

Contractor Guaranty Funds in Other States

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Issue

This report compares several states' guaranty funds used to reimburse homeowners for breaches of contract or improper work by home improvement contractors (HIC) and new home builders (NHB).

Background information on Connecticut's guaranty funds can be found in the following two reports: OLR Report [2019-R-0130](#) (Home Improvement Guaranty Fund) and [2019-R-0233](#) (New Home Construction Guaranty Fund).

Summary

At least 10 states, including Connecticut, have guaranty funds that assist consumers who suffer financial losses due to a HIC or NHB's breach of contract or improper work. In seven states, one fund covers HICs and NHBs; in Connecticut and Maryland, separate funds exist for HIC and NHB. And in Massachusetts, the guaranty fund is available only for HIC-related occurrences. (Not every state has separate license or registration requirements for HIC and NHB.)

In all states, guaranty funds only reimburse consumers who contracted with licensed or registered HIC or NHB (or in North Carolina, those who fraudulently represented themselves as such). Each state defines HIC or NHB differently—in some states, specialized contactors (e.g., pool or roof installers) may be required to contribute to the guaranty fund. Generally, commercial (i.e., non-residential) contractors are not required to contribute to the guaranty funds.

In most states, consumers seeking to access the guaranty fund must obtain a final order from a court. However, a few states offer an administrative proceeding alternative (e.g., Arizona and Maryland). The amount a homeowner can recover from the fund varies, and may be subject to a transaction cap or lifetime cap per licensee. Contactors' required contributions also vary. Some states do not require contactors to contribute to the fund, but rather capitalize it with building permit fees (e.g., Maryland and North Carolina).

Comparison of Guaranty Fund Laws

Table 1 presents a brief description of guaranty funds in the 10 states we identified as currently having one and the two states that previously had a guaranty fund, but have repealed them (Michigan and Tennessee). Due to space limitations, we do not detail the types of costs guaranty funds will reimburse.

Table 1: Guaranty Funds

State	Guaranty fund? Combined fund for HIC and NHB?	Fund Capitalization	Cap	Must have court judgment to access fund?	Bond/insurance requirement for HIC/NHB?
Alabama Ala. Code § 34-14A-15 Ala. Admin. Code Chapter 465-X-7 et seq.	Yes, combined for HIC and NHB	\$15 annually	\$20,000 per transaction; \$60,000 lifetime cap per licensee	Yes	None
Arizona Ariz. Rev. Stat. § 32-1131 et seq.	Yes, combined for HIC and NHB	\$270 biennially (\$370 for first-time licensees) or may post bond in the amount of \$200,000 (in addition to required license bond)	\$30,000 per property; \$200,000 lifetime cap per licensee	No	HIC and NHB must post a \$4,250 to \$15,000 license bond (plus an additional \$200,000 bond if opting out of the guaranty fund)
Connecticut CGS § 20-417a et seq. CGS § 20-418 et seq.	Separate funds for HIC and NHB ; neither fund can have a balance exceeding \$750,000 (excess transferred to consumer protection enforcement account and general fund)	HIC annually pay \$100; NHB biennially pay \$480	\$15,000 per HIC-related occurrence; \$30,000 per NHB-related occurrence	Yes	HIC: no When registering, NHB must provide the name of the company that provides their liability insurance (but the law does not specify any coverage requirements)
Florida Fla. Stat. § 489.1401 et seq. Fla. Stat. § 468.631	Yes, combined for HIC and NHB	Funded by 0.675% of locally-collected permit fees associated with work governed by the Building Code	For contracts entered into after July 1, 2016: \$50,000 per occurrence; \$500,000 lifetime cap per licensee	Generally, yes	Must provide board with evidence of workers' compensation, public liability, and property damage insurance Must have a bond to insure financial obligations, ranging from \$50,000 to \$100,000

Table 1 (continued)

State	Guaranty fund? Combined fund for HIC and NHB?	Fund Capitalization	Cap	Must have court judgment to access fund?	Bond/insurance requirement for HIC/NHB?
<p>Hawaii</p> <p>Haw. Rev. Stat. § 444-1 et seq.</p> <p>Haw. Code R. § 16-53-17</p>	<p>Yes, combined for HIC and NHB</p>	<p>\$150 biennially</p> <p>If the fund's balance falls below \$250,000, the board may assess each HIC an additional amount of up to \$500 per year</p> <p>Beginning July 1, 2020, fund balance cannot exceed \$420,893</p>	<p>\$12,500 per contract; \$25,000 lifetime cap per licensee</p>	<p>Yes</p>	<p>Contractors must generally have insurance for workers' compensation, liability for personal injury and property damage, and the board may require a bond of at least \$5,000</p>
<p>Maryland</p> <p>MD Code Ann., Bus. Reg. § 4.5-101 et seq.</p> <p>MD Code Ann., Bus. Reg. § 8-101 et seq.</p> <p>MD Code Ann., Bus. Reg. § 4.5-703 et seq.</p>	<p>Separate funds for HIC and NHB</p>	<p>\$100 for new HIC applicants, then \$125 biennially; if the fund's balance falls \$1,000,000, each HIC must pay an additional \$50 (up to 3 times a year)</p> <p>\$50 from each building permit fee goes to the NHB fund (local jurisdiction may retain 2% of this amount for administrative costs); goal is to have a fund balance of at least \$1,000,000</p>	<p>For HIC fund: \$20,000 per HIC-related occurrence; \$100,000 lifetime cap per HIC</p> <p>For NHB fund: \$50,000 per NHB-related occurrence; \$300,000 lifetime cap per NHB</p>	<p>No, commission overseeing HIC fund will investigate claim and hold a hearing if needed</p> <p>No, Attorney General's Office oversees NHB and uses mediation, arbitration, and administrative hearings to resolve claims</p>	<p>HIC must maintain general liability insurance of at least \$50,000; NHB must maintain at least \$100,000</p>

Table 1 (continued)

State	Guaranty fund? Combined fund for HIC and NHB?	Fund Capitalization	Cap	Must have court judgment to access fund?	Bond/insurance requirement for HIC/NHB?
<p>Massachusetts</p> <p>Mass. Gen. Laws ch. 142A, § 1 et seq.</p> <p>201 Mass. Code Regs. 14.01 et seq.</p>	<p>Yes, for HICs only</p>	<p>One-time fee, upon registration:</p> <ul style="list-style-type: none"> ▪ Up to 3 employees: \$100 ▪ 4-10 employees: \$200 ▪ 11-30 employees: \$300 ▪ Over 30 employees: \$500 <p>If the fund's balance is insufficient to pay out claims, each HIC must pay an additional amount, up to the amount of the original contribution required, up to one time per year</p>	<p>\$10,000 per homeowner; \$75,000 per HIC in a 12-month period (fund administrator can waive cap)</p>	<p>No, but one must serve a writ of execution on the HIC</p>	<p>None</p>
<p>Michigan</p>	<p>No—Homeowner Construction Lien Recovery Fund law was repealed effective August 23, 2010</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>	<p>None</p>
<p>Minnesota</p> <p>Minn. Stat. § 326B.89</p> <p>Minn. Stat. § 326B.815</p>	<p>Yes, combined fund for HIC and NHB</p>	<p>\$320 biennially for gross annual receipts under \$1 million</p> <p>\$420 biennially for gross annual receipts between \$1 million and \$5 million</p> <p>\$520 biennially for gross annual receipts over \$5 million</p>	<p>\$75,000 per transaction; \$300,000 lifetime cap per contractor</p>	<p>Yes</p>	<p>HIC/NHB must maintain commercial general liability insurance (premises, operations, products, completed operations)(\$100,000/occurrence; \$300,000/aggregate bodily injury; \$25,000/property damage; or \$300,000/bodily injury and property damage; \$300,000/aggregate)</p> <p>Must file proof with the state; insurance companies must notify state if policy cancelled</p>

Table 1 (continued)

State	Guaranty fund? Combined fund for HIC and NHB?	Fund Capitalization	Cap	Must have court judgment to access fund?	Bond/insurance requirement for HIC/NHB?
<p>Tennessee</p> <p>Tenn. Code Ann. §§ 62-6-137 & 62-6-506(h)</p> <p>Licensing Board Rule 068007.13</p>	<p>No—repealed; no new claims allowed after May 22, 1992</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>	<p>If doing work that requires a permit, HIC must file with State Board for Licensing Contractors a \$10,000 to \$50,000 surety bond or an irrevocable letter of credit (or similar proof of financial responsibility) for the benefit of any person who is damaged because of the breach of the home improvement contract</p> <p>(Counties may have additional requirements)</p> <p>HIC and NHB also subject to insurance requirements based on their gross income, proof of which must be provided to the state</p> <p>Certain HIC and NHB must secure a permit bond, to ensure that construction meets code</p>
<p>North Carolina</p> <p>N.C. Gen. Stat. § 87-15.5 et seq.</p> <p>21 N.C. Admin. Code 12.0901 et seq.</p>	<p>Yes, combined fund for HIC and NHB</p>	<p>A \$10 surcharge is added to certain city or county building permit fees to capitalize the account (\$1 is retained by the collecting jurisdiction for administrative costs)</p>	<p>Award cannot exceed 10% of guaranty fund balance at the time of the award</p>	<p>Yes</p>	<p>None</p>

Table 1 (continued)

<i>State</i>	<i>Guaranty fund? Combined fund for HIC and NHB?</i>	<i>Fund Capitalization</i>	<i>Cap</i>	<i>Must have court judgment to access fund?</i>	<i>Bond/insurance requirement for HIC/NHB?</i>
Virginia Va. Code Ann. § 54.1-1118 et seq. 18 Va. Admin. Code 50-30-10 et seq.	Yes, combined fund for HIC and NHB	\$25 for first time registrants; \$30 at biennial renewal If the fund's balance falls below \$400,000, contractors must contribute an additional amount (up to \$50 biennially)	\$20,000 per claim; biennial cap of \$40,000 per contractor	Yes	If the contactor does not meet financial solvency requirements when registering, a \$50,000 surety bond is required

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