissioner's designee may, in the commissioner's discretion, dispense with the necessity for complying with such requirement. No application for an order directing payment out of the fund shall be made later than two years from the final determination of, or expiration of time for taking, an appeal of such court judgment, order or decree and no such application shall be for an amount in excess of thirty thousand dollars.

(e) Upon receipt of such application together with such [~~certified~~] copy of the court judgment, order or decree, notarized affidavit and, except as otherwise provided in subsection (d) of this section, true and attested copy of the executing officer's return, the commissioner or the commissioner's designee shall inspect such documents for their veracity and upon a determination that such documents are complete and authentic and that the consumer has not been paid, the commissioner shall order payment out of the New Home Construction Guaranty Fund of the amount not exceeding thirty thousand dollars unpaid upon the judgment, order or decree for actual damages and costs taxed by the court against the contractor, exclusive of punitive damages.

(f) Beginning October 1, 2000, whenever a consumer is awarded an order of restitution against any new home construction contractor for loss or damages sustained as a result of any violation of the provisions of sections 20-417a to 20-417j, inclusive, by a person holding a certificate or who has held a certificate under said



sections within the past two years of the date of entering into the contract with the consumer, in (1) a proceeding brought by the commissioner pursuant to subsection (h) of this section or subsection (d) of section 42-110d, (2) a proceeding brought by the Attorney General pursuant to subsection (a) of section 42-110m or subsection (d) of section 42-110d, or (3) a criminal proceeding pursuant to section 20-417e, such consumer may, upon the final determination of, or expiration of time for taking, an appeal in connection with any such order of restitution, apply to the commissioner for an order directing payment out of the New Home Construction Guaranty Fund of the amount not exceeding thirty thousand dollars unpaid upon the order of restitution. The commissioner may issue such order upon a determination that the consumer has not been paid.

(g) Before the commissioner may issue any order directing payment out of the New Home Construction Guaranty Fund to a consumer pursuant to subsection (e) or (f) of this section, the commissioner shall first notify the new home construction contractor of the consumer's application for an order directing payment out of the fund and of the new home construction contractor's right to a hearing to contest the disbursement in the event that such contractor has already paid the consumer. Such notice shall be given to the new home construction contractor not later than fifteen days from the receipt by the commissioner of the consumer's application for an order directing payment out of the fund. If the new home construction contractor requests a hearing, in writing, by certified mail not later than fifteen days from receipt of the notice from the commissioner, the commissioner shall grant such request and shall conduct a hearing in accordance with the provisions of chapter 54. If the commissioner does not receive a written request for a hearing by certified mail from the new home construction contractor on or before the fifteenth day from the contractor's receipt of such notice, the commissioner shall conclude that the consumer has not been paid, and the commissioner shall issue an order directing payment out of the fund for the amount not exceeding thirty thousand dollars unpaid upon the judgment for actual damages and costs taxed by the court against the new home construction contractor, exclusive of punitive damages, or for the amount not exceeding thirty thousand dollars unpaid upon the order of restitution.

(h) The commissioner or the commissioner's designee may proceed against any new home construction contractor holding a certificate or who has held a certificate under sections 20-417a to 20-417j, inclusive, within the past two years of the effective date of entering into the contract with the consumer, for an order of restitution arising from loss or damages sustained by any consumer as a result of any violation of the provisions of said sections 20-417a to 20-417j, inclusive. Any such proceeding shall



be held in accordance with the provisions of chapter 54. In the course of such proceeding, the commissioner or the commissioner's designee shall decide whether to (1) exercise the powers specified in section 20-417c, (2) order restitution arising from loss or damages sustained by any consumer as a result of any violation of the provisions of sections 20-417a to 20-417j, inclusive, and (3) order payment out of the New Home Construction Guaranty Fund. Notwithstanding the provisions of chapter 54, the decision of the commissioner or the commissioner's designee shall be final with respect to any proceeding to order payment out of the fund and the commissioner and the commissioner's designee are exempted from the requirements of chapter 54 as such requirements relate to an appeal from any such decision. The commissioner or the commissioner's designee may hear complaints of all consumers submitting claims against a single new home construction contractor in one proceeding.

(i) No application for an order directing payment out of the New Home Construction Guaranty Fund shall be made later than two years from the final determination of, or expiration of time for, an appeal in connection with any judgment, decree or order of restitution, and no such application shall be for an amount in excess of thirty thousand dollars.

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

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

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



(m) If the commissioner orders the payment of any amount as a result of a claim against a new home construction contractor, the commissioner shall determine if such contractor is possessed of assets liable to be sold or applied in satisfaction of the claim on the New Home Construction Guaranty Fund. If the commissioner discovers any such assets, the commissioner may request that the Attorney General take any action necessary for the reimbursement of the fund.

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

## **Section 5**

**Sec. 20-515. Persons certified, licensed or provisionally licensed in another state. Requirements for Connecticut certification, license or provisional license. Consent to suits and actions. Fees. Regulations.** (a) A person who is licensed in another state as a real estate appraiser may become a real estate appraiser in this state by conforming to all of the provisions of sections 20-500 to 20-528, inclusive. The commission shall recognize a current, valid certification, license or provisional license, as the case may be, issued to a currently practicing, competent real estate appraiser by another state as satisfactorily qualifying such appraiser for a certification, license or provisional license, as the case may be, as a real estate appraiser under said sections, provided~~[-(1) The laws of the state in which such appraiser is licensed allow certifications, licenses or provisional licenses, as the case may be, to be issued to a resident of this state, without examination, who is certified, licensed or provisionally licensed, as the case may be, under said sections 20-500 to 20-528, inclusive, and (2)]~~



the certification, licensing and provisional licensing requirements of the state in which such appraiser is licensed are substantially similar to or higher than those of this state, including establishment of competency by written examination in the case of licensed and certified appraisers, and such appraiser has no disciplinary proceeding or unresolved complaint pending against such appraiser. If the applicant is licensed in a state that does not have such requirements, such applicant shall be certified, licensed or provisionally licensed by a state in accordance with Section 1116 of Title XI of FIRREA.