



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 depletes reliable local resources, and as a result, we see 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:

1-800-422-7128

2811 Agriculture Drive
PO Box 8911
Madison WI 53708

(608) 224-4976

FAX: (608) 224-4939

TTY: (608) 224-5058

EMAIL: DATCPHotline@Wisconsin.gov

WEBSITE: www.datcp.state.wi.us

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

basements	driveways	landscaping
terraces	sidewalks	water softeners
patios/decks	garages	floor coverings
porches	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, perform follow-up service on 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

A contractor must inform you, before you enter into a home improvement contract, of all required building or construction permits. To get a building permit for one or two-family homes built after 1980 (in many municipalities, homes of any age), contractors must be registered with the Division of Safety and Buildings, (608) 266-3151, showing proof they have 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 can't 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. By taking out the building permit, the homeowner has 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

Don't rely on oral agreements. For the protection of both you and the contractor, it's 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. Don't sign anything until you know the meaning of 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, don't 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 doesn't 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

When any payment is made—especially final payment get lien waivers from the contractor. This will prevent a subcontractor or material supplier from putting a lien on your home if the contractor doesn't pay the bills.

Wisconsin law requires that consumers receive a lien waiver from a contractor whenever they make partial or final payments. Consumers, however, should know in advance to ask for a lien waiver if one is not offered. 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" in the mail from the lumberyard where ABC Contractors obtained building materials.

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 doesn't 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.**

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.

What do you do after three business days? Here's how to cancel home improvement contracts if you pay for but don't get materials and services:

- Give a written notice canceling the contract.
- Demand return of all money the contractor has not yet spent on the project. (The contractor must return this amount to you within 15 days.)
- Demand 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.)

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.

Beware of transients

As sure as the summer brings tourists to Wisconsin, it also brings transient 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 materials are usually inferior and they are likely to steal from you.

A consumer who pays for what he thinks is a bargain price for blacktopping may soon have dandelions growing through his driveway. 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:

- Don't give into high pressure tactics.
- Don't 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.

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

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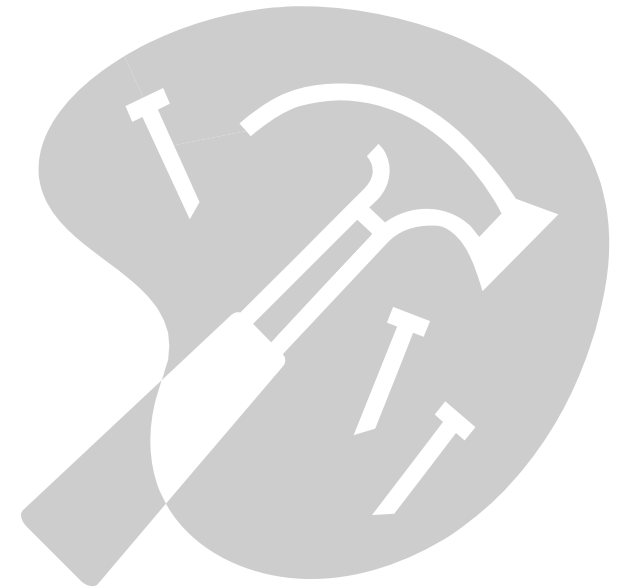
Toll-free in WI: (800) 422-7128

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TTY: (608) 224-5058

HOME IMPROVEMENT

Consumer tips



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

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.
- Remedies to claims may involve repairs, monetary payment, or a combination of repairs and payments.
- 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 Act” can result in delay or dismissal of legal or arbitration actions.

The Wisconsin Department of Commerce 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 Safety and Buildings Division at 608-266-3151, or TTY 608-264-8777.

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.

Wisconsin’s Framework for Successful Communications Between Consumers and Contractors



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.

The “Right to Cure Law” also provides timetables and steps to help solve disputes and misunderstandings between consumers and contractors related to residential construction and remodeling, before going to court or arbitration.

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.



This brochure 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.

The “Right to Cure Law” requires that before any dwelling construction begins, consumers must be provided with this brochure prepared by the state Department of Commerce, and the following notice:

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 or manufacturer the opportunity to make an offer to repair or remedy the alleged construction defects. You are not obligated to accept any offer made to repair or remedy the alleged construction defects.

The Wisconsin Department of Commerce 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 “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.

If no agreement has been reached concerning the alleged defect after the structured exchange of communications between a claimant and the contractor or supplier, according to the “Right to Cure Law” process, the claimant may file a legal action in court or go to arbitration.

Construction defects can involve workmanship, materials, or code requirements in new construction or remodeling, but not maintenance or repairs.

Consumers and contractors or suppliers are bound by warranty terms for products or services. A warranty can define a construction defect.

A dwelling is any premise or portion of a premise that is used as a home or place of residence. This also includes existing driveways, sidewalks, swimming pools, patios, porches, detached garages, etc.

Claims are a request or demand to remedy a construction defect caused by a contractor or supplier. Claims may be made by owners, tenants, or property associations.

Claimants have a number of responsibilities in making timely specific written claims to contractors and suppliers.



Contractors are persons who enter into written or verbal contracts to construct or remodel a dwelling. Suppliers are persons who manufacture or provide windows or doors for a dwelling.

The steps for claims and responses are defined in the “Right to Cure Law.” Claims must include specific written description of alleged defects and evidence to substantiate the nature and cause of defects. Responses to claims and other written communications must also be specific to allegations and evidence.

Contractors or suppliers must respond to a written claim within a set number of working days either by offering to repair or remedy in some fashion, by requesting an opportunity to inspect, by involving a supplier, or by rejecting the claim.

2005 Wisconsin Act 201 may be found on the Department of Commerce Web site, as can a PDF copy of this brochure: <http://commerce.wi.gov/SB/SB-DivPublications.html>. Contact legal counsel for more information on the “Right to Cure Law,” and consumer and contractor rights and responsibilities.

Tips for consumers:

Emergency home repairs

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

1. 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 the supplier or workers, *a lien could be put on your property!* This can happen unless you have a lien waiver.
2. Consumers can avoid some problems by paying for materials themselves, dealing directly with the supplier. We recommend this.
3. 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.
4. Get a written contract and warranty information.
5. If at all possible, 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.
6. Request a copy of the contractor’s certificate of liability insurance.

Call the Department of Agriculture, Trade and Consumer Protection if you have inquiries about contractors (we can tell you if we have received complaints), or need to report a problem.

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Beware of home improvement transients

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

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

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

A consumer who pays for what he thinks is a bargain price for blacktopping may soon have dandelions growing through his driveway. 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.

If transients come to your door:

- Don't give into their high-pressure tactics.
- Don't 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.

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 solve alone, consider filing a complaint with the Bureau of Consumer Protection.

Who can file a complaint?

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 business-to-business or consumer-to-consumer transactions.

When to file a complaint?

You can 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 make an honest effort to resolve problems – but first you must let them know a problem exists. See “How to Resolve a Complaint” for tips on how to complain effectively.

Why file a complaint?

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. Others respond better after Consumer Protection gets involved.

How to file a complaint?

Complaints must be in writing. You can file online, by mail, or by fax.

When possible, file online by visiting our website at

<http://datcp.wi.gov>

Select “Filing a Complaint” on the top center area of our home page.

You can also call our hotline at 1-800-442-7128 or (608) 224-4976 and request a form be mailed to you.

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

How is your complaint processed?

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

A consumer specialist or investigator will contact the business about your complaint. Although we cannot force a resolution, our efforts will often prompt the business to offer a solution to the problem.

You can expect to receive information about your complaint by mail. We will inform you in writing when we get feedback from the business. In most cases, we will receive a written response from the business, but sometimes the business will refuse to respond or we are unable to find a valid address.

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 the violation is serious and widespread, we may recommend the case to the Department of Justice or to a district attorney for prosecution.

Further action is their decision. Our investigations may lead to prosecutions which can result in convictions, fines, imprisonment, or restitution to victims. However, judgments and money awards can only be made by the court system.

How long is the complaint process?

Most complaints are handled within six to eight weeks, but more complex investigations can take several months.

We can take care of your complaint faster and more efficiently if you fill out the form as completely as possible. Feel free to contact us, if you have questions about the form. We encourage you to submit additional information, 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. 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 if it has the power to hear your complaint. 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.

Complaint forms and information

For more information or to file a complaint, visit our website or contact the Bureau of Consumer Protection. Topic specific complaint forms can also be found by selecting Consumer in the main header menu bar of our website.

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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, advertisements, telephone bills.

1. How do we contact you?

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

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

Phone 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: _____

Building contractor registration number: _____

Information about your complaint

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

- Person from business came to my home
- Person from business called me
- Business sent me information in the mail
- I attended a convention or trade show
- I responded to a printed advertisement: When? _____
- I telephoned the business
- I responded to a radio or TV ad
- I went to the business

Where? _____

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

Protecting Wisconsin Consumers for 75 Years

Alert To **CONTRACTORS**

Storm Chasers

After a big storm or other emergency, non-local contractors may contact you and offer to be a subcontractor for you. They promise you a percentage of each contract. Though this seems to be a way to help take care of your customers and maybe make a little extra money, it can be dangerous to your wallet and your reputation. Complaints to the Bureau of Consumer Protection report that short cuts may be taken, cheaper materials substituted, materials not paid for, and jobs not completed. The consumer then comes to you for correction, as your company name is on the contract.

Since you can be held responsible for your subcontractor's work, protect yourself.

1. State law requires that every time a payment is made for a home improvement, a lien waiver be given to the buyer. These have to come from material suppliers. Make sure your subcontractor is paying for materials and giving the lien waiver to the homeowners.
2. During an emergency period we suggest you request the customers pay building suppliers directly for materials.
3. 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?
4. Are the payments being deposited in an account that you can access? Are you receiving copies of your subcontractor's home improvement contracts?

If you would like to receive a copy of our fact sheet or a copy of the actual law, or if you have questions, please contact the Bureau of Consumer Protection:

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E-MAIL: DATCPHotline@Wisconsin.gov WEBSITE: www.datcp.state.wi.us

Protecting Wisconsin Consumers for 75 Years

Building Supplier Warning

Home improvement contractors, by law, must give home owners “lien waivers” every time a payment is received. You should provide “lien waivers” to your contractors, for materials purchased from you so that the contractors can comply with the law.

Following storm damage, contractors are in greater need of materials. To help your contractors obtain materials, credit is extended. This does not relieve the contractors of the need to provide lien waivers to customers. They must get “lien waivers” from you for the materials. You can provide a trust lien waiver to them to pass on to the home owner. Failure by the contractor to provide lien waivers can be a criminal offense.

When the words “lien waivers” are mentioned, the most common reaction is “what is that?” For someone who is having work done on a home, those are two of the most important words of the whole project.

Following is an example of a typical problem situation involving lien waivers:

Mr. Jones signed a contract with ABC Contractors for the construction of an addition to his home. When the work was done, Mr. 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” in the mail from the lumberyard where ABC Contractors obtained some of the materials for the addition.

What happened is that although Mr. Jones paid his bill, ABC Contractors did not pay the lumberyard. The law allows a subcontractor or supplier of materials to place a lien on property where work was done if the contractor does not pay his bills. This can (and does) happen even if the homeowner has paid the contract price in full.

To protect against this, homeowners should insist on being given a completed “waiver of lien” form from the contractor anytime a payment is made. The form should be signed by the contractor and every other person who supplied materials or labor covered by the payment.

Wisconsin law requires that consumers receive a lien waiver whenever they make partial or final payments. Consumers, however, should know in advance to ask for a lien waiver if one is not offered.

(OVER)

Important!

LIEN WAIVERS

**Home improvement contractors,
by law, must give homeowners
“LIEN WAIVERS”
every time a payment is received.**

**You should provide lien waiver forms
to your contractors
for materials purchased from you,
so that the contractors
can comply with the law.**

For more information, to receive a copy of the home improvement code, or if you have any questions, contact the Bureau of Consumer Protection at:

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