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Testimony in Support of LD 1266, *An Act to Protect Consumers by Licensing Residential Building Contractors*

Senator Curry, Representative Gere, and honorable members of the Joint Standing Committee on Housing. My name is Ben Dexter. I am an Assistant Attorney General in the Consumer Protection Division of the Maine Attorney General's Office. I am here today to testify in support of LD 1266, *An Act to Protect Consumers by Licensing Residential Building Contractors*

LD 1226 establishes licensing requirements for home construction contractors that will protect consumers and public safety against bad actors without being overly burdensome for the many good contractors in Maine. LD 1226 would require contractors engaged in residential construction projects over \$15,000 to be licensed. There are exemptions from the license requirement, including design professionals, those providing services in response to an emergency, and those performing work on their own single-family home. The license includes insurance coverage and minimal education or experiential requirements, which we believe many home construction contractors already satisfy. And, importantly, LD 1226 includes a provision permitting enforcement by the Attorney General's Office.

LD 1226 also amends contract requirements for residential construction contracts over \$7,500 to prohibit collection of more than 85% of the total contract price prior to substantial completion of the work. This will avoid one of our most common complaints: that contractors accept payment for a project and abandon it without completing the scope of work. The bill also eliminates mandatory alternative dispute resolution language in contracts, avoiding harm to consumers and contractors who may not understand the difference between mediation and arbitration and preventing unintentional waiver of rights by either party. Finally, it eliminates the section permitting consumers to exempt themselves out of the contract requirements.

Our office receives more consumer complaints against home construction contractors than against any other trade or business. These complaints have consistent themes: contractors accepting deposits and disappearing; contractors suddenly stopping work and consumers unable to find or afford a replacement; contractors demanding additional funds without reaching construction milestones; contractors not paying subs, leading to stopped work and liens on homes; and contractors performing defective work that is unsafe and/or not up to code, and requires replacement or repair.

Since January 1, 2020, our office has received 3,246 complaints against home construction contractors. In more than 1,020 cases, the contractor never finished—and often never even started—any work. Our office's consumer mediation program mediated 420 of the complaints, but we were only able to resolve 94. The total amount of restitution obtained for consumers was \$189,659—a fraction of the actual costs to consumers from incomplete and defective work. The most common reason that these mediations are unsuccessful is that the contractor does not respond or refuses to participate.

I want to emphasize that these figures include only those consumers who file complaints with our office. Based on experience, I believe that most consumers with complaints against their home contractors do not contact our office.

Consumers have very little bargaining power when it comes to hiring a contractor, so when things go wrong, the loss usually falls completely on the consumer. And these complaints increase during challenging economic times, exacerbating the harm to consumers. The Attorney General's Office sees the destructive impact of the absence of effective oversight and enforcement tools on a regular basis. The law currently fails to protect consumers from harm. Instead, the system is 100% reactive and the remedies it provides are almost always inadequate. Most consumers do not have thousands of dollars to hire a lawyer, and even when they do, a contractor will often not have sufficient assets to satisfy a judgment. Faced with little option, consumers reach out to the Attorney General's Office or their local District Attorney, reasonably expecting that one of these officials must be able to help them.

Unfortunately, under existing law, our office's enforcement tools are extremely limited. Like consumers, our office can file a civil lawsuit, but we encounter the same problems as the consumer: litigation is slow, sometimes years-long, and contractors usually have insufficient assets to satisfy a judgment. In the meantime, consumers and their families are living in unsafe, unfinished homes, without the money to hire anyone else to fix them. And, infuriatingly for the consumers, the contractor can continue to operate while the lawsuit is pending and inflict more harm on consumers.

For many Mainers who are fortunate enough to own their home, it is their most valuable and important asset. Right now, our laws do not recognize that reality and do not safeguard that investment. By establishing a licensing requirement and giving our office better enforcement tools, LD 1226 would go a long way to protecting consumers and their homes.

Some key aspects of LD 1226 proactively address the issues identified above:

1. By requiring licensing, consumers can confirm that their contractor is in good standing, has educational or experiential skill to perform the work, and has not engaged in the sort of illegal conduct that would prevent them from being licensed;
2. Unlicensed contractors would be subject to civil penalties for failure to be licensed, which encourages compliance;

3. Unlicensed contractors would lose the ability to file a mechanic's lien, a severe remedy that consumers are often unable to combat, and has lasting negative impact on home value and consumers' financial status; and
4. When a licensed contractor violates the law, the Attorney General can bring a civil action in the Superior Court to revoke the license and prevent additional consumers from being harmed.

Maine is an outlier in home contractor licensing. 37 states, including Washington, D.C., have some form of state licensing or registration. And other states have a municipal licensing or registration regime. Maine is one of only six states that lack any licensing or registration requirement. LD 1226 would put Maine on even footing with the vast majority of states in terms of protecting consumers with contractor licensing.

I therefore urge the Committee to vote Ought to Pass on LD 1226. Thank you for your consideration.