

**Testimony of Marianne Sensale-Guerin in cautious support of LD1929 An Act to Protect Consumers by
Licensing Home Building Contractors**

Maine Legislative

Joint standing Committee on Innovation, development, Economic Advancement ,and Business

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Senator Curry, Representative Roberts and all the esteemed members of the Committee on Innovation, Development, Economic Advancement and Business. My name is Marianne Sensale-Guerin currently a resident of Yarmouth with the hopes of being a resident of Sanford within the next couple of months.

I come to you today to express my cautious support for LD1929. Before I speak about the details of the proposed bill, I believe it is necessary to provide a bit about my professional background and my recent experience with a contractor building my home in Sanford.

First my background. In 2005 I was the recipient of the SBA National Small Businessperson of the year award. I have run several small businesses including an environmental contracting business which served both commercial and residential customers. I was the Director of Finance and Administration for Milestone Recovery for 6 years, the Assistant Vice President of Finance and Administration for 7 years with the Maine Credit Union League/Synergent and, as of late, retired from the Portland Public Library as the Director of Finance and Operations.

I believe it is important that I express that I am pro-business and pro-consumer protection. I believe you can be both.

Here is a quick summary of my recent experience with a residential home contractor. My husband and I contracted with a developer/general contractor to build our home in the Maynard Oaks subdivision in Sanford. We entered into the construction contract in January of 2022 with a substantial completion date of July 31, 2022.

Prior to signing the contract with the contractor, we received references from the contractor that checked out. Why wouldn't they most will only give you references that will speak highly of your work and your company. We went further than just the references provided and checked with the AG's office to see if there were any pending or past complaints about the company, there were none. We also checked with the Bureau of Corporations and found that the company was in good standing with the State.

We secured a construction loan with a local financial institution and closed the loan in early March 2022. The contractor was provided with a \$90K deposit from us and an additional \$30K from the construction loan so the contractor could secure materials and subcontractors to begin work. The date of substantial completion came and went, and no work had begun.

In August of 2022 the foundation was finally installed. We were informed by the title company that the contractor had set the foundation 2' into the setback, therefore making it non-compliant with City code. The contractor assured us that it was only 3" and was working with the City of Sanford to resolve the setback issue.

We were told that we would be in the house in 6 weeks. Yes, we were skeptical but believed what we were being told. We were cognizant of supply issues and gave the contractor the benefit of the doubt that we would be in within the six weeks. The contractor continued to do some of the build however all work stopped on the house in October 2022. Prior to stopping the contractor received additional disbursements from the construction loan for items and supplies that he did not complete or pay to the suppliers. That's another story that has me questioning the bank's need for an outside project management firm.

After spending money for an independent survey, we discovered that the foundation was indeed 2' into the setback. We were also informed by many of the subcontractors that the contractor was not paying them for work completed. None of the subcontractors would return to the site to work. Fast forward to December 2022. We were left with no other option but to terminate our contract with the general contractor for breach and unresponsiveness.

We became aware of liens that were placed on the property for non-payment to suppliers (which he did receive payment for from construction loan proceeds). At this point, the bank stopped disbursing funds from the construction loan until the setback issue was resolved and the liens were satisfied. It took us until April of 2023 to resolve all the issues that the general contractor left in his wake.

Fortunately, between myself and my husband we have project management and finance experience and the bank agreed to allow us to self-complete the project to get it back on track. We anticipate being in the house by July 1, 2023, nearly one year from the projected substantial completion date.

This has come at great financial cost to us. We are currently \$70K over the estimated cost to build the house and we are not done yet. We also have attorney fees, added rental costs, added interest costs and the cost of our time to manage the project.

We are fortunate that we have financial resources to absorb these costs, most people do not. The only recourse currently to recover our losses is to sue the contractor. This can take years and he could potentially file for bankruptcy leaving us with nothing but added legal fees.

I also want to mention that we are not the only consumer in the subdivision that contracted with this contractor that is in this position.

In Maine and in most other states a person's largest asset and investment is in their primary home. When a contractor can walk away from their performance and financial responsibility of building a home without accountability, it is a travesty to the consumer with major financial implications.

To be clear, I do not believe that this contractor set out to not complete our house. I believe he took on too many projects and did not have the financial capacity or knowledge of his financial situation to complete the projects. He was robbing Peter to pay Paul and Peter finally caught up with him.

My story and many others like mine are why we need legislation that protects the consumers from incompetent and financially incapable contractors.

LD1929 provides the framework for licensing of residential construction contractors but it does not address their financial responsibility. Having liability insurance that does not include errors and omissions and that is in an aggregate of \$100,000 does nothing to protect the consumer. A single claim of liability insurance can easily hit that amount of coverage.

I believe a better solution would be to require residential home contractors that contract with consumers for the construction or improvements of their home for a value more than \$50K provide a performance and payment bond equal to the contract amount plus 20%. This will mitigate the contractors taking on more work than they are financially capable of performing.

As an alternative they could have their financial institution provide an irrevocable stand-by letter of credit. Either of these requirements will ensure the consumer that the contractor has the financial capability to complete the work.

If the work is not completed or the subcontractors do not get paid, then the consumer would have the ability to call the bond for completion of work and payment to subcontractors. This is the way we can protect the consumer from poor workmanship, code violations and/or the threat of mechanic liens.

There are other pieces to the proposed legislation that I have ideas about and would be happy to offer my assistance in any way that I can to the committee. I look forward to working with you to enact legislation which will protect the consumer, continue to grow our economy, and protect our small builders and contractors from getting in over their heads financially.

Thank you for allowing me this time to offer my testimony.