Chapter 11
Residence Lien Restriction and Lien Recovery Fund Act

Part 1
General Provisions

38-11-101 Title.

This chapter is known as the "Residence Lien Restriction and Lien Recovery Fund Act."

Enacted by Chapter 308, 1994 General Session

38-11-102 Definitions.

(1) "Certificate of compliance" means an order issued by the director to the owner finding that the owner is in compliance with the requirements of Subsections 38-11-204(4)(a) and (4)(b) and is entitled to protection under Section 38-11-107.
(2) "Construction on an owner-occupied residence" means designing, engineering, constructing, altering, remodeling, improving, repairing, or maintaining a new or existing residence.
(3) "Department" means the Department of Commerce.
(4) "Director" means the director of the Division of Professional Licensing or the director's designee.
(5) "Division" means the Division of Professional Licensing.
(6) "Duplex" means a single building having two separate living units.
(7) "Encumbered fund balance" means the aggregate amount of outstanding claims against the fund. The remainder of the money in the fund is unencumbered funds.
(8) "Executive director" means the executive director of the Department of Commerce.
(9) "Factory built housing" is as defined in Section 15A-1-302.
(10) "Factory built housing retailer" means a person that sells factory built housing to consumers.
(11) "Fund" means the Residence Lien Recovery Fund established under Section 38-11-201.
(12) "Laborer" means a person who provides services at the site of the construction on an owner-occupied residence as an employee of an original contractor or other qualified beneficiary performing qualified services on the residence.
(13) "Licensee" means any holder of a license issued under Title 58, Chapter 3a, Architects Licensing Act; Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; Chapter 53, Landscape Architects Licensing Act; and Chapter 55, Utah Construction Trades Licensing Act.
(14) "Nonpaying party" means the original contractor, subcontractor, or real estate developer who has failed to pay the qualified beneficiary making a claim against the fund.
(15) "Original contractor" means a person who contracts with the owner of real property or the owner's agent to provide services, labor, or material for the construction of an owner-occupied residence.
(16) "Owner" means a person who:
(a) contracts with a person who is licensed as a contractor or is exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction on an owner-occupied residence upon real property that the person:
(i) owns; or
(ii) purchases after the person enters into a contract described in this Subsection (16)(a) and before completion of the owner-occupied residence;

(b) contracts with a real estate developer to buy a residence upon completion of the construction on the owner-occupied residence; or
(c) purchases a residence from a real estate developer after completion of the construction on the owner-occupied residence.
(17) "Owner-occupied residence" means a residence that is, or after completion of the construction on the residence will be, occupied by the owner or the owner's tenant or lessee as a primary or secondary residence within 180 days after the day on which the construction on the residence is complete.
(18) "Qualified beneficiary" means a person who:
(a) provides qualified services;
(b) pays necessary fees required under this chapter; and
(c) registers with the division:
(i) as a licensed contractor under Subsection 38-11-301(1) or (2), if that person seeks recovery from the fund as a licensed contractor; or
(ii) as a person providing qualified services other than as a licensed contractor under Subsection 38-11-301(3) if the person seeks recovery from the fund in a capacity other than as a licensed contractor.
(19)
(a) "Qualified services" means the following performed in construction on an owner-occupied residence:
(i) contractor services provided by a contractor licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act;
(ii) architectural services provided by an architect licensed under Title 58, Chapter 3a, Architects Licensing Act;
(iii) engineering and land surveying services provided by a professional engineer or land surveyor licensed or exempt from licensure under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
(iv) landscape architectural services by a landscape architect licensed or exempt from licensure under Title 58, Chapter 53, Landscape Architects Licensing Act;
(v) design and specification services of mechanical or other systems;
(vi) other services related to the design, drawing, surveying, specification, cost estimation, or other like professional services;
(vii) providing materials, supplies, components, or similar products;
(viii) renting equipment or materials;
(ix) labor at the site of the construction on the owner-occupied residence; and
(x) site preparation, set up, and installation of factory built housing.
(b) "Qualified services" does not include the construction of factory built housing in the factory.
(20) "Real estate developer" means a person having an ownership interest in real property who:
(a) contracts with a person who is licensed as a contractor or is exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction of a residence that is offered for sale to the public; or
(b) is a licensed contractor under Title 58, Chapter 55, Utah Construction Trades Licensing Act, who engages in the construction of a residence that is offered for sale to the public.
(21)
(a) "Residence" means an improvement to real property used or occupied, to be used or occupied as, or in conjunction with:
(i) a primary or secondary detached single-family dwelling; or
(ii) a multifamily dwelling up to and including duplexes.

(b) "Residence" includes factory built housing.
(22) "Subsequent owner" means a person who purchases a residence from an owner within 180 days after the day on which the construction on the residence is completed.

Amended by Chapter 415, 2022 General Session

38-11-103 Administration.
This chapter shall be administered by the Division of Professional Licensing pursuant to the provisions of this chapter and consistent with Title 58, Chapter 1, Division of Professional Licensing Act.

Amended by Chapter 415, 2022 General Session

38-11-105 Procedures established by rule.
In compliance with Title 63G, Chapter 4, Administrative Procedures Act, the division shall establish procedures by rule by which claims for compensation from the fund and requests for certificates of compliance shall be adjudicated.

Amended by Chapter 229, 2018 General Session

38-11-106 State not liable.
The state and the state's agencies, instrumentalities, and political subdivisions are not liable for:
(1) issuance or denial of any certificate of compliance;
(2) any claims made against the fund; or
(3) failure of the fund to pay any amounts ordered by the director to be paid from the fund, including failure of the fund to pay any amounts ordered by the director to be paid because there is insufficient money in the fund.

Amended by Chapter 229, 2018 General Session

38-11-107 Restrictions upon maintaining a lien against residence or owner's interest in the residence.
(1)
(a) A person qualified to file a lien upon an owner-occupied residence and the real property associated with that residence under Chapter 1a, Preconstruction and Construction Liens, who provides qualified services under an agreement, other than directly with the owner, is barred from maintaining a lien upon that residence and real property or recovering a judgment in any civil action against the owner or the owner-occupied residence to recover money owed for qualified services provided by that person if:
(i) an owner meets the conditions described in Subsections 38-11-204(4)(a) and (b); or
(ii)
(A) a subsequent owner purchases a residence from an owner;
(B) the subsequent owner who purchased the residence under Subsection (1)(a)(ii)(A) occupies the residence as a primary or secondary residence within 180 days from the date of transfer or the residence is occupied by the subsequent owner's tenant or lessee as a primary or secondary residence within 180 days from the date of transfer; and
(C) the owner from whom the subsequent owner purchased the residence met the conditions described in Subsections 38-11-204(4)(a) and (b).

(b)
(i) As used in this Subsection (1)(b):
(A) "Contract residence":
(I) means the owner-occupied residence for which a subcontractor provides service, labor, or materials; and
(II) includes the real property associated with that owner-occupied residence.
(B) "General contract" means an oral or written contract between an owner and an original contractor for providing service, labor, or materials for construction on an owner-occupied residence.
(C) "Subcontractor" means a person who provides service, labor, or materials for construction on an owner-occupied residence under an agreement other than directly with the owner.
(ii) A subcontractor qualified to file a lien upon a contract residence under Chapter 1a, Preconstruction and Construction Liens, is barred from maintaining a lien upon that contract residence or from recovering a judgment in a civil action against the owner, the contract residence, or, as provided in Subsection (1)(b)(iii), a subsequent owner to recover for service, labor, or materials provided by the subcontractor:
(A) if the amount of the general contract under which the subcontractor provides service, labor, or materials totals no more than $5,000; and
(B) whether or not the original contractor is licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act.
(iii) A subsequent owner is protected under Subsection (1)(b)(ii) to the same extent as an owner if:
(A) the subsequent owner purchases the contract residence from the owner; and
(B)
(I) the subsequent owner occupies the residence as a primary or secondary residence within 180 days after the date of transfer; or
(II) the subsequent owner's tenant or lessee occupies the residence as a primary or secondary residence within 180 days after the date of the transfer.
(2) If a residence is constructed under conditions that do not meet all of the provisions of Subsection (1)(a) or (b), that residence and the real property associated with that residence as provided in Section 38-1a-302 is subject to any lien as provided in Section 38-1a-301.
(3) A lien claimant who files a preconstruction or construction lien under Chapter 1a, Preconstruction and Construction Liens, or a foreclosure action upon an owner-occupied residence is not liable for costs and attorney fees under Sections 38-1a-706 and 38-1a-707 or for any damages arising from a civil action related to the lien filing or foreclosure action if the lien claimant removes the lien within 15 days from the date the owner obtains a certificate of compliance and mails a copy of the certificate of compliance by certified mail to the lien claimant at the address provided for by Subsection 38-1a-502(2)(e). The 15-day period begins accruing from the date postmarked on the certificate of compliance sent to the lien claimant.

Amended by Chapter 278, 2012 General Session

38-11-108 Notification of rights under chapter.
(1) Beginning July 1, 1995, the original contractor or real estate developer shall state in the written contract with the owner what actions are necessary for the owner to be protected under Section 38-11-107 from the maintaining of a mechanic's lien or other civil action against the owner or the owner-occupied residence to recover money owed for qualified services.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may issue rules providing for the form and content of the information required by Subsection (1).

Amended by Chapter 382, 2008 General Session

38-11-109 Severability clause.

If any provision of this chapter is held invalid or unconstitutional by a court of competent jurisdiction, the invalidity shall not affect the other provisions of this chapter which can be given effect without the invalid or unconstitutional provision.

Enacted by Chapter 193, 1999 General Session

38-11-110 Issuance of certificates of compliance.

(1)

(a) The director may issue a certificate of compliance only after determining through an informal proceeding, as set forth in Title 63G, Chapter 4, Administrative Procedures Act:

(i) that the owner is in compliance with Subsections 38-11-204(4)(a) and (b); or

(ii) subject to Subsection (2), that the owner is entitled to protection under Subsection 38-11-107(1)(b).

(b) If the director determines through an informal proceeding under Subsection (1)(a) that an owner seeking the issuance of a certificate of compliance under Subsection (1)(a)(i) is not in compliance as provided in Subsection (1)(a)(i), the director may not issue a certificate of compliance.

(2)

(a) An owner seeking the issuance of a certificate of compliance under Subsection (1)(a)(ii) shall submit an affidavit, as defined by the division by rule, affirming that the owner is entitled to protection under Subsection 38-11-107(1)(b).

(b) If an owner's affidavit under Subsection (2)(a) is disputed, the owner may file a complaint in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to resolve the dispute.

(c) The director may issue a certificate of compliance to an owner seeking issuance of a certificate under Subsection (1)(a)(ii) if:

(i) the owner's affidavit under Subsection (2)(a) is undisputed; or

(ii) a court resolves any dispute over the owner's affidavit in favor of the owner.

Amended by Chapter 158, 2024 General Session

Part 2
Residence Lien Recovery Fund

38-11-201 Residence Lien Recovery Fund.

(1) There is created an expendable special revenue fund called the "Residence Lien Recovery Fund."

(2) The fund shall earn interest.

(3) The division shall employ personnel and resources necessary to administer the fund and shall use fund money in accordance with Sections 38-11-203 and 38-11-204 and to pay the costs charged to the fund by the attorney general.
(4) Costs incurred by the division, on or after May 8, 2018, for administering the fund may be paid out of fund money in an amount that may be no more than a total of $300,000 for the remaining existence of the fund.
(5)
  (a) The Division of Finance shall report annually to the Legislature and the division.
  (b) The report shall state:
    (i) amounts received by the fund;
    (ii) disbursements from the fund;
    (iii) interest earned and credited to the fund; and
    (iv) the fund balance.

Amended by Chapter 154, 2020 General Session

38-11-202 Payments to the fund.

Beginning on May 8, 2018, the Residence Lien Recovery Fund will no longer be supported by special assessments and will be solely supported by:
(1) fees determined by the division under Section 63J-1-504 collected from laborers under Subsection 38-11-204(7) when the laborers obtain a recovery from the fund;
(2) amounts collected by subrogation under Section 38-11-205 on behalf of the fund following a payment from the fund;
(3) application fees determined by the division under Section 63J-1-504 collected from:
  (a) qualified beneficiaries or laborers under Subsection 38-11-204(1)(b) when qualified beneficiaries or laborers make a claim against the fund; or
  (b) owners or agents of the owners seeking to obtain a certificate of compliance for the owner;
(4) registration fees determined by the division under Section 63J-1-504 collected from other qualified beneficiaries registering with the department in accordance with Subsection 38-11-301(3)(a)(iii);
(5) civil fines authorized under Subsection 38-11-205(2) collected by the attorney general for failure to reimburse the fund; and
(6) any interest earned by the fund.

Amended by Chapter 354, 2020 General Session

38-11-203 Disbursements from the fund -- Limitations.

(1) A payment of any claim upon the fund by a qualified beneficiary shall be made only upon an order issued by the director finding that:
  (a) the claimant was a qualified beneficiary during the construction on a residence;
  (b) the claimant complied with the requirements of Section 38-11-204;
  (c) there is adequate money in the fund to pay the amount ordered; and
  (d) the claimant provided the qualified services that are the basis of the claim.
(2) A payment of a claim upon the fund by a laborer shall be made only upon an order issued by the director finding that:
  (a) the laborer complied with the requirements of Subsection 38-11-204(7); and
  (b) there is adequate money in the fund to pay the amount ordered.
(3)

(a) An order under this section may be issued only after the division has complied with the procedures established by rule under Section 38-11-105.
(b) The director shall order payment of the qualified services as established by evidence, or if the claimant has obtained a judgment, then in the amount awarded for qualified services in the judgment to the extent the qualified services are attributable to the owner-occupied residence at issue in the claim.
(c) The director shall order payment of interest on amounts claimed for qualified services based on the current prime interest rate at the time payment was due to the date the claim is approved for payment except for delays attributable to the claimant but not more than 10% per annum.
(d) The rate shall be the prime lending rate as published in the Wall Street Journal on the first business day of each calendar year adjusted annually.
(e) The director shall order payment of costs in the amount stated in the judgment. If the judgment does not state a sum certain for costs, or if no judgment has been obtained, the director shall order payment of reasonable costs as supported by evidence. The claim application fee as established by the division pursuant to Subsection 38-11-204(1)(b) is not a reimbursable cost.
(f) If a judgment has been obtained with attorneys' fees, notwithstanding the amount stated in a judgment, or if no judgment has been obtained but the contract provides for attorneys' fees, the director shall order payment of attorneys' fees not to exceed 15% of qualified services. If the judgment does not state a sum for attorneys' fees, no attorneys' fees will be paid by the director.

(4)
(a) Payments made from the fund may not exceed $75,000 per construction project to qualified beneficiaries and laborers who have claim against the fund for that construction project.
(b) If claims against the fund for a construction project exceed $75,000, the $75,000 shall be awarded proportionately so that each qualified beneficiary and laborer awarded compensation from the fund for qualified services shall receive an identical percentage of the qualified beneficiary's or laborer's award.

(5)
(a) A payment of any claim upon the fund may not be made to an assignee or transferee unless an order issued by the director finds that:
(i) the claim is assigned or transferred to a person who is a qualified beneficiary; and
(ii) the person assigning or transferring the claim:
(A) was a qualified beneficiary during the construction on a residence; and
(B) provided the qualified services that are the basis of the claim.
(b) A claimant who is an assignee or transferee of a claim upon the fund under this Subsection (5) does not have to meet the requirements of Subsections 38-11-203(1)(a) and (d).

Amended by Chapter 229, 2018 General Session

38-11-204 Claims against the fund -- Requirements to make a claim -- Qualifications to receive compensation -- Qualifications to receive a certificate of compliance.

(1) To claim recovery from the fund a person shall:
(a) meet the requirements of Subsection (4) or (6);
(b) pay an application fee determined by the division under Section 63J-1-504; and
(c) file with the division a completed application on a form provided by the division accompanied by supporting documents establishing:

(i) that the person meets the requirements of Subsection (4) or (6);
(ii) that the person was a qualified beneficiary or laborer during the construction on the owner-occupied residence; and
(iii) the basis for the claim.
(2) To recover from the fund, the application required by Subsection (1) shall be filed no later than one year:
(a) from the date the judgment required by Subsection (4)(d) is entered;
(b) from the date the nonpaying party filed bankruptcy, if the claimant is precluded from obtaining a judgment or from satisfying the requirements of Subsection (4)(d) because the nonpaying party filed bankruptcy within one year after the entry of judgment; or
(c) from the date the laborer, trying to recover from the fund, completed the laborer's qualified services.
(3) The issuance of a certificate of compliance is governed by Section 38-11-110.
(4) To recover from the fund, regardless of whether the residence is occupied by the owner, a subsequent owner, or the owner or subsequent owner's tenant or lessee, a qualified beneficiary shall establish that:
(a)
(i) the owner of the owner-occupied residence or the owner's agent entered into a written contract with an original contractor licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act:
(A) for the performance of qualified services;
(B) to obtain the performance of qualified services by others; or
(C) for the supervision of the performance by others of qualified services in construction on that residence;
(ii) the owner of the owner-occupied residence or the owner's agent entered into a written contract with a real estate developer for the purchase of an owner-occupied residence; or
(iii) the owner of the owner-occupied residence or the owner's agent entered into a written contract with a factory built housing retailer for the purchase of an owner-occupied residence;
(b) the owner has paid in full the original contractor, licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, real estate developer, or factory built housing retailer under Subsection (4)(a) with whom the owner has a written contract in accordance with the written contract and any amendments to the contract;
(c)
(i) the original contractor, licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, the real estate developer, or the factory built housing retailer subsequently failed to pay a qualified beneficiary who is entitled to payment under an agreement with that original contractor or real estate developer licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for services performed or materials supplied by the qualified beneficiary;
(ii) a subcontractor who contracts with the original contractor, licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, the real estate developer, or the factory built housing retailer failed to pay a qualified beneficiary who is entitled to payment under an agreement with that subcontractor or supplier; or
(iii) a subcontractor who contracts with a subcontractor or supplier failed to pay a qualified beneficiary who is entitled to payment under an agreement with that subcontractor or supplier;
(d)

(i) unless precluded from doing so by the nonpaying party's bankruptcy filing within the applicable time, the qualified beneficiary filed an action against the nonpaying party to recover money owed to the qualified beneficiary within the earlier of:
(A) 180 days from the date the qualified beneficiary filed a notice of claim under Section 38-1a-502; or
(B) 270 days from the completion of the original contract pursuant to Subsection 38-1a-502(1);
(ii) the qualified beneficiary has obtained a judgment against the nonpaying party who failed to pay the qualified beneficiary under an agreement to provide qualified services for construction of that owner-occupied residence;
(iii) the qualified beneficiary has:
(A) obtained from a court of competent jurisdiction the issuance of an order requiring the judgment debtor, or if a corporation any officer of the corporation, to appear before the court at a specified time and place to answer concerning the debtor's or corporation's property;
(B) received return of service of the order from a person qualified to serve documents under the Utah Rules of Civil Procedure, Rule 4(b);
(C) made reasonable efforts to obtain asset information from the supplemental proceedings; and
(D) if assets subject to execution are discovered as a result of the order required under this Subsection (4)(d)(iii) or for any other reason, obtained the issuance of a writ of execution from a court of competent jurisdiction; and
(iv) if the nonpaying party has filed bankruptcy, the qualified beneficiary timely filed a proof of claim where permitted in the bankruptcy action;
(e) the qualified beneficiary is not entitled to reimbursement from any other person; and
(f) the qualified beneficiary provided qualified services to a contractor, licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act.
(5) The requirements of Subsections (4)(d)(ii) and (iii) need not be met if the qualified beneficiary is prevented from compliance because the nonpaying party files bankruptcy.
(6) To recover from the fund a laborer shall:
(a) establish that the laborer has not been paid wages due for the work performed at the site of a construction on an owner-occupied residence; and
(b) provide any supporting documents or information required by rule by the division.
(7) A fee determined by the division under Section 63J-1-504 shall be deducted from any recovery from the fund received by a laborer.
(8) The requirements of Subsections (4)(a) and (b) may be satisfied if an owner or agent of the owner establishes to the satisfaction of the director that the owner of the owner-occupied residence or the owner's agent entered into a written contract with an original contractor who:
(a) was a business entity that was not licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, but was solely or partly owned by an individual who was licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act; or
(b) was a natural person who was not licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, but who was the sole or partial owner and qualifier of a business entity that was licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act.
(9) The director shall have equitable power to determine if the requirements of Subsections (4)(a), (b), and (f) have been met, but any decision by the director under this chapter shall not alter or have any effect on any other decision by the division under Title 58, Occupations and Professions.

Amended by Chapter 373, 2017 General Session

38-11-205 Subrogation.

(1)

(a)

(i) The state, on behalf of the fund, has the right of subrogation only to the extent of payments made from the fund.

(ii) Upon payment from the fund to a claimant, any payment to the claimant that was the basis of the claimant's claim against the fund shall be assigned to the fund for the enforcement of subrogation rights by the attorney general.

(iii) A claimant's judgment or bankruptcy claim against the nonpaying party shall be automatically assigned to the state, to the extent paid by the fund on a particular residence, upon the state's filing of the director's order of payment of claim with the appropriate court.

(b) The state's right of subrogation under Subsection (1)(a) has priority over any rights of the qualified beneficiary under the judgment or any civil penalties imposed.

(c) The state shall be awarded attorney's fees and court costs incurred in recovering claims paid from the fund.

(2)

(a) The attorney general shall enforce all subrogation claims and may contract with private attorneys as necessary to adequately enforce subrogation claims.

(b)

(i) In addition to the subrogation claims the attorney general may seek a civil fine of $5,000 per residence for failure to reimburse the Residence Lien Recovery Fund within 90 days after any disbursement from the fund resulting from the registrant's failure to pay qualified beneficiaries under this chapter.

(ii) All claims under the judgment have priority over the civil penalty.

(3) The attorney general may charge the fund for costs incurred by the attorney general under this chapter.

Amended by Chapter 193, 1999 General Session

38-11-206 Limitations on fund balance.

By October 1 of each year, the division shall provide a written report to the Legislature and the Business and Labor Interim Committee that describes:

(1) the amount of money in the fund, including the encumbered fund balance;

(2) an estimate of when the fund will have insufficient money to continue to pay claims under this chapter; and

(3) a recommendation to the Legislature of whether the substantive provisions of this chapter should be repealed due to insufficient money in the fund.

Repealed and Re-enacted by Chapter 229, 2018 General Session

Superseded 1/1/2027

38-11-207 Reimbursement to the fund.

(1) If the director disburses money from the fund as a result of a person licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, or a qualified beneficiary failing to pay qualified beneficiaries:

(a) the division shall issue a notice of the disbursement from the fund and the obligation to reimburse the fund to the licensee or qualified beneficiary; and
(b) the licensee or qualified beneficiary shall reimburse the fund within 20 days from the issuance of the notice required by Subsection (1)(a).
(2) The notice required by Subsection (1)(a) shall meet the requirements established by rule by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
(3)
(a) A finding of fact in an administrative action that a payment of any amount has been made from the fund in settlement of a claim arising from the act, representation, transaction, or conduct of a person licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, in violation of Section 58-55-603 shall result in the immediate suspension of that person's license without further compliance with Title 63G, Chapter 4, Administrative Procedures Act.
(b) The finding of fact for Subsection (3)(a) may be made in the same administrative action as the related claim and may be included in the findings required by Section 38-11-203.
(c) The suspension required by Subsection (3)(a) shall remain in effect until the person applies for reinstatement and is issued a license in accordance with Sections 58-1-308 and 58-55-303.

Amended by Chapter 382, 2008 General Session

Effective 1/1/2027
38-11-207 Reimbursement to the fund.
(1) If the director disburses money from the fund as a result of a person licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, or a qualified beneficiary failing to pay qualified beneficiaries:
(a) the division shall issue a notice of the disbursement from the fund and the obligation to reimburse the fund to the licensee or qualified beneficiary; and
(b) the licensee or qualified beneficiary shall reimburse the fund within 20 days from the issuance of the notice required by Subsection (1)(a).
(2) The notice required by Subsection (1)(a) shall meet the requirements established by rule by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
(3)
(a) A finding of fact in an administrative action that a payment of any amount has been made from the fund in settlement of a claim arising from the act, representation, transaction, or conduct of a person licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, in violation of Section 58-55-209 shall result in the immediate suspension of that person's license without further compliance with Title 63G, Chapter 4, Administrative Procedures Act.
(b) The finding of fact for Subsection (3)(a) may be made in the same administrative action as the related claim and may be included in the findings required by Section 38-11-203.
(c) The suspension required by Subsection (3)(a) shall remain in effect until the person applies for reinstatement and is issued a license in accordance with Sections 58-1-308 and 58-55-108.

Amended by Chapter 42, 2026 General Session

Part 3

Registration

38-11-301 Registration as a qualified beneficiary -- Initial regular assessment -- Affidavit.

(1) A person licensed as of July 1, 1995, as a contractor under the provisions of Title 58, Chapter 55, Utah Construction Trades Licensing Act, in license classifications that regularly engage in providing qualified services shall be automatically registered as a qualified beneficiary.

(2) A person applying for licensure as a contractor after July 1, 1995, in license classifications that regularly engage in providing qualified services shall be automatically registered as a qualified beneficiary upon issuance of a license.

(3)

(a) After July 1, 1995, any person providing qualified services as other than a contractor as provided in Subsection (1) or any person exempt from licensure under the provisions of Title 58, Chapter 55, Utah Construction Trades Licensing Act, may register as a qualified beneficiary by:

(i) submitting an application in a form prescribed by the division;

(ii) demonstrating registration with the Division of Corporations and Commercial Code as required by state law; and

(iii) paying a registration fee determined by the division under Section 63J-1-504.

(b) A person who does not register under Subsection (1), (2), or (3)(a) shall be prohibited from recovering under the fund as a qualified beneficiary for work performed as qualified services while not registered with the fund.

Amended by Chapter 229, 2018 General Session