



State of Wisconsin

CORRESPONDENCE/MEMORANDUM

*Department of Agriculture, Trade and Consumer Protection
Division of Trade and Consumer Protection*

Emergency Management Information

Subject: Emergency Home Repairs

Following extreme storms, flash flooding, or other catastrophic events in a community, many citizens need immediate repairs to their home or property. This can deplete reliable local resources, and in the past, we have seen consumers fall victim to fly-by-night contractors. These “Storm Chasers” may come into an area following a severe storm, perform substandard or no repair work, and depart after being paid. This leaves the consumer with little recourse when problems arise.

In an effort to prevent problems, attached are fact sheets and brochures that we believe will assist you. Please feel free to reproduce these materials as needed. If you have questions, or want to check for prior complaints involving a business, please contact the Bureau of Consumer Protection:

**Bureau of Consumer Protection
2811 Agriculture Drive
PO Box 8911
Madison WI 53708**

EMAIL: DATCPHotline@wi.gov

WEBSITE: datcp.wi.gov

(800) 422-7128

(608) 224-4976

FAX: (608) 224-4677

TTY: (608) 224-5058

Wisconsin's home improvement laws protect consumers contracting for improvements including:

basements porches landscaping
sidewalks terraces water softeners
patios/decks garages floor coverings
driveways heating air conditioning
swimming pools home alarm systems

Tips on hiring contractors Most contractors involved in home improvements are honest, reliable and skilled, but some are not. Here are suggestions on how to find good contractors:

- Decide in advance what the job will involve. Draw sketches and clip pictures to show to prospective contractors.
- Get more than one estimate. Make sure all contractors are bidding on exactly the same work. Make sure the contractor comes to the job site rather than giving a telephone estimate. Be leery of an extremely low estimate.
- Ask for the names of the contractor's recent customers and call to see if they are satisfied. Did the contractor show up on time, clean up afterward, and follow through with their warranties? Would they hire the contractor again?
- Contact the Bureau of Consumer Protection, (800) 422-7128 or (608) 224-4976, and the Better Business Bureau, (800) 273-1002 or (414) 847-6000, to find out if complaints have been filed against the contractor.

Contractor requirements Before you enter into a home improvement contract, the contractor must inform you of all required building or construction permits. If

the contractor is doing general construction work, such as siding, insulation, and roofing, on one or two-family homes and will be obtaining the building permits, the contractor must have a Dwelling Contractor Certification, and a Dwelling Contractor Qualifier Certification from Department of Safety and Professional Services, (608) 266-2112.

These contractor certifications show proof that the contractor has paid for worker's compensation, unemployment insurance, and minimum levels of liability or a bond. The liability insurance covers worker and public injuries and damage to property.

If contractors cannot show you a registration card, it may mean trouble if you hire them. Some contracts are written to put the responsibility for building permits and insurance on the homeowner. However, homeowners taking out building permits themselves have no assurance that the contractor has proper insurance.

Consumers may ask any contractor for a certificate of insurance with the homeowner's name and address listed as a certificate holder. This certificate shows that the contractor has an active policy. As a certificate holder, the homeowner will then be informed if the contractor's insurance policy expires.

Contracts Do not rely on oral agreements. For the protection of both you and the contractor, it is wise to request a written contract in all situations. The contract serves as a statement that the contractor knows exactly what services you want performed. Do not sign anything until you understand it all. Consult an attorney if you have questions.

Make sure the contract contains:

- The name and address of the salesperson, as well as the company name and address (not just a post office box number).
- A full description of the job. Again, do not rely on oral agreements.
- A detailed list of materials to be used including the name, brand, size, models, performance capacity of the items, and the quantity of materials to be used.
- The total price, plus finance charges.
- A starting and completion date, to prevent the job from going on indefinitely.
- A statement explaining any warranties on materials, labor or services. Be sure you understand any exceptions or limitations.

If any payment is required before the work is done, a written contract is required by the law. The consumer should demand one if the contractor does not offer it. Get all guarantees in writing. Never sign a completion certificate or make final payment until you are satisfied and all work is done as specified.

Lien waivers Home improvement contractors by law, must give the buyer a "Notice of Consumer's Right to Receive Lien Waivers" before the buyer and seller enter into a home improvement contract. The notice shall inform the buyer, that the buyer may request lien waivers from all contractors, subcontractors, and material suppliers at, or prior to, the time any payment is made on the home improvement contract.

When any payment is made – especially final payment – consumers have the option to get lien waivers from the contractor.

Contractors must provide the lien waivers **if you request them**. You should always ask for a lien waiver from the contractor when you make a payment. This will prevent a subcontractor or material supplier from putting a lien on your home if the contractor does not pay the bills. The following case history explains why lien waivers are so important to consumers:

Case history Mr. Jones signed a contract with ABC Contractors for the construction of an addition to his home. When the work was done, Jones paid the contracted price and started enjoying his new addition.

A month later, he received a "Notice of Intent to File Claim for Lien" from the lumberyard where ABC Contractors obtained building materials in the mail.

What happened? Although Jones had paid his bill, ABC Contractors did not pay the lumberyard. The law allows a subcontractor or supplier of materials to place a lien on the property where the work was done, if the contractor does not pay his bills. This can happen even if the homeowner has paid the contract in full. **To protect against this, insist on being given completed "waiver of lien" forms from the contractor and each subcontractor anytime payment is made. These forms should be signed by the contractor and every other person supplying materials or labor covered by the payment.**

Beware of transients As sure as the summer brings tourists to Wisconsin, it also brings transient or temporary home improvement workers and scams. These rip-off artists will probably hit your town.

Transient contractors specialize in blacktopping driveways, installing lightning rods, painting and yard work. Their work and material are usually inferior and they are likely to steal from you.

Consumers who pay for what they think is a bargain price for blacktopping may soon have dandelions growing through their driveways. Homes may need repainting after the next rainfall.

Also, the cost of the job may rise considerably after the work is performed, and the consumer may be intimidated into paying the increase.

Transients hit an area, take the money, and run. Frequently, they know the quickest route to the banks in your area to cash checks.

If transients come to your door:

- Do not give into high pressure tactics.
- Do not let them in your home. They are experts at finding and taking valuables.
- Determine the make and model of their vehicles, get license plate numbers, and alert local law enforcement.
- Call the police immediately if they begin to do a job without your authorization.

Right to Cure Law Under Wis. Stat. s.101.148, contractors must provide consumers a brochure, at the time of

contracting, that describes the requirements for making future claims about construction defects. The “Right to Cure” law, Wis. Stat. ss. 895.07(2) & (3), provides timetables and other steps to help consumers and contractors resolve disputes. Failure to follow the “Right to Cure Law” can result in dismissal of legal or arbitration actions.

If you have a concern about poor quality work or materials, you must provide written notice to the contractors or suppliers before any legal action may be filed. The contractors and suppliers have an opportunity to respond to the claims, including the right to inspect and test alleged defects. You have the right to accept or reject settlement offers – in full or in part – via written notice.

Right to cancel If you were solicited and signed a contract for more than \$25 at your home (or away from the contractor’s regular place of business), Wisconsin law allows you three business days to cancel. The contractor is required to provide you with two copies of the notice of your right to cancel at the time the contract is signed.

To cancel the sale, consumers must sign and date a notice of cancellation and mail it to the contractor before midnight of the third business day. Sending cancellation notices by certified mail, return receipt requested, lets you know your notice was delivered.

If you pay for, but do not receive materials, services, or completion of work, you may cancel a home improvement contract after three business days by:

- Giving a written notice canceling the contract.

- Demanding return of all money the contractor has not yet spent on the project. (The contractor must return this amount to you within 15 days.)
- Demanding delivery of all materials which the contractor has purchased with your money. (The contractor must deliver the materials within 15 days or within 5 days after the contractor receives materials from the supplier, whichever is later.)

In addition, if your contract is for an exterior home repair or construction and involves an insurance claim, you may have additional protections under Wisconsin Law (§100.65, Wis. Stats.).

Criminal violations of home improvement laws can result in maximum fines of \$5000 and imprisonment for up to a year. Civil violations can result in maximum fines of \$10,000.

Consumers may sue for twice the amount of any damages, together with courts costs and reasonable attorney’s fees.

For more information or to file a complaint, visit our website or contact the Bureau of Consumer Protection.

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HOME IMPROVEMENT

Consumer tips



**CONSUMER
PROTECTION** WISCONSIN
DEPARTMENT OF
AGRICULTURE,
TRADE AND
CONSUMER
PROTECTION

Wisconsin "Right to Cure Law"

The "Right to Cure Law" provides the steps and timetables to be followed in resolving any claims of dwelling construction defects by consumers against contractors or suppliers. Claims must be pursued through the "Right to Cure Law" process before arbitration or before legal action.

The 2005 Wisconsin Act 201, the "Right to Cure Law," says that consumers at the time of contracting for construction or remodeling work for dwellings must be provided with this brochure describing requirements for making any future claims of construction defects.

People who feel they have a claim concerning defective workmanship or materials need to provide written notice to contractors or suppliers before any legal action may be filed. The contractors and suppliers have the opportunity and the responsibility to respond to claims.

Construction defects can involve workmanship, materials, or code requirements in new construction or remodeling, but not maintenance or repairs. Claims may be made by owners, tenants, or property associations.

This document highlights some of the provisions of the "Right to Cure Law", and is not a complete description of the law, and is not a substitute for legal representation.

Notice Concerning Construction Defects

Wisconsin law contains important requirements you must follow before you may file a lawsuit for defective construction against the contractor who constructed your dwelling or completed your remodeling project or against a window or door supplier or manufacturer. Section 895.07 (2) and (3) of the Wisconsin statutes requires you to deliver to the contractor a written notice of any construction conditions you allege are defective before you file your lawsuit, and you must provide your contractor or window or door supplier the opportunity to make an offer to repair or remedy the alleged construction defects. You are not obligated to accept any offer made by the contractor or window or door supplier. All parties are bound by applicable warranty provisions.

More Highlights

- Claimants may accept settlement offers, accept them in part, or reject offers, doing so via detailed written notice.
- The law does not apply where there is no contract to construct, as in the case of purchasing an existing home.
- Contractors and suppliers have the right to inspect and, as appropriate, test alleged defects.
- Access must be provided in a timely fashion for inspections, tests, and repairs.
- Additional claims made or discovered after an original claim, are treated as separate in terms of time and process.
- There is a different timetable and process for the claims and responses if a contractor seeks contribution from a supplier.
- Failure by the claimant, contractor, or supplier to follow the "Right to Cure Law" can result in delay or dismissal of legal or arbitration actions.

The Department Safety and Professional Services prepared this brochure, but does not investigate, arbitrate, or judge consumer-contractor/supplier disputes. Those disputes are solved through the "Right to Cure Law" process, by the state's court system, and, for alterations and additions, the Home Improvement Practices Code, ATCP 110, of the state Department of Agriculture, Trade, and Consumer Protection.

The Department Safety and Professional Services does not discriminate on the basis of sex, race, religion, age, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional or learning disability. Reasonable accommodation, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Contact the Industry Services Division at 608-266-2112, or TTY 800-947-3529.

Chronology of the step-by-step claim and response interaction between consumers and contractors/suppliers

Step One Notice of Claim—At least 90 working days before commencing an action against a contractor or window or door supplier or manufacturer, a claimant must deliver a written notice of the alleged defect to the contractor.

Step Two: Contractor's Response—The contractor will have 15 working days (or 25 working days if it involves a defect involving a window or door supplier) to provide the claimant with a written: (1) offer to repair or remedy the defect; (2) offer to settle the claim with a monetary payment; (3) offer of a combination of (1) and (2); (4) statement that the contractor rejects the claim and the reasons for rejecting the claim; or (5) proposal to inspect the alleged defect or perform any necessary testing.

Step Three: Claimant's Response—If the contractor rejects the claim, the claimant may proceed to commence an action against the contractor. The claimant must serve written notice on the contractor within 15 working days if he or she either accepts any offer or rejects an offer. Note that if the claimant has a claim against a window or door supplier or manufacturer, the claimant should contact the supplier to ensure that the supplier received a notice of the claim from the contractor.

Step Four: Contractor's Supplemental Response—If the claimant rejects the offer, the contractor has five working days to provide a written supplemental offer or a notice that no additional offer will be made.

Step Five: Claimant's Response—If the contractor has provided the claimant written notice that no additional offer will be made, the claimant may commence a lawsuit or other action against the contractor. If the claimant has received a supplemental offer from the contractor, the claimant must respond within 15 working days.

Rev. 9/14

Emergency home repair tips

In an emergency situation, consumers needing home repairs are more vulnerable to scams. Here are some tips to prevent problems, based on past consumer complaints.

1. Contact the Bureau of Consumer Protection, (800) 422-7128 or (608) 224-4976, and the Better Business Bureau, (800) 273-1002 or (414) 847-6000, to find out if complaints have been filed against a contractor.
2. Get lien waivers from anyone that you pay for home repairs. It is vital to do this, because if the person collecting the money does not pay their supplier or workers, a lien could be put on your property. This can happen unless you have a lien waiver.
3. Consumers can avoid some problems by paying for materials themselves, dealing directly with the supplier. We recommend this.
4. Often “storm chasers” appear after a disaster, trying to make a quick buck by doing shoddy work or sometimes not doing any work. Try to get a local contractor to do the repairs. Ask contractors if they are subcontracting your job, and if so, who will actually be doing the work. They are required to disclose any subcontractors to you.
5. Get a written contract which is signed by both parties that includes, the contractor’s name and address, start and end dates, a full description of the work to be done, a detailed list of materials to be used, the total price for the job, and any statements of warranties. Prior to signing the contract, the contractor must provide you with a copy of the “Notice of Consumer’s Right to Receive Lien Waivers”.
6. Have someone around to watch the work being done. That way, it is less likely that steps will be skipped and more likely the job will be done quickly and properly.
7. Request a copy of the contractor’s certificate of liability insurance.

For more information or to file a complaint, visit our website or contact the Bureau of Consumer Protection at:

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Protecting Wisconsin Consumers for 75 Years

Beware of home improvement transients

As sure as the summer brings tourists to Wisconsin, it also brings transient (temporary) home improvement workers and scams. These rip-off artists will probably hit your community.

Transient contractors specialize in blacktopping driveways, installing lightning rods, painting, roofing and siding.

Their work and materials are inferior. They are likely to steal from you.

Consumers who pay for what they think is a bargain price for blacktopping may soon have dandelions growing through their driveways. Homes may need repainting after the next rainfall. Or the cost of the job may rise considerably after the work is performed and the consumer may be intimidated into paying the increase.

Transients hit an area, take the money, and run. Frequently they know the quickest route to the banks in your area to cash checks.

Transients lure you with a "free inspection" which could result in damage to your property.

If transients come to your door:

- Do not give into their high-pressure tactics.
- Do not let them in your home. They are experts at finding and taking valuables.
- Determine the make and model of their vehicles and get license plate numbers, and alert local law enforcement.
- Call the police immediately if they begin to do a job without your authorization.

If you need home improvement work done:

- Contact a local business.
- Get recommendations from friends and neighbors. It is not always wise to hire an unknown door-to-door seller for home improvement work.
- Contact the Bureau of Consumer Protection to find out if there are complaints on file against the contractor.

For more information or to file a complaint, visit our website or contact the Bureau of Consumer Protection.

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Filing a complaint

If you have a problem with a business that you cannot resolve alone, consider filing a complaint with the Bureau of Consumer Protection.

Who can file?

We accept complaints from Wisconsin consumers and from out-of-state consumers dealing with businesses in Wisconsin.

Our primary focus is to ensure fair trade practices under Wisconsin statutes and administrative codes. We mainly provide support for consumer-to-business matters, rather than or consumer-to-consumer transactions.

Consumer-to-consumer transactions conducted online, at a rummage sale, garage sale, or from an individual's front yard, driveway, or similar are private transactions with little to no regulation or government protections. Consumers should be cautious with such buyer-beware transactions.

Resolving a dispute with the other party of a consumer-to-consumer transaction may require legal advice from a private attorney.

When to file?

You may file a complaint with us at any time, but we prefer that you make a reasonable attempt to resolve the matter directly with the business before you contact us. Most businesses depend on satisfied customers, and reputable firms will typically make an honest effort to resolve problems but first you must let them know a problem exists.

Go to the seller first and identify yourself. Be calm, courteous and friendly. Explain the problem clearly. Be specific and reasonable as to what you want – replacement, refund or repairs. Provide copies of relevant documents, but **keep originals**. Listen carefully to the seller's explanation and what is offered as a settlement. You may have to compromise.

Do not be put off if the seller becomes upset or is difficult to work with. You may have to write a letter to the business in order to have the right person hear your situation. Keep your letter neat and concise. Be sure to include the following:

- Identify the product or service purchased

- Give the date and how you purchased the product or service
- Include all important details
- Clearly state the problem
- Give a brief history of the problem
- List attempts you made to resolve the issue
- Send **copies** of documents
- Give a reasonable deadline for them to respond
- Include how you can be contacted

Why file?

If you are not getting anywhere with the other party in a timely manner, are unsatisfied with the resolution, or are unable to make contact with the company, we may be able to help. Some businesses are happy to work directly with the consumer, while others respond better after Consumer Protection gets involved in the dispute.

How to file?

All complaints must be received in writing. You may file online, by email, mail, or fax.

Topic-specific complaint forms, like landlord/tenant, home improvement, telemarketing, and others are available online, by mail or fax.

When possible, file online by visiting our website at:

datcp.wi.gov

To the left on the screen, select "File a Complaint".

You can also call our hotline to request a form by mail or fax:

**Toll-free in WI: 1-800-422-7128
(608) 224-4976**

Return the completed form with copies (**not originals**) of all documents supporting your complaint.

What happens after you file?

Once we receive your complaint, it is entered into our complaint database in the order received and given a file number. That number should be on all correspondence related to your complaint.

We will contact you by mail once we have reviewed your complaint. Please know that it can take up to 2 to 3 weeks to review complaints.

We will attempt to contact the business about your complaint. Sometimes we are unable to find a valid business address or the business refuses to respond. Although we cannot force a resolution, our efforts often prompt the business to offer a solution to the problem.

We will inform you in writing when we get feedback from the business. If we decide your complaint should be handled by another agency, we will forward your complaint to the appropriate agency and send you a letter telling you where we sent it.

If we believe the business may have violated state consumer laws, we will include that in our correspondence with the business. In some situations, we may send the business a formal warning notice or start an investigation.

If, after an investigation, the violation is serious and widespread, we may recommend the case to the Department of Justice (DOJ) or to a district attorney (DA) for prosecution. Further action by the DOJ or a DA is their decision.

Our referrals may lead to prosecutions which can result in convictions, fines, imprisonment, or restitution to victims. However, judgments and money awards can only be made through the court system.

How long is the process?

Our process takes time, and complex issues can take several months.

We can handle your complaint faster and more efficiently if you fill out the form as completely as possible. We encourage you to submit additional information in writing, but please do not contact us repeatedly for status reports. We ask for, and appreciate, your patience.

Still not satisfied?

Please remember that consumer laws only provide protection in some areas. The Bureau of Consumer Protection cannot offer legal advice or serve as your private attorney. If your complaint is not resolved to your satisfaction, you may consider:

- Discussing your complaint with a private attorney.
- Taking action in Small Claims Court. Refer to our "Small Claims Court" Fact Sheet for more information.

You can contact an attorney by calling the State Bar of Wisconsin Lawyer Referral Service at: 800-362-9082 or (608) 257-4666. If you meet income requirements, you can also get low-cost legal services by looking up Legal Aid in the yellow pages of your phone book.

For more information

For more information or to file a complaint, visit our website or contact the Bureau of Consumer Protection.

Bureau of Consumer Protection

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Department of Agriculture, Trade and Consumer Protection

Home Improvement

Please attach two sets of copies (both sides) of all documentation that supports your complaint, such as: invoices, receipts, contracts, cancelled checks, advertisement/catalog page showing item ordered, lease documents, telephone bills.

1. How do we contact you?

Name: (Mr. Mrs. Miss Ms.) _____
(circle one) (first) (middle) (last)

Phone: Home () _____ Work () _____ ext. _____ Cell () _____

Contact me between 8:00 A.M. and 4:00 P.M. at: (circle one) Home Work Cell Email: _____

Address: _____ Apt.# _____ PO Box: _____

City: _____ State: _____ Zip: _____ County: _____

Improvement property address: _____ Apt.# _____

Improvement property city: _____ State: _____ Zip: _____ County: _____

2. What business is your complaint against?

Name of business: _____

Address: _____ Ste.# _____ PO Box: _____

City: _____ State: _____ Zip: _____ County: _____

Phone: () _____ Name of person you talked to: _____ Title: _____

Business email: _____ Business website: _____

Information about your complaint

3. Which of the following best describes your first contact with the business: (check one)

- | | | |
|---|---|--|
| <input type="checkbox"/> Internet | <input type="checkbox"/> Person from business came to my home | <input type="checkbox"/> I went to the business |
| <input type="checkbox"/> Email | <input type="checkbox"/> Person from business called me | <input type="checkbox"/> I telephoned the business |
| <input type="checkbox"/> I responded to a radio or TV ad | <input type="checkbox"/> Business sent me information in the mail | |
| <input type="checkbox"/> I responded to a printed advertisement | <input type="checkbox"/> I attended a convention or trade show | |

4. How old is the person who had contact with the business? Age: (circle one) 0-17 18-61 62 or older

5. Did you sign a contract? (circle one) No Yes Date: _____ Total: \$ _____

6. What type of property repair/improvement was performed: residential business new home construction

7. Was the improvement advertised? (circle one) No Yes

8. Did the contractor:
- | | | |
|--|------------------------------|-----------------------------|
| Inform you of your right to written lien waivers? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| Provide you with any written lien waivers? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| Substitute products or materials without your consent? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| Furnish written guarantees or warranties? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| Misrepresent the total completion price? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| Claim credit for a competitor's work? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| Falsely claim to be a member of another firm? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| Fail to disclose that another firm would perform work? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| Perform the work in a satisfactory manner? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

IMPORTANT: More questions on the back page (over)

Alert for Contractors: Storm Chasers

After a big storm or other emergency, non-local contractors may contact you and offer to be your subcontractor, while promising you a percentage of each contract. You may see this as a way to help take care of your customers and maybe make a little extra money, but this could be dangerous to your wallet and your reputation. Complaints to the Bureau of Consumer Protection report that subcontractors may take short cuts, use cheaper materials, fail to pay for materials and leave jobs uncompleted. These consumers then come to you to resolve any problems because your company name is on the contract.

Contractors: Protect yourself! **You can be held responsible for your subcontractor's work.**

1. Home improvement contractors by law, must give the buyer a "Notice of Consumer's Right to Receive Lien Waivers" before the buyer and seller enter into a home improvement contract. The notice shall inform the buyer, that the buyer may request lien waivers from all contractors, subcontractors, and material suppliers at, or prior to, the time any payment is made on the home improvement contract.
2. Stay involved and inspect your subcontractor's work. Is the job being done the way you would do it? Are the materials the types you would use? Is there a written, detailed contract?
3. Are the payments made by the buyer being deposited in an account that you can access? Are you receiving copies of your subcontractor's home improvement contracts?

For more information or to receive a copy of the home improvement code, visit our website or contact the Bureau of Consumer Protection at:

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Alert for Building Suppliers

Home improvement contractors by law, must give the buyer a “Notice of Consumer’s Right to Receive Lien Waivers” before the buyer and seller enter into a home improvement contract. The notice shall inform the buyer, that the buyer may request lien waivers from all contractors, subcontractors, and material suppliers at, or prior to, the time any payment is made on the home improvement contract.

As a building supplier, you should provide “lien waivers” to your contractors, for any materials purchased, so that the contractors can pass them onto the homeowners and be compliant with the law. Failure by the contractor to provide lien waivers can be a criminal offense.

For more information or to receive a copy of the home improvement code, visit our website or contact the Bureau of Consumer Protection at:

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(608) 224-4953

FAX: (608) 224-4677

TTY: (608) 224-5058