

A CLAIM SHALL BE BROUGHT AGAINST THE FUND WITHIN 3 YEARS AFTER THE CLAIMANT DISCOVERED OR, BY USE OF ORDINARY DILIGENCE, SHOULD HAVE DISCOVERED THE LOSS OR DAMAGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 56, §§ 249(m)(1) and (2), 257A(a), (c), and (d), 257D(b)(2), 257E(b) and (c), and 257G(a).

In subsection (a) of this section, the former phrase "[w]ork performed under a home improvement contract in a poor or unworkmanlike manner or which is otherwise inadequate or incomplete" is deleted as unnecessary in light of the defined term "actual loss".

Subsection (c) of this section is revised in the active voice to clarify that the intent of the statute did not seem to be to preclude recovery if the claimant attempted to arbitrate a dispute under the contract, but the contractor refused to participate.

In subsection (e)(1) of this section, the former reference to an amount awarded "from a bond provided for in § 257(c) of this article" is deleted as obsolete. Chapter 116, Acts of 1985, which established the Fund, eliminated the requirement that a contractor be bonded as of June 30, 1988. Similarly, former Art. 56, § 257A(b), which required a claimant to exhaust any remedy available under the bond of the contractor, is deleted as obsolete.

Subsection (f)(2) of this section is revised as a limitation on who may submit a claim under the Fund, rather than a definition of "claimant", for clarity.

Former Art. 56, § 249(m)(3), which provided that "a claimant" is an owner who "[m]akes a claim against the Fund", is deleted as implicit in the scheme of this subtitle.

The Business Regulation Article Review Committee notes, for consideration by the General Assembly, that in subsection (a) of this section the former reference to a "violation of § 261", now Part II of Subtitle 6 of this title, is deleted as inconsistent with the limitation on recovery in the defined term "actual loss".

The Committee also notes, for consideration by the General Assembly, that the meaning of the term "immediate relative" in subsection (f)(1)(i) and (iii) of this section is unclear. The General Assembly may wish to clarify the scope of this exclusion.

Defined terms: "Actual loss" § 8-401

"Commission" § 8-101

"Contractor" § 8-101

"Fund" § 8-101

"License" § 8-101