

IMPORTANT UPDATE: New Laws abolish the Homeowner Construction Lien Recovery Fund

Recently Governor Jennifer M. Granholm signed into law the following six Public Acts that abolish the Homeowner Construction Lien Recovery Fund (Fund) effective August 23, 2010. The Public Acts 147, 148, 149, 150, 151 and 152 of 2010, repeals the statutory provisions relating to the administration, funding of and disbursements from Fund, which has been in existence since 1982. The new public acts will amend several laws to do the following:

- ✓ Eliminate the Homeowner Construction Lien Recovery Fund, which has been insolvent since October 2009.
- ✓ Reduce contractor license fees by \$10 per year, the amount which was deposited from each contractor license fee to Homeowner Construction Lien Recovery Fund. New license applicants paid \$10 initially and \$10 for each year that a license was renewed.
- ✓ Retain the mechanism for a homeowner to prevent a construction lien from attaching to a residential structure, by filing an affidavit, including evidence of payment, with the circuit court.
- ✓ Eliminate the felony penalty for submitting false information in order to receive a payment from the Homeowner Construction Lien Recovery Fund.

The Construction Lien Act, 1980 PA 497 (MCL 570.1101 – 570.1303) became effective on January 1, 1982 wherein the Homeowner Construction Lien Recovery Fund was created to protect a homeowner from having to pay twice for construction work on their home, should a contractor fail to pay its subcontractors, suppliers or laborers. The Fund also was used by the subcontractors, suppliers or laborers to obtain recovery on valid claims. Only persons who had paid the membership fees would be entitled to recovery from the Fund. If the Department made a payment from the Fund as a result of the inactions or actions of a licensee, the Fund would file an administrative complaint against the licensee. The Occupational Code required that the license be revoked or suspended until the Fund was repaid the amount of payout plus the cost of the litigation which included attorney fees and interest.

Note: Sections MCL 570.1101- 570.1128 of the Construction Lien Act, PA 497 of 1980 as amended was not repealed. Thus your strict adherence to Part 1 of the Construction Lien Act will still be required.

Below you may find a summary of the Public Acts. You may review the full text of the repeal acts by visiting the Michigan Legislature website at www.michiganlegislature.org.

Summary of Public Acts – Abolishing the Fund

Public Act Nos.	House Bill No and Sponsors Name	Amendment
Public Act 147 of 2010	5830 (Rep. Hammel)	Amends the Construction Lien Act (MCL 570.1201-1207); repeals provisions relating to administration of and funding of and disbursements from the Fund.
Public Act 148 of 2010	5831 (Rep. Durhal)	Amends the Electrical Administrative Act (MCL 338.883b et al); revised to eliminate fees paid into the Fund and penalties against licensee for payout from the Fund.
Public Act 149 of 2010	5832 (Rep. Durhal)	Amends the Forbes Mechanical Contractors Act (MCL 338.976 et al); revised to eliminate fees paid into the Fund and penalties against licensee for payout from the Fund.
Public Act 150 of 2010	5833 (Rep. Durhal)	Amends the State Plumbing Act (MCL 338.3531 et al); revised to eliminate fees paid into the Fund and penalties against licensee for payout from the Fund
Public Act 151 of 2010	5834 (Rep. Durhal)	Amends the Occupational Code, Builders Law (MCL 339.2404 et al); revised to eliminate fees paid into the Fund and penalties against licensee for payout from the Fund.
Public Act 152 of 2010	5835 (Rep. Hammel)	Amends the Code of Criminal Procedure (MCL 777.15b et al); eliminating the felony penalty and sentencing guidelines for providing false information to obtain payment from the Fund.

The above Public Acts will be incorporated in the Michigan Compiled Laws shortly and will be posted to the Michigan Legislature website as soon as they become available.

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