

1                                   **REPEAL OF RESIDENCE LIEN RECOVERY**

2   **FUND**

3   2001 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: Parley Hellewell**

6 **This act modifies the Residence Lien Restriction and Lien Recovery Fund Act and related**  
7 **provisions of the Mechanics' Liens Act and the Utah Construction Trades Licensing Act.**

8 **The act repeals the Residence Lien Restriction and Lien Recovery Fund Act and provides**  
9 **for the disbursement of moneys currently in the Residence Lien Recovery Fund. The act**  
10 **provides for transition provisions relating to the fund. This act provides an effective date.**

11 This act affects sections of Utah Code Annotated 1953 as follows:

12 **AMENDS:**

13           **14-2-1**, as last amended by Chapter 308, Laws of Utah 1994

14           **38-1-3**, as last amended by Chapter 308, Laws of Utah 1994

15           **38-1-7**, as last amended by Chapter 223, Laws of Utah 1999

16           **38-1-11**, as last amended by Chapter 172, Laws of Utah 1995

17           **38-1-17**, as last amended by Chapter 79, Laws of Utah 1996

18           **38-1-18**, as last amended by Chapter 172, Laws of Utah 1995

19           **38-12-102 (Effective 07/01/01)**, as last amended by Chapter 252, Laws of Utah 2000

20           **58-55-401**, as renumbered and amended by Chapters 181 and 308, Laws of Utah 1994

21           **58-55-501**, as last amended by Chapters 233 and 317, Laws of Utah 2000

22           **58-55-502**, as last amended by Chapter 317, Laws of Utah 2000

23           **63-38-3.2**, as last amended by Chapter 13, Laws of Utah 1998

24 **REPEALS:**

25           **38-11-101**, as enacted by Chapter 308, Laws of Utah 1994

26           **38-11-102**, as last amended by Chapter 193, Laws of Utah 1999

27           **38-11-103**, as last amended by Chapter 172, Laws of Utah 1995



- 28           **38-11-104**, as last amended by Chapter 172, Laws of Utah 1995
- 29           **38-11-105**, as enacted by Chapter 308, Laws of Utah 1994
- 30           **38-11-106**, as enacted by Chapter 308, Laws of Utah 1994
- 31           **38-11-107**, as last amended by Chapter 49, Laws of Utah 1998
- 32           **38-11-108**, as last amended by Chapter 79, Laws of Utah 1996
- 33           **38-11-109**, as enacted by Chapter 193, Laws of Utah 1999
- 34           **38-11-201**, as last amended by Chapter 172, Laws of Utah 1995
- 35           **38-11-202**, as last amended by Chapter 193, Laws of Utah 1999
- 36           **38-11-203**, as last amended by Chapter 193, Laws of Utah 1999
- 37           **38-11-204**, as last amended by Chapter 193, Laws of Utah 1999
- 38           **38-11-205**, as last amended by Chapter 193, Laws of Utah 1999
- 39           **38-11-206**, as last amended by Chapters 28 and 172, Laws of Utah 1995
- 40           **38-11-207**, as enacted by Chapter 308, Laws of Utah 1994
- 41           **38-11-301**, as last amended by Chapter 146, Laws of Utah 1996
- 42           **38-11-302**, as last amended by Chapters 20 and 172, Laws of Utah 1995

43 This act enacts uncodified material.

44 *Be it enacted by the Legislature of the state of Utah:*

45           Section 1. Section **14-2-1** is amended to read:

46           **14-2-1. Definitions -- Payment bond required -- Right of action -- Notice -- Attorneys'**  
47 **fees.**

48           (1) For purposes of this chapter:

49           (a) "Contractor" means any person who is or may be awarded a contract for the  
50 construction, alteration, or repair of any building, structure, or improvement upon land.

51           (b) "Owner" means any person contracting for construction, alteration, or repair of any  
52 building, structure, or improvement upon land.

53           (2) [~~(a) Except as provided in Subsection (2)(b), before~~] Before any contract exceeding  
54 \$2,000 in amount for the construction, alteration, or repair of any building, structure, or  
55 improvement upon land is awarded to any contractor, the owner shall obtain from the contractor  
56 a payment bond complying with Subsection (3). The bond shall become binding upon the award  
57 of the contract to the contractor.

58           [~~(b) An owner is exempted from the requirements of this section if a person otherwise~~

59 ~~eligible to file a lien under Title 38, Chapter 1, Mechanics' Liens, is barred from filing a mechanics'~~  
60 ~~lien under Section 38-11-107.]~~

61 (3) The payment bond shall be with a surety or sureties satisfactory to the owner for the  
62 protection of all persons supplying labor, services, equipment, or material in the prosecution of the  
63 work provided for in the contract in a sum equal to the contract price.

64 (4) A person shall have a right of action on a payment bond under this chapter for any  
65 unpaid amount due him if:

66 (a) he has furnished labor, services, equipment, or material in the prosecution of the work  
67 provided for in the contract for which the payment bond is furnished under this chapter; and

68 (b) he has not been paid in full within 90 days after the last day on which he performed the  
69 labor or service or supplied the equipment or material for which the claim is made.

70 (5) An action under this section shall be brought in a court of competent jurisdiction in the  
71 county where the contract was to be performed and not elsewhere. The action is barred if not  
72 commenced within one year after the last day on which the claimant performed the labor or service  
73 or supplied the equipment or material on which the claim is based. The obligee named in the bond  
74 need not be joined as a party to the action. In any action upon a bond, the court may award  
75 reasonable attorneys' fees to the prevailing party, which fees shall be taxed as costs in the action.

76 (6) The payment bond shall be exhibited to any interested person upon request.

77 (7) In any suit upon a payment bond under this chapter, the court shall award reasonable  
78 attorneys' fees to the prevailing party.

79 Section 2. Section **38-1-3** is amended to read:

80 **38-1-3. Those entitled to lien -- What may be attached.**

81 Contractors, subcontractors, and all persons performing any services or furnishing or  
82 renting any materials or equipment used in the construction, alteration, or improvement of any  
83 building or structure or improvement to any premises in any manner and licensed architects and  
84 engineers and artisans who have furnished designs, plats, plans, maps, specifications, drawings,  
85 estimates of cost, surveys or superintendence, or who have rendered other like professional service,  
86 or bestowed labor, shall have a lien upon the property upon or concerning which they have  
87 rendered service, performed labor, or furnished or rented materials or equipment for the value of  
88 the service rendered, labor performed, or materials or equipment furnished or rented by each  
89 respectively, whether at the instance of the owner or of any other person acting by his authority as

90 agent, contractor, or otherwise [~~except as the lien is barred under Section 38-11-107 of the~~  
91 ~~Residence Lien Restriction and Lien Recovery Fund Act~~]. This lien shall attach only to such  
92 interest as the owner may have in the property.

93 Section 3. Section **38-1-7** is amended to read:

94 **38-1-7. Notice of claim -- Contents -- Recording -- Service on owner of property.**

95 (1) A person claiming benefits under this chapter shall file for record with the county  
96 recorder of the county in which the property, or some part of the property, is situated, a written  
97 notice to hold and claim a lien within 90 days from the date:

98 (a) the person last performed labor or service or last furnished equipment or material on  
99 a project or improvement for a residence [~~as defined in Section 38-11-102~~]; or

100 (b) of final completion of an original contract not involving a residence [~~as defined in~~  
101 ~~Section 38-11-102~~].

102 (2) The notice required by Subsection (1) shall contain a statement setting forth:

103 (a) the name of the reputed owner if known or, if not known, the name of the record  
104 owner;

105 (b) the name of the person by whom the lien claimant was employed or to whom the lien  
106 claimant furnished the equipment or material;

107 (c) the time when the first and last labor or service was performed or the first and last  
108 equipment or material was furnished;

109 (d) a description of the property, sufficient for identification;

110 (e) the name, current address, and current phone number of the lien claimant;

111 (f) the signature of the lien claimant or the lien claimant's authorized agent; and

112 (g) an acknowledgment or certificate as required under Title 57, Chapter 3, Recording of  
113 Documents[~~; and~~].

114 [~~(h) if the lien is on an owner-occupied residence, as defined in Section 38-11-102, a~~  
115 ~~statement describing what steps an owner, as defined in Section 38-11-102, may take to require~~  
116 ~~a lien claimant to remove the lien in accordance with Section 38-11-107.~~]

117 (3) Notwithstanding Subsection (2), an acknowledgment or certificate is not required for  
118 any notice filed after April 29, 1985, and before April 24, 1989.

119 (4) (a) Within 30 days after filing the notice of lien, the lien claimant shall deliver or mail  
120 by certified mail a copy of the notice of lien to:

- 121 (i) the reputed owner of the real property; or
- 122 (ii) the record owner of the real property.

123 (b) If the record owner's current address is not readily available to the lien claimant, the  
 124 copy of the claim may be mailed to the last-known address of the record owner, using the names  
 125 and addresses appearing on the last completed real property assessment rolls of the county where  
 126 the affected property is located.

127 (c) Failure to deliver or mail the notice of lien to the reputed owner or record owner  
 128 precludes the lien claimant from an award of costs and attorneys' fees against the reputed owner  
 129 or record owner in an action to enforce the lien.

130 ~~[(5) The Division of Occupational and Professional Licensing shall make rules governing~~  
 131 ~~the form of the statement required under Subsection (2)(h).]~~

132 Section 4. Section **38-1-11** is amended to read:

133 **38-1-11. Enforcement -- Time for -- Lis pendens -- Action for debt not affected.**

134 (1) A lien claimant shall file an action to enforce the lien filed under this chapter within:

135 (a) twelve months from the date of final completion of the original contract not involving  
 136 a residence ~~[as defined in Section 38-11-102];~~ or

137 (b) 180 days from the date the lien claimant last performed labor and services or last  
 138 furnished equipment or material for a residence~~[, as defined in Section 38-11-102].~~

139 (2) (a) Within the time period provided for filing in Subsection (1) the lien claimant shall  
 140 file for record with the county recorder of each county in which the lien is recorded a notice of the  
 141 pendency of the action, in the manner provided in actions affecting the title or right to possession  
 142 of real property, or the lien shall be void, except as to persons who have been made parties to the  
 143 action and persons having actual knowledge of the commencement of the action.

144 (b) The burden of proof shall be upon the lien claimant and those claiming under him to  
 145 show actual knowledge.

146 (3) This section may not be interpreted to impair or affect the right of any person to whom  
 147 a debt may be due for any work done or materials furnished to maintain a personal action to  
 148 recover the same.

149 Section 5. Section **38-1-17** is amended to read:

150 **38-1-17. Costs -- Apportionment -- Costs and attorneys' fee to subcontractor.**

151 ~~[Except as provided in Section 38-11-107, as]~~ As between the owner and the contractor the

152 court shall apportion the costs according to the right of the case, but in all cases each subcontractor  
153 exhibiting a lien shall have his costs awarded to him, including the costs of preparing and  
154 recording the notice of claim of lien and such reasonable attorneys' fee as may be incurred in  
155 preparing and recording said notice of claim of lien.

156 Section 6. Section **38-1-18** is amended to read:

157 **38-1-18. Attorneys' fees.**

158 [~~Except as provided in Section 38-11-107, in~~] In any action brought to enforce any lien  
159 under this chapter the successful party shall be entitled to recover a reasonable attorneys' fee, to  
160 be fixed by the court, which shall be taxed as costs in the action.

161 Section 7. Section **38-12-102 (Effective 07/01/01)** is amended to read:

162 **38-12-102 (Effective 07/01/01). Notice requirements for lien filings -- Exceptions.**

163 (1) No later than 30 days after the day on which a lien claimant or the lien claimant's  
164 authorized agent files for recordation a notice of lien meeting the requirements of Subsection (2)  
165 with a county recorder, county clerk, or clerk of the court, a lien claimant or the lien claimant's  
166 agent shall send by certified mail a written copy of the notice of lien to the last-known address of  
167 the person against whom the notice of lien is filed.

168 (2) The notice of lien shall contain the following information:

169 (a) the name and address of the person against whom the lien is filed;

170 (b) (i) a statement that certain property owned by the person against whom the lien is filed  
171 is subject to a lien;

172 (ii) the amount of the judgment, settlement, or compromise if the lien is based on a charge  
173 against or interest in a judgment, settlement, or compromise; or

174 (iii) the amount of state taxes owed;

175 (c) the article number contained on the certified mail receipt;

176 (d) the date the notice of lien was filed; and

177 (e) the name and address of the lien claimant.

178 (3) The notice requirements of Subsections (1) and (2) do not apply to a:

179 (a) mechanics' lien as provided in Title 38, Chapter 1, Mechanics' Liens;

180 (b) lessors' lien as provided in Title 38, Chapter 3, Lessors' Liens;

181 (c) federal tax lien as provided in Title 38, Chapter 6, Federal Tax Liens;

182 (d) hospital lien as provided in Title 38, Chapter 7, Hospital Lien Law;

183 (e) self-service storage facilities lien as provided in Title 38, Chapter 8, Self-Service  
 184 Storage Facilities;  
 185 (f) oil, gas, or mining lien as provided in Title 38, Chapter 10, Oil, Gas, and Mining Liens;  
 186 ~~[(g) claim against the Residence Lien Recovery Fund as provided in Title 38, Chapter 11,~~  
 187 ~~Residence Lien Restriction and Lien Recovery Fund Act;]~~  
 188 ~~[(h)]~~ (g) trust deed;  
 189 ~~[(i)]~~ (h) mortgage;  
 190 ~~[(j)]~~ (i) interests subject to a security agreement as defined in Section 70A-9a-102; or  
 191 ~~[(k)]~~ (j) other liens subject to the same or stricter notice requirements than those imposed  
 192 by Subsections (1) and (2).

193 Section 8. Section **58-55-401** is amended to read:

194 **58-55-401. Grounds for denial of license and disciplinary proceedings.**

195 The division may refuse to issue a license to an applicant; refuse to renew the license of  
 196 a licensee; ~~[revoke the right of a licensee to recover from the Residence Lien Recovery Fund~~  
 197 ~~created by Section 38-11-201;]~~ revoke, suspend, restrict, or place on probation the license of a  
 198 licensee; issue a public or private reprimand to a licensee; and issue a cease and desist orders order,  
 199 in accordance with Section 58-1-401.

200 Section 9. Section **58-55-501** is amended to read:

201 **58-55-501. Unlawful conduct.**

202 Unlawful conduct includes:

- 203 (1) engaging in a construction trade, acting as a contractor, an alarm business or company,  
 204 or an alarm company agent, or representing oneself to be engaged in a construction trade or to be  
 205 acting as a contractor in a construction trade requiring licensure, unless the person doing any of  
 206 these is appropriately licensed or exempted from licensure under this chapter;
- 207 (2) acting in a construction trade, as an alarm business or company, or as an alarm  
 208 company agent beyond the scope of the license held;
- 209 (3) hiring or employing in any manner an unlicensed person, other than an employee for  
 210 wages who is not required to be licensed under this chapter, to engage in a construction trade for  
 211 which licensure is required or to act as a contractor or subcontractor in a construction trade  
 212 requiring licensure;
- 213 (4) applying for or obtaining a building permit either for oneself or another when not

214 licensed or exempted from licensure as a contractor under this chapter;

215 (5) issuing a building permit to any person for whom there is no evidence of a current  
216 license or exemption from licensure as a contractor under this chapter;

217 (6) applying for or obtaining a building permit for the benefit of or on behalf of any other  
218 person who is required to be licensed under this chapter but who is not licensed or is otherwise not  
219 entitled to obtain or receive the benefit of the building permit;

220 (7) failing to obtain a building permit when required by law or rule;

221 (8) submitting a bid for any work for which a license is required under this chapter by a  
222 person not licensed or exempted from licensure as a contractor under this chapter;

223 (9) willfully or deliberately misrepresenting or omitting a material fact in connection with  
224 an application to obtain or renew a license under this chapter;

225 (10) allowing one's license to be used by another except as provided by statute or rule;

226 (11) doing business under a name other than the name appearing on the license, except as  
227 permitted by statute or rule;

228 (12) if licensed as a specialty contractor in the electrical trade or plumbing trade,  
229 journeyman plumber, residential journeyman plumber, journeyman electrician, master electrician,  
230 or residential electrician, failing to directly supervise an apprentice under one's supervision or  
231 exceeding the number of apprentices one is allowed to have under his supervision;

232 (13) if licensed as a contractor or representing oneself to be a contractor, receiving any  
233 funds in payment for a specific project from an owner or any other person, which funds are to pay  
234 for work performed or materials and services furnished for that specific project, and after receiving  
235 the funds to exercise unauthorized control over the funds by failing to pay the full amounts due and  
236 payable to persons who performed work or furnished materials or services within a reasonable  
237 period of time;

238 (14) employing as an alarm company an unlicensed individual as an alarm company agent,  
239 except as permitted under the exemption from licensure provisions under Section 58-1-307;

240 (15) if licensed as an alarm company or alarm company agent, filing with the division  
241 fingerprint cards for an applicant which are not those of the applicant, or are in any other way false  
242 or fraudulent and intended to mislead the division in its consideration of the applicant for  
243 licensure;

244 (16) if licensed under this chapter, willfully or deliberately disregarding or violating:



- 245 (a) the building or construction laws of this state or any political subdivision;  
 246 (b) the safety and labor laws applicable to a project;  
 247 (c) any provision of the health laws applicable to a project;  
 248 (d) the workers' compensation insurance laws of the state applicable to a project;  
 249 (e) the laws governing withholdings for employee state and federal income taxes,  
 250 unemployment taxes, FICA, or other required withholdings; or

251 (f) reporting, notification, and filing laws of this state or the federal government; or

252 (17) aiding or abetting any person in evading the provisions of this chapter or rules  
 253 established under the authority of the division to govern this chapter~~[-or].~~

254 ~~[(18) engaging in the construction trade or as a contractor for the construction of~~  
 255 ~~residences of up to two units when not currently registered or exempt from registration as a~~  
 256 ~~qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery~~  
 257 ~~Fund Act.]~~

258 Section 10. Section **58-55-502** is amended to read:

259 **58-55-502. Unprofessional conduct.**

260 Unprofessional conduct includes:

261 (1) failing to establish, maintain, or demonstrate financial responsibility while licensed as  
 262 a contractor under this chapter;

263 (2) disregarding or violating through gross negligence or a pattern of negligence:

264 (a) the building or construction laws of this state or any political subdivision;

265 (b) the safety and labor laws applicable to a project;

266 (c) any provision of the health laws applicable to a project;

267 (d) the workers' compensation insurance laws of this state applicable to a project;

268 (e) the laws governing withholdings for employee state and federal income taxes,  
 269 unemployment taxes, FICA, or other required withholdings; or

270 (f) any reporting, notification, and filing laws of this state or the federal government;

271 (3) any willful, fraudulent, or deceitful act by a licensee, caused by a licensee, or at a  
 272 licensee's direction which causes material injury to another;

273 (4) contract violations that pose a threat or potential threat to the public health, safety, and  
 274 welfare including:

275 (a) willful, deliberate, or grossly negligent departure from or disregard for plans or

276 specifications, or abandonment or failure to complete a project without the consent of the owner  
277 or his duly authorized representative or the consent of any other person entitled to have the  
278 particular project completed in accordance with the plans, specifications, and contract terms;

279 (b) failure to deposit funds to the benefit of an employee as required under any written  
280 contractual obligation the licensee has to the employee; and

281 (c) failure to maintain in full force and effect any health insurance benefit to an employee  
282 that was extended as a part of any written contractual obligation or representation by the licensee,  
283 unless the employee is given written notice of the licensee's intent to cancel or reduce the insurance  
284 benefit at least 45 days before the effective date of the cancellation or reduction;

285 ~~[(d) failure to reimburse the Residence Lien Recovery Fund within 90 days after any~~  
286 ~~disbursement from the fund resulting from the licensee's failure to pay qualified beneficiaries as~~  
287 ~~provided in Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act;]~~

288 ~~[(e) failure to provide, when applicable, the information required by Section 38-11-108;]~~

289 ~~[(f) willfully or deliberately misrepresenting or omitting a material fact in connection with~~  
290 ~~an application to claim recovery from the Residence Lien Recovery Fund under Section~~  
291 ~~38-11-204;]~~

292 (5) failing as an alarm company to notify the division of the cessation of performance of  
293 its qualifying agent, or failing to replace its qualifying agent as required under Section 58-55-304;

294 (6) failing as an alarm company agent to carry or display a copy of the licensee's license  
295 as required under Section 58-55-311; or

296 (7) failing to comply with operating standards established by rule in accordance with  
297 Section 58-55-308.

298 Section 11. Section **63-38-3.2** is amended to read:

299 **63-38-3.2. Fees -- Adoption, procedure, and approval -- Establishing and assessing**  
300 **fees without legislative approval.**

301 (1) As used in this section:

302 (a) (i) "Agency" means each department, commission, board, council, agency, institution,  
303 officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau,  
304 panel, or other administrative unit of the state.

305 (ii) "Agency" does not mean the Legislature or its committees.

306 (b) "Fee agency" means any agency that is authorized to establish regulatory fees.

307 (c) "Fee schedule" means the complete list of regulatory fees charged by a fee agency and  
308 the amount of those fees.

309 (d) "Regulatory fees" means fees established for licensure, registration, or certification.

310 (2) Each fee agency shall:

311 (a) adopt a schedule of fees assessed for services provided by the fee agency that are:

312 (i) reasonable, fair, and reflect the cost of services provided; and

313 (ii) established according to a cost formula determined by the director of the Office of  
314 Planning and Budget and the director of the Division of Finance in conjunction with the agency  
315 seeking to establish the regulatory fee;

316 (b) conduct a public hearing on any proposed regulatory fee and increase or decrease the  
317 proposed regulatory fee based upon the results of the public hearing;

318 (c) except as provided in Subsection (6), submit the fee schedule to the Legislature as part  
319 of the agency's annual appropriations request;

320 (d) where necessary, modify the fee schedule to implement the Legislature's actions; and

321 (e) deposit all regulatory fees collected under the fee schedule into the General Fund.

322 (3) A fee agency may not:

323 (a) set regulatory fees by rule; or

324 (b) charge or collect any regulatory fee without approval by the Legislature unless the fee  
325 agency has complied with the procedures and requirements of Subsection (5).

326 (4) The Legislature may approve, increase or decrease and approve, or reject any  
327 regulatory fee submitted to it by a fee agency.

328 (5) (a) After the public hearing required by this section, a fee agency may establish and  
329 assess regulatory fees without legislative approval if:

330 (i) the Legislature creates a new program that is to be funded by regulatory fees to be set  
331 by the Legislature; and

332 (ii) the new program's effective date is before the Legislature's next annual general  
333 session[~~;~~or].

334 [~~(iii) the Division of Occupational and Professional Licensing makes a special assessment~~  
335 ~~against qualified beneficiaries under the Residence Lien Restriction and Lien Recovery Fund Act~~  
336 ~~as provided in Subsection 38-11-206(1).]~~

337 (b) Each fee agency shall submit its fee schedule or special assessment amount to the

338 Legislature for its approval at a special session, if allowed in the governor's call, or at the next  
339 annual general session of the Legislature, whichever is sooner.

340 (c) Unless the fee schedule is approved by the Legislature, the fee agency may not collect  
341 a regulatory fee set according to this Subsection (5) after the adjournment of the annual general  
342 session following the session that established the new program.

343 (6) (a) Each fee agency that wishes to increase any regulatory fee by 5% or more shall  
344 obtain legislative approval for the fee increase as provided in this Subsection (6) before assessing  
345 the new regulatory fee.

346 (b) Each fee agency that wishes to increase any regulatory fee by 5% or more shall submit  
347 to the governor as part of the agency's annual appropriation request a list that identifies:

348 (i) the title or purpose of the regulatory fee;

349 (ii) the present amount of the regulatory fee;

350 (iii) the proposed new amount of the regulatory fee;

351 (iv) the percent that the regulatory fee will have increased if the Legislature approves the  
352 higher fee; and

353 (v) the reason for the increase in the regulatory fee.

354 (c) (i) The governor may review and approve, modify and approve, or reject the regulatory  
355 fee increases.

356 (ii) The governor shall transmit the list required by Subsection (6)(b), with any  
357 modifications, to the Legislative Fiscal Analyst with the governor's budget recommendations.

358 (d) Bills approving any regulatory fee increases of 5% or more shall be filed before the  
359 beginning of the Legislature's annual general session, if possible.

360 Section 12. **Transition provisions.**

361 (1) Any claim against the Residence Lien Recovery Fund received by the Division of  
362 Occupational and Professional Licensing on or before June 30, 2001, shall be processed by the  
363 division in the manner provided by Title 38, Chapter 11, Residence Lien Restriction and Lien  
364 Recovery Fund Act, as it existed prior to July 1, 2001. If the division determines that the claimant  
365 is entitled to payment from the fund, and if there are sufficient moneys in the fund, the division  
366 shall pay the amount from the fund to which the claimant is entitled.

367 (2) After all of the meritorious claims filed under Subsection (1) are paid, the division may  
368 use any moneys remaining in the fund for the following purposes:

369 (a) education and training of licensees under Title 58, Chapter 55, Utah Construction  
370 Trades Licensing;

371 (b) education and training of the public or other interested persons in matters concerning  
372 construction, construction trades, and the laws and rules governing the construction trades; and

373 (c) enforcement of Title 58, Chapter 55, Utah Construction Trades Licensing Act by:

374 (i) investigating unprofessional or unlawful conduct; and

375 (ii) providing legal representation to the division when the division takes legal action  
376 against a person engaging in unprofessional or unlawful conduct.

377 (3) Reporting requirements concerning the fund which existed prior to July 1, 2001, shall  
378 continue to be met until all moneys in the fund have been exhausted.

379 **Section 13. Repealer.**

380 This act repeals:

381 Section **38-11-101, Title.**

382 Section **38-11-102, Definitions.**

383 Section **38-11-103, Administration.**

384 Section **38-11-104, Board.**

385 Section **38-11-105, Procedures established by rule.**

386 Section **38-11-106, State not liable.**

387 Section **38-11-107, Restrictions upon maintaining a lien against residence or owner's**  
388 **interest in the residence.**

389 Section **38-11-108, Notification of rights under chapter.**

390 Section **38-11-109, Severability clause.**

391 Section **38-11-201, Residence Lien Recovery Fund.**

392 Section **38-11-202, Payments to the fund.**

393 Section **38-11-203, Disbursements from the fund -- Limitations.**

394 Section **38-11-204, Claims against the fund -- Requirement to make a claim --**

395 **Qualifications to receive compensation.**

396 Section **38-11-205, Subrogation.**

397 Section **38-11-206, Limitations on fund balance -- Payment of special assessments.**

398 Section **38-11-207, Reimbursement to the fund.**

399 Section **38-11-301, Registration as a qualified beneficiary -- Initial regular assessment**

400 -- **Affidavit.**

401           Section **38-11-302, Effective date and term of registration -- Penalty for failure to pay**  
402 **assessments -- Reinstatement.**

403           Section 14. **Effective date.**

404           This act takes effect on July 1, 2001.

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**Legislative Review Note**  
**as of 2-1-01 7:43 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**