

SECOND REGULAR SESSION

# HOUSE BILL NO. 2452

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE YATES.

Read 1st time March 26, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5132L.01I

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### AN ACT

To amend chapter 324, RSMo, by adding thereto sixty new sections relating to the creation of a registry of contractors, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 324, RSMo, is amended by adding thereto sixty new sections, to be  
2 known as sections 324.1400, 324.1402, 324.1404, 324.1406, 324.1408, 324.1410, 324.1412,  
3 324.1414, 324.1416, 324.1418, 324.1420, 324.1422, 324.1424, 324.1426, 324.1428, 324.1430,  
4 324.1432, 324.1434, 324.1436, 324.1438, 324.1440, 324.1442, 324.1444, 324.1446, 324.1448,  
5 324.1450, 324.1452, 324.1454, 324.1456, 324.1458, 324.1460, 324.1462, 324.1464, 324.1466,  
6 324.1468, 324.1470, 324.1472, 324.1474, 324.1476, 324.1478, 324.1480, 324.1482, 324.1484,  
7 324.1486, 324.1488, 324.1490, 324.1492, 324.1494, 324.1496, 324.1498, 324.1500, 324.1502,  
8 324.1504, 324.1506, 324.1508, 324.1510, 324.1512, 324.1514, 324.1516, and 324.1518, to read  
9 as follows:

**324.1400. 1. For purposes of sections 324.1400 to 324.1518, the following terms**  
2 **mean:**

3 **(1) "Advertisement", any written or oral publication, dissemination, solicitation,**  
4 **or circulation which is intended to directly or indirectly induce any person to enter into an**  
5 **agreement for contracting services with a contractor including business cards and**  
6 **telephone directory display advertisements;**

7 **(2) "Commercial contractor", "commercial builder", "industrial builder", or**  
8 **"public works builder", any person, firm, partnership, corporation, association or other**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

9 organization, or any combination, that, for compensation, undertakes to or offers to  
10 undertake to, purports to have the capacity to undertake to, submits a bid to, does himself  
11 or by or through others, or directly or indirectly supervises others, except within  
12 residential property lines, to:

13 (a) Construct, alter, repair, add to, subtract from, improve, move, wreck or  
14 demolish any building, highway, road, railroad, excavation or other structure, project,  
15 development or improvement, or to do any part thereof, including the erection of  
16 scaffolding or any other structure or work in connection with the construction;

17 (b) Connect such structure or improvements to utility service lines and metering  
18 devices and the sewer line;

19 (c) Provide mechanical or structural service for any such structure or  
20 improvements;

21 (3) "Contractor" or "builder", any person, firm, partnership, corporation,  
22 association or other organization, or a combination of any of them, that, for compensation,  
23 undertakes to or offers to undertake to, purports to have the capacity to undertake to,  
24 submits a bid or responds to a request for qualification or a request for proposals for  
25 construction services to, does himself or by or through others, or directly or indirectly  
26 supervises others to:

27 (a) Construct, alter, repair, add to, subtract from, improve, move, wreck or  
28 demolish any building, highway, road, railroad, excavation or other structure, project,  
29 development or improvement, or to do any part thereof, including the erection of  
30 scaffolding or any other structure or work in connection with the construction;

31 (b) Connect such structure or improvements to utility service lines and metering  
32 devices and the sewer line;

33 (c) Provide mechanical or structural service for any such structure or  
34 improvements;

35 (4) "Dual licensed contractor" or "commercial and residential builder", any  
36 person, firm, partnership, corporation, association or other organization, or any  
37 combination, that undertakes to or offers to undertake to, purports to have the capacity  
38 to undertake to, submits a bid to, does himself or by or through others, or directly or  
39 indirectly supervises others under a single license on commercial or residential property  
40 to:

41 (a) Construct, alter, repair, add to, subtract from, improve, move, wreck or  
42 demolish any building, excavation or other structure or improvement, including any  
43 appurtenances, or to do any part thereof;

44 (b) Connect such structure or improvements to utility service lines and metering  
45 devices and the sewer line;

46 (c) Provide mechanical or structural service for any such structure or  
47 improvements;

48 (5) "Person", an applicant, an individual, a member of a limited liability company,  
49 a qualifying party, any partner of a partnership or limited liability partnership or any  
50 officer, director, qualifying party, trustee of a trust, beneficiary of a trust or owner of at  
51 least twenty-five percent of the stock or beneficial interest of a corporation;

52 (6) "Registrar", the registrar of contractors;

53 (7) "Residential contractor" or "residential builder", any person, firm,  
54 partnership, corporation, association or other organization, or a combination of any of  
55 them, that undertakes to or offers to undertake to, purports to have the capacity to  
56 undertake to, submits a bid to, or does himself or by or through others, within residential  
57 property lines:

58 (a) Construct, alter, repair, add to, subtract from, improve, move, wreck or  
59 demolish any residential structure, such as houses, townhouses, condominiums or  
60 cooperative units. Residential structures also include apartment complexes of four units  
61 or less and any appurtenances on or within residential property lines;

62 (b) Connect such residential structure to utility service lines, metering devices or  
63 sewer lines;

64 (c) Provide mechanical or structural service for any such residential structure.

65 2. "Contractor" includes subcontractors, specialty contractors, floor covering  
66 contractors, landscape contractors, other than gardeners, and consultants representing  
67 themselves as having the ability to supervise or manage a construction project for the  
68 benefit of the property owner including the hiring and firing of specialty contractors, the  
69 scheduling of work on the project and the selection and purchasing of construction  
70 material.

71 3. For the purposes of sections 324.1400 to 324.1518 "residential contractor" does  
72 not include an owner making improvements under subdivision (5) of subsection 1 of this  
73 section.

74 4. Only contractors as defined in this section are licensed and regulated by sections  
75 324.1400 to 324.1518.

324.1402. For the purpose of license classification, the contracting business shall  
2 include:

3 (1) General commercial building contracting, which is engaging in the contracting  
4 business in connection with any structure built, being built or to be built on commercial

5 property for the support, shelter and enclosure of persons, animals, chattels or movable  
6 property of any kind, or superintending the whole or any part thereof, and which includes  
7 the management or direct or indirect supervision of any work performed by a contractor  
8 but does not include a person who merely furnishes materials or supplies as provided in  
9 section 324.1410 without fabricating them into or consuming them in performing the work  
10 of the general contractor;

11 (2) General dual licensed contracting, which is engaging in the contracting business  
12 in connection with any structure built, being built or to be built on residential or  
13 commercial property for the support, shelter and enclosure of persons, animals, chattels  
14 or movable property of any kind, or superintending the whole or any part thereof, and  
15 which includes the management or direct or indirect supervision of any work performed  
16 by a contractor but does not include a person who merely furnishes materials or supplies  
17 as provided in section 324.1410 without fabricating them into or consuming them in  
18 performing the work of the general contractor;

19 (3) General engineering contracting, which is engaging in the contracting business  
20 other than residential contracting in connection with fixed works requiring specialized  
21 engineering knowledge and skills and includes irrigation, drainage, water power, water  
22 supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airport  
23 runways, sewerages, bridges, earth moving projects, paving, and transmission lines;

24 (4) General residential contracting, which is engaging in the contracting business  
25 by any general contractor or subcontractor who undertakes to construct, alter, repair, add  
26 to, subtract from, improve, move, wreck or demolish any residential structure or  
27 appurtenances including swimming pools on or within residential property lines;

28 (5) Specialty commercial contracting, which is engaging in the contracting business  
29 in the performance of construction work requiring special skill and involving the use of  
30 specialized construction trades or crafts other than residential contracting;

31 (6) Specialty dual licensed contracting, which is engaging in the contracting  
32 business in the performance of construction work requiring special skill and involving the  
33 use of specialized construction trades or crafts in residential and commercial contracting;

34 (7) Specialty residential contracting, which is engaging in the residential  
35 contracting business by the performance of construction work requiring special skill and  
36 involving the use of specialized construction trades or crafts within residential property  
37 lines.

324.1404. 1. The governor shall appoint a registrar of contractors for a term  
2 coterminous with that of the governor or until his or her successor is appointed and  
3 qualifies. The registrar is vested with all functions and duties relating to administration

4 of sections 324.1400 to 324.1518. The registrar shall receive compensation in an amount  
5 determined appropriate by the department of insurance, financial institutions and  
6 professional registration.

7       2. The registrar, in addition to other duties and rights provided for in sections  
8 324.1400 to 324.1518, shall:

9       (1) Maintain an office in Jefferson City and in such other cities and towns in the  
10 state as the registrar deems advisable and necessary;

11       (2) Maintain a complete indexed record of all applications and licenses issued,  
12 renewed, terminated, cancelled, revoked or suspended under sections 324.1400 to 324.1518,  
13 including timely notation of any judicial disposition on appeal, for a period of not less than  
14 seven years;

15       (3) Furnish a certified copy of any license issued or an affidavit that no license  
16 exists or that a license has been cancelled or suspended including information as to the  
17 status on appeal of such cancellation or suspension, upon receipt of the prescribed fee, and  
18 such certified copy shall be received in all courts and elsewhere as prima facie evidence of  
19 the facts stated therein. The registrar shall also furnish certified copies of license bonds  
20 or cash deposit certificates upon receipt of the prescribed fee. Fees charged under this  
21 subdivision shall be at a rate of ten dollars per hour, except that the minimum fee charged  
22 under this subdivision shall be ten dollars;

23       (4) Employ such deputies, investigators and assistants and procure such equipment  
24 and records as are necessary to enforce sections 324.1400 to 324.1518. With respect to the  
25 enforcement of section 324.1500, the registrar or the registrar's investigators are vested  
26 with the authority to issue a citation to any violators of sections 324.1400 to 324.1518.  
27 When the registrar or the registrar's investigators conduct investigations they are  
28 authorized to receive criminal history record information from the department of public  
29 safety and other law enforcement agencies;

30       (5) Make rules the registrar deems necessary to effectually carry out the provisions  
31 and intent of sections 324.1400 to 324.1518. Such rules shall include the adoption of  
32 minimum standards for good and workmanlike construction. In the adoption of such rules  
33 of minimum standards, the registrar shall be guided by established usage and procedure  
34 as found in the construction business in this state. If the rules of minimum standards  
35 adopted by the registrar are in any manner inconsistent with a building or other code of  
36 the state, a county, city or other political subdivision or local authority of the state,  
37 compliance with such code shall constitute good and workmanlike construction for the  
38 purposes of sections 324.1400 to 324.1518;

39       (6) Apply the following to proposed rule changes:

40           (a) The registrar of contractors, at the time the registrar files notice of proposed  
41 rule change with the secretary of state and shall mail to each trade association that  
42 qualifies in accordance with paragraph (b) of this subdivision, and any other individual  
43 holding a bona fide contractor's license who qualifies in accordance with paragraph (b) of  
44 this subdivision, a copy of the notice of proposed rule change;

45           (b) Every trade association in this state allied with the contracting business that  
46 files a written request that a notice be mailed to it and shows that the association has an  
47 interest in the rules of the registrar of contractors shall receive a copy thereof, as set forth  
48 in paragraph (a) of this subdivision. Such filing of a request shall be made every two years  
49 during the month of January, and it shall contain information as to the nature of the  
50 association and its mailing address. Any duly licensed contractor who files a written  
51 request shall receive a copy of the proposed rule changes in accordance with this  
52 paragraph. Each such request shall be made every two years during the month of  
53 January;

54           (7) Prepare and furnish decals and business management books when deemed  
55 advisable by the registrar. A reasonable fee may be charged for such decals and business  
56 management books;

57           (8) Refer criminal violations of sections 324.1400 to 324.1518 committed by persons  
58 previously named on a license which has been revoked to the appropriate law enforcement  
59 agency or prosecuting authority.

60           3. The registrar may develop and institute programs to do any of the following:

61           (1) Educate the public and contractors licensed under sections 324.1400 to 324.1518  
62 regarding statutes, rules, policies and operations of the agency;

63           (2) Assist in the resolution of disputes in an informal process before a reportable  
64 written complaint is filed. The registrar shall notify the licensed contractor in an alleged  
65 dispute before a written complaint is filed and allow the contractor the opportunity to be  
66 present at any inspection regarding the alleged dispute. The registrar shall give the  
67 contractor at least five days' notice before the inspection. Issues in the alleged dispute  
68 under this section shall not be limited in number and shall not be considered formal  
69 written complaints. The homeowner reserves the right to deny access to the contractor  
70 under this informal complaint process. The registrar shall notify the contractor and the  
71 homeowner in writing of the registrar's findings within five days after the date of the  
72 inspection. The registrar shall not post any information regarding the informal complaint  
73 process as part of a licensee's record on the registrar's web site;

74           (3) Develop, manage, operate and sponsor construction related programs designed  
75 to benefit the public in conjunction with other private and public entities.

76           4. The registrar may adopt rules for the posting of names of applicants and  
77 personnel of applicants for contractors' licenses and furnish copies of such posting lists  
78 upon written request. The name and address of the applicant, together with the names and  
79 addresses and official capacity of all persons associated with the applicant who have signed  
80 the application, shall be publicly posted in the place and manner to be prescribed by the  
81 registrar for a period of not less than twenty days, except as otherwise provided in this  
82 subsection, commencing on the day designated by the registrar of contractors. The  
83 registrar may waive a part of the posting period when the records reflect that the applicant  
84 or qualifying party has previously undergone the twenty day posting for a previous license.  
85 A reasonable charge of not to exceed two dollars per month may be made for compilation,  
86 printing and postage for such posting lists.

87           5. The registrar may accept voluntary gifts, grants or matching moneys from public  
88 agencies or enterprises for the conduct of programs that are authorized by this section or  
89 that are consistent with the purpose of sections 324.1400 to 324.1518.

90           6. The registrar may adopt rules necessary to effect the classification of contractors  
91 in a manner consistent with established usage and procedure as found in the construction  
92 business, and may limit the field and scope of operations of a licensed contractor within  
93 any of the branches of the contracting business, as described in sections 324.1400 to  
94 324.1518, to those divisions thereof in which the contractor is classified and qualified to  
95 engage.

96           7. The registrar shall establish by rule license classifications for dual licensed  
97 contractors. A contractor classified as a dual licensed contractor may perform equivalent  
98 construction work on both commercial and residential projects under a single license. The  
99 registrar shall adopt rules necessary to establish the scope of work that may be done under  
100 the dual license classifications.

101           8. A licensee may apply for classification and be classified in more than one  
102 classification or division thereof after the licensee meets the qualifications prescribed by  
103 the registrar for such additional classification or classifications. A single form of  
104 application shall be adopted for all licenses issued by the registrar.

105           9. Nothing in sections 324.1400 to 324.1518 shall prohibit a specialty contractor  
106 from taking and executing a contract involving the use of two or more crafts or trades if  
107 the performance of the work in the crafts or trades other than those in which the specialty  
108 contractor is licensed is incidental and supplemental to the performance of work in the  
109 craft for which the specialty contractor is licensed.

          324.1406. In any investigation, proceeding or hearing he or she is empowered to  
2 institute, conduct, or hold under sections 324.1400 to 324.1518, the registrar, a deputy

3 registrar, an assistant, an administrative law judge or an investigator may administer  
4 oaths, certify to official acts, issue subpoenas for attendance of witnesses and production  
5 of books, papers and records, and exercise the same powers in this regard as conferred  
6 upon public officers.

324.1408. 1. The registrar of contractors fund is hereby established. The state  
2 treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180,  
3 RSMo, the state treasurer may approve disbursements. Upon appropriation, money in the  
4 fund shall be used solely for the administration of sections 324.1400 to 324.1518. The state  
5 treasurer shall invest moneys in the fund in the same manner as other funds are invested.  
6 Any interest and moneys earned on such investments shall be credited to the fund. The  
7 registrar shall deposit all moneys collected under sections 324.1400 to 324.1518, except  
8 moneys collected for the residential contractors' recovery fund and the contractors' cash  
9 bond fund and moneys received from civil penalties, as follows:

10 (1) For fiscal year 2009-2010, seventy percent in the registrar of contractors fund  
11 and thirty percent in the state general fund;

12 (2) For fiscal year 2010-2011, eighty percent in the registrar of contractors fund  
13 and twenty percent in the state general fund;

14 (3) For all fiscal years that begin after June 30, 2011, ninety percent in the registrar  
15 of contractors fund and ten percent in the state general fund.

16 2. The registrar shall use moneys in the registrar of contractors fund for carrying  
17 out the powers and duties of the registrar and for the purposes of sections 324.1400 to  
18 324.1518.

324.1410. 1. The provisions of sections 324.1400 to 324.1518 shall not be construed  
2 to apply to:

3 (1) An authorized representative of the United States government, this state or any  
4 county, incorporated city or town, reclamation district, irrigation district or other  
5 municipality or political subdivision of this state;

6 (2) Trustees of an express trust that is not formed for the purpose of conducting  
7 business as a contractor or officers of a court, if they are acting within the terms of their  
8 trust or office;

9 (3) Public utilities operating under regulation of the corporation commission or  
10 construction, repair or operation incidental to discovering or producing petroleum or gas,  
11 or the drilling, testing, abandoning or other operation of a petroleum or gas well, if  
12 performed by an owner or lessee;

13 (4) Any materialman, manufacturer or retailer furnishing finished products,  
14 materials or articles of merchandise who does not install or attach such items or installs or



15 attaches such items if the total value of the sales contract or transaction involving such  
16 items and the cost of the installation or attachment of such items to a structure does not  
17 exceed one thousand dollars, including labor, materials and all other items, but excluding  
18 any electrical fixture or appliance that was designed by the manufacturer, that is  
19 unaltered, unchanged or unmodified by any person, that can be plugged into a common  
20 household electrical outlet utilizing a two-pronged or three-pronged electrical connector  
21 and that does not use any other form of energy, including natural gas, propane or other  
22 petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening  
23 device to the frame or foundation of any residential structure. The materialman,  
24 manufacturer or retailer shall inform the purchaser that the installation may also be  
25 performed by a licensed contractor whose name and address the purchaser may request;

26 (5) Owners of property who improve such property or who build or improve  
27 structures or appurtenances on such property and who do the work themselves, with their  
28 own employees or with duly licensed contractors, if the structure, group of structures or  
29 appurtenances, including the improvements thereto, are intended for occupancy solely by  
30 the owner and are not intended for occupancy by members of the public as the owner's  
31 employees or business visitors and the structures or appurtenances are not intended for  
32 sale or for rent. In all actions brought under sections 324.1400 to 324.1518, proof of the  
33 sale or rent or the offering for sale or rent of any such structure by the owner-builder  
34 within one year after completion or issuance of a certificate of occupancy is prima facie  
35 evidence that such project was undertaken for the purpose of sale or rent. For the  
36 purposes of this subdivision, "sale" or "rent" includes any arrangement by which the  
37 owner receives compensation in money, provisions, chattels or labor from the occupancy  
38 or the transfer of the property or the structures on the property;

39 (6) Owners of property who are acting as developers and who build structures or  
40 appurtenances to structures on their property for the purpose of sale or rent and who  
41 contract for such a project with a general contractor licensed under sections 324.1400 to  
42 324.1518 and owners of property who are acting as developers, who improve structures or  
43 appurtenances to structures on their property for the purpose of sale or rent and who  
44 contract for such a project with a general contractor or specialty contractors licensed  
45 under sections 324.1400 to 324.1518. To qualify for the exemption under this subdivision,  
46 the licensed contractors' names and license numbers shall be included in all sales  
47 documents;

48 (7) Architects or engineers who are engaging in their professional practice and who  
49 hire or offer to hire the services of a contractor for preconstruction activities relating to  
50 investigation and discovery including:

- 51       (a) Subsurface utility location and designation services;  
52       (b) Potholing;  
53       (c) Drilling for any of the following:  
54       a. Soil samples;  
55       b. Rock samples;  
56       c. Pavement samples;  
57       (d) Locating existing features of a building or structure including existing electrical,  
58 mechanical, plumbing and structural members;  
59       (8) A person licensed, certified or registered under chapter 281, RSMo, or a person  
60 working under the direct supervision of a person certified or qualified under chapter 281,  
61 RSMo, to the extent the person is engaged in structural pest control;  
62       (9) The sale or installation of finished products, materials or articles of  
63 merchandise which are not fabricated into and do not become a permanent fixed part of  
64 the structure. This exemption does not apply if a local building permit is required, if the  
65 total price of the finished product, material or article of merchandise, including labor but  
66 excluding any electrical fixture or appliance that was designed by the manufacturer, that  
67 is unaltered, unchanged or unmodified by any person, that can be plugged into a common  
68 household electrical outlet utilizing a two-pronged or three-pronged electrical connector  
69 and that does not use any other form of energy, including natural gas, propane or other  
70 petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening  
71 device to the frame or foundation of any residential structure, is more than one thousand  
72 dollars or if the removal of the finished product, material or article of merchandise causes  
73 damage to the structure or renders the structure unfit for its intended use;  
74       (10) Employees of the owners of condominiums, townhouses, cooperative units or  
75 apartment complexes of four units or less or the owners' management agent or employees  
76 of the management agent repairing or maintaining structures owned by them;  
77       (11) Any person who engages in the activities regulated by sections 324.1400 to  
78 324.1518, as an employee of an exempt property owner or as an employee with wages as  
79 the person's sole compensation;  
80       (12) A surety company or companies which are authorized to transact business in  
81 this state and which undertake to complete a contract on which they issued a performance  
82 or completion bond, provided all construction work is performed by duly licensed  
83 contractors;  
84       (13) Insurance companies which are authorized to transact business in this state  
85 and which undertake to perform repairs resulting from casualty losses under the

86 provisions of a policy, provided all construction work is performed by duly licensed  
87 contractors;

88 (14) Any person other than a licensed contractor engaging in any work or operation  
89 on one undertaking or project by one or more contracts, for which the aggregate contract  
90 price, including labor, materials and all other items, but excluding any electrical fixture  
91 or appliance that was designed by the manufacturer, that is unaltered, unchanged or  
92 unmodified by any person, that can be plugged into a common household electrical outlet  
93 utilizing a two-pronged or three-pronged electrical connector and that does not use any  
94 other form of energy, including natural gas, propane or other petroleum or gaseous fuel,  
95 to operate or is attached by a nail, screw or other fastening device to the frame or  
96 foundation of any residential structure, is less than one thousand dollars. The work or  
97 operations which are exempt under this subdivision shall be of a casual or minor nature.  
98 This exemption does not apply:

99 (a) In any case in which the performance of the work requires a local building  
100 permit;

101 (b) In any case in which the work or construction is only a part of a larger or major  
102 operation, whether undertaken by the same or a different contractor, or in which a division  
103 of the operation is made in contracts of amounts less than one thousand dollars, excluding  
104 any electrical fixture or appliance that was designed by the manufacturer, that is  
105 unaltered, unchanged or unmodified by any person, that can be plugged into a common  
106 household electrical outlet utilizing a two-pronged or three-pronged electrical connector  
107 and that does not use any other form of energy, including natural gas, propane or other  
108 petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening  
109 device to the frame or foundation of any residential structure, for the purpose of evasion  
110 of sections 324.1400 to 324.1518 or otherwise;

111 (c) To a person who utilizes any form of advertising to the public in which the  
112 person's unlicensed status is not disclosed by including the words "not a licensed  
113 contractor" in the advertisement;

114 (15) A person who functions as a gardener by performing lawn, garden, shrub and  
115 tree maintenance.

116 2. A person who is licensed to perform work in a particular trade under sections  
117 324.1400 to 324.1518 shall not be required to obtain and maintain a separate license for  
118 mechanical or structural service work performed within the scope of such trade by such  
119 person.

324.1412. 1. A contractor's license shall be issued only by act of the registrar of  
2 contractors. The registrar shall:

- 3           (1) Classify and qualify applicants for a license;
- 4           (2) If necessary, change the license classification of a licensee in the case of a title
- 5 reclassification, with or without a bond rider for the purpose of continuing liability on the
- 6 bond;
- 7           (3) Conduct investigations the registrar deems necessary;
- 8           (4) Establish written examinations if deemed necessary to protect the health and
- 9 safety of the public.
- 10          2. To obtain or renew a license under sections 324.1400 to 324.1518, the applicant
- 11 shall:
- 12          (1) Submit to the registrar of contractors a verified application on forms that are
- 13 prescribed by the registrar of contractors and that contain the following information and
- 14 shall advise the registrar of any change in the information within thirty days:
- 15           (a) A designation of the classification of license that is sought by the applicant;
- 16           (b) If the applicant is an individual, the applicant's name and address;
- 17           (c) If the applicant is a partnership, the names and addresses of all partners with
- 18 a designation of any limited partners;
- 19           (d) If the applicant is a corporation, an association or any other organization, the
- 20 names and addresses of the president, vice-president, if any, secretary and treasurer or the
- 21 names and addresses of the functional equivalent of these officers, the directors and the
- 22 owners of twenty-five percent or more of the stock or beneficial interest;
- 23           (e) The name and address of the qualifying party;
- 24           (f) If the applicant is a corporation, evidence that the corporation is in good
- 25 standing with the corporation commission;
- 26           (g) The address or location of the applicant's place of business and the mailing
- 27 address if it is different from the applicant's place of business;
- 28           (h) Proof that the applicant has complied with the statutes or rules governing
- 29 workers' compensation insurance;
- 30          (2) Submit the appropriate bond and fee required under sections 324.1400 to
- 31 324.1518.
- 32          3. To obtain a contractor's license under sections 324.1400 to 324.1518 other than
- 33 a residential contractor's license, the applicant shall submit a detailed statement of current
- 34 financial condition containing information required by the registrar of contractors on a
- 35 form furnished by or acceptable to the registrar of contractors. Notwithstanding any other
- 36 law, a swimming pool contractor shall also submit a detailed statement of current financial
- 37 condition as required by this subsection.

38           **4. To obtain or renew a license under sections 324.1400 to 324.1518, each person**  
39 **shall be of good character and reputation. Lack of good character and reputation may be**  
40 **established by showing that a person has engaged in contracting without a license or**  
41 **committed any act that, if committed or done by any licensed contractor, would be grounds**  
42 **for suspension or revocation of a contractor's license or by showing that the person was**  
43 **named on a contractor's license that was suspended or revoked in another state.**

44           **5. To obtain a license under sections 324.1400 to 324.1518, a person shall not have**  
45 **had a license refused or revoked, within one year before the person's application, or shall**  
46 **not have engaged in the contracting business, nor shall the person have submitted a bid**  
47 **without first having been licensed within one year before the person's application, nor shall**  
48 **a person act as a contractor between the filing of the application and actual issuance of the**  
49 **license. The registrar may find any of those actions or circumstances to be excusable if**  
50 **there was reasonable doubt as to the need for licensure or the actions of the applicant did**  
51 **not result in an unremedied hardship or danger or loss to the public. A person who has**  
52 **been convicted of contracting without a license is not eligible to obtain a license under**  
53 **sections 324.1400 to 324.1518 for one year after the date of the last conviction.**

54           **6. Before a license is issued, the qualifying party shall:**

55           **(1) Have had a minimum of four years of practical or management trade**  
56 **experience, at least two of which must have been within the last ten years, dealing**  
57 **specifically with the type of construction, or its equivalent, for which the applicant is**  
58 **applying for a license. Technical training in an accredited college or university or in a**  
59 **manufacturer's accredited training program may be substituted for a portion of such**  
60 **experience, but in no case may credited technical training exceed two years of the required**  
61 **four years' experience. The registrar of contractors may reduce the four years' practical**  
62 **or management experience requirement if in the registrar's opinion it has been conclusively**  
63 **shown by custom and usage in the particular industry or craft involved that the four-year**  
64 **requirement is excessive. The registrar may waive the work experience documentation and**  
65 **verification or the examination requirement if the records reflect that the qualifying party**  
66 **is currently or has previously been a qualifying party for a licensee in this state in the same**  
67 **classification within the preceding five years;**

68           **(2) Successfully show, by written examination taken not more than two years before**  
69 **application, if required, qualification in the kind of work for which the applicant proposes**  
70 **to contract, the applicant's general knowledge of the building, safety, health and lien laws**  
71 **of the state, administrative principles of the contracting business and the rules adopted by**  
72 **the registrar of contractors under sections 324.1400 to 324.1518, demonstrate knowledge**  
73 **and understanding of construction plans and specifications applicable to the particular**

74 industry or craft and of the standards of construction work and techniques and practices  
75 in the particular industry or craft and demonstrate a general understanding of other  
76 related construction trades, in addition to any other matters as may be deemed appropriate  
77 by the registrar to determine that the qualifying party meets the requirements of sections  
78 324.1400 to 324.1518. The registrar shall maintain multiple versions of examinations for  
79 each type of license that requires an examination.

80 7. No license shall be issued to a minor, to any partnership in which one of the  
81 partners is a minor or to any corporation in which a corporate officer is a minor.

82 8. Before receiving, renewing and holding a license under sections 324.1400 to  
83 324.1518, the registrar may require a license applicant or licensee to submit to the registrar  
84 a full set of fingerprints and an administrative fee determined appropriate by the  
85 department of public safety. The registrar shall submit the fingerprints and fees to the  
86 department of public safety for the purpose of obtaining a state and federal criminal  
87 records check. The department of public safety may exchange this fingerprint data with  
88 the federal bureau of investigation.

324.1414. 1. Except as provided in subsection 4 of this section, if an entity that is  
2 not licensed under sections 324.1400 to 324.1518 bids on a contract for a project with an  
3 aggregate worth of more than one thousand dollars, excluding any electrical fixture or  
4 appliance that was designed by the manufacturer, that is unaltered, unchanged or  
5 unmodified by any person, that can be plugged into a common household electrical outlet  
6 utilizing a two-pronged or three-pronged electrical connector and that does not use any  
7 other form of energy, including natural gas, propane or other petroleum or gaseous fuel,  
8 to operate or is attached by a nail, screw or other fastening device to the frame or  
9 foundation of any residential structure, the registrar shall not issue the entity a license  
10 under sections 324.1400 to 324.1518 for one year after the date of the bid.

11 2. This section shall not apply to an entity that bids on a contract for either of the  
12 following:

13 (1) A department of transportation project;

14 (2) A project that is subject to the federal acquisition regulation, Title 48 Code of  
15 Federal Regulations, including the department of defense federal acquisition regulation.

16 3. This section does not affect the licensing exemptions prescribed in section  
17 324.1410.

18 4. If an entity bids on a contract for a project under subsection 1 of this section and  
19 the project has an aggregate worth of more than one thousand dollars, excluding any  
20 electrical fixture or appliance that was designed by the manufacturer, that is unaltered,  
21 unchanged or unmodified by any person, that can be plugged into a common household

22 electrical outlet utilizing a two-pronged or three-pronged electrical connector and that does  
23 not use any other form of energy, including natural gas, propane or other petroleum or  
24 gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the  
25 frame or foundation of any residential structure, and is less than twenty thousand dollars,  
26 the registrar shall issue the entity a written warning relating to the unlicensed activity if  
27 the registrar has not previously issued the entity a warning.

324.1416. The registrar shall maintain a system of staggered licensure to distribute  
2 the work of licensure throughout the twelve months of the year. From and after January  
3 1, 2009, the registrar shall implement a system for biennial license renewal and provide for  
4 proration of license renewal fees for that purpose. The registrar may grant an exception  
5 to the biennial licensing or biennial renewal requirements of this section and may allow an  
6 annual renewal for up to two years based on a written petition by a contractor claiming  
7 that the biennial requirements would cause a real and immediate hardship. The registrar  
8 shall notify the contractor in writing of the decision and shall specify the terms of the  
9 exception if granted.

324.1418. 1. Upon receipt by the registrar of the fee required by sections 324.1400  
2 to 324.1518 and an application furnishing complete information as required by the  
3 registrar, the registrar shall notify the applicant within sixty days from the date of the  
4 filing of a complete application of the action taken on the application, and if the registrar  
5 determines that the applicant is qualified to hold a license in accordance with sections  
6 324.1400 to 324.1518, the registrar shall issue a license to the applicant permitting the  
7 applicant to engage in business as a contractor under the terms of sections 324.1400 to  
8 324.1518.

9 2. Licenses issued under sections 324.1400 to 324.1518 and any renewals shall be  
10 signed by the registrar or the registrar's designated representative and by the licensee. The  
11 license shall be nontransferable, and satisfactory evidence of possession shall be exhibited  
12 by the licensee upon demand. The license number appearing on any licenses held by the  
13 licensee shall be preceded by the acronym "ROC" and shall be posted in a conspicuous  
14 place on premises where any work is being performed, shall be placed on all written bids  
15 submitted by the licensee and shall be placed on all advertising, letterheads and other  
16 documents used by the licensee in the conduct of business regulated by sections 324.1400  
17 to 324.1518. A violation of this subsection relating to posting and placement of license  
18 numbers shall be, at the discretion of the registrar, grounds for disciplinary action under  
19 subdivision (13) of subsection 1 of section 324.1478, but not grounds for preventing the  
20 award of a contract, voiding an awarded contract, or any other claim or defense against  
21 the licensee. For the purposes of this subsection, advertising does not include a trade

22 association directory listing that is distributed solely to the members of the association and  
23 not to the general public.

24 3. If an application for a license is denied for any reason provided in sections  
25 324.1400 to 324.1518, the application fee paid by the applicant shall be forfeited and  
26 deposited under section 324.1408. A reapplication for a license shall be accompanied by  
27 the fee fixed by sections 324.1400 to 324.1518.

28 4. On issuance or renewal of a license, the registrar, at the request of a licensee,  
29 shall issue a single license certificate showing all contracting licenses held by the licensee  
30 which are currently in good standing and their dates of expiration.

31 5. The registrar may establish procedures to allow a licensee to establish a common  
32 expiration or renewal date for all licenses issued to the licensee and may provide for  
33 proration of license fees for that purpose.

34 6. The registrar shall suspend by operation of law a license issued under sections  
35 324.1400 to 324.1518 if any of the following occurs:

36 (1) The licensed entity is dissolved. The dissolution of the licensed entity includes  
37 the death of a sole owner, a change to the partnership by either adding or removing a  
38 partner, the revocation or dissolution of corporate authority or the dissolution of a limited  
39 liability company or limited liability partnership;

40 (2) The licensed entity does not have authority to do business in this state;

41 (3) The license is obtained or renewed with an insufficient funds check. The license  
42 remains suspended until the registrar receives a certified check, a money order or cash as  
43 payment for the license fees and assessments.

324.1420. 1. A license issued under sections 324.1400 to 324.1518 shall be  
2 suspended on the day following its renewal date by operation of law. An application for  
3 renewal of any current contracting license addressed to the registrar, with a valid bond or  
4 cash deposit on file with the registrar, accompanied by the required fee and received by the  
5 registrar or deposited in the United States mail postage prepaid on or before the renewal  
6 date shall authorize the licensee to operate as a contractor until actual issuance of the  
7 renewal license. The registrar may refuse to renew a license if a licensee or person has  
8 committed or been found guilty of any act listed in section 324.1478.

9 2. A license which has been suspended by operation of law for failure to renew may  
10 be reactivated and renewed within one year of its suspension by filing the required  
11 application and payment of the application fee in the amount provided for renewal in  
12 sections 324.1400 to 324.1518 in addition to a fifty dollar fee. When a license has been  
13 suspended for one or more years for failure to renew, a new application for a license must  
14 be made and a new license issued in accordance with sections 324.1400 to 324.1518.



15           **3. A licensee may make written application to the registrar for exemption from a**  
16 **qualifying party. The applicant shall show to the satisfaction of the registrar that during**  
17 **the past five years:**

18           **(1) The license has been in effect;**

19           **(2) A transfer of ownership of fifty percent or more of the stock, if applicable, or**  
20 **beneficial interest, in the licensee has not occurred;**

21           **(3) No more than five valid complaints which have not been resolved by the**  
22 **licensee, as determined by the registrar, have been filed against the licensee.**

23

24 **The application shall be approved or denied within thirty days after its receipt. If the**  
25 **application is not approved, the licensee may within thirty days request a hearing to be**  
26 **held under section 324.1482. If the application is approved, the exemption takes effect**  
27 **immediately.**

28           **4. A licensee which is exempt from the requirement for a qualifying party under**  
29 **subsection 3 of this section may be required by the registrar after a hearing to obtain a**  
30 **qualifying party within sixty days on a finding that:**

31           **(1) A transfer of ownership of fifty percent or more of the stock, if applicable, or**  
32 **beneficial interest, in the licensee has occurred;**

33           **(2) A violation of section 324.1478 has occurred.**

**324.1422. 1. A contractor may request the registrar, on forms prescribed by the**  
2 **registrar, to inactivate his or her current license for a period not to exceed five years at one**  
3 **time by giving written notice to the registrar. The registrar may, in the absence of any**  
4 **disciplinary proceeding or disciplinary suspension and upon payment of reasonable fees**  
5 **determined by the registrar, issue to the contractor an inactive license certificate. The**  
6 **inactive license certificate may consist of an endorsement upon the contractor's license**  
7 **stating that the license is inactive. The registrar may not refund any of the license renewal**  
8 **fee which a contractor paid prior to requesting inactive status.**

9           **2. A contractor's license which is not suspended or revoked and is inactive may be**  
10 **reactivated as an active license upon payment of the current renewal fee and thirty days'**  
11 **written notice to the registrar. No examination may be required to reactivate an inactive**  
12 **license. If the license is not reactivated within five years, a new application for licensing**  
13 **must be made unless the contractor requests, on forms prescribed by the registrar, to**  
14 **inactivate the license for an additional period not to exceed five years. No contractor may**  
15 **inactivate the license more than twice.**

16           **3. The holder of an inactive license shall not practice as a contractor until his or her**  
17 **license is reactivated as an active license.**

18           **4. The inactive status of a contractor's license shall not bar any disciplinary action**  
19 **by the registrar against a licensed contractor for any of the grounds stated in sections**  
20 **324.1400 to 324.1518.**

**324.1424. 1. The license fees prescribed by sections 324.1400 to 324.1518 shall be**  
2 **as follows:**

3           **(1) Application fees for an original biennial license:**

4           **(a) For general residential contracting and subclassifications of general residential**  
5 **contracting, not more than five hundred dollars;**

6           **(b) For general commercial contracting and subclassifications of general**  
7 **commercial contracting, not more than one thousand five hundred dollars;**

8           **(c) For general dual licensed contracting, not more than two thousand dollars;**

9           **(d) For specialty residential contracting, not more than three hundred fifty dollars;**

10          **(e) For specialty commercial contracting, not more than one thousand dollars;**

11          **(f) For specialty dual licensed contracting, not more than one thousand three**  
12 **hundred fifty dollars;**

13          **(2) Biennial renewal fee:**

14          **(a) For general residential contracting and subclassifications of general residential**  
15 **contracting, not more than three hundred twenty dollars;**

16          **(b) For general commercial contracting and subclassifications of general**  
17 **commercial contracting, not more than one thousand dollars;**

18          **(c) For general dual licensed contracting, not more than one thousand three**  
19 **hundred twenty dollars;**

20          **(d) For specialty residential contracting, not more than two hundred seventy**  
21 **dollars;**

22          **(e) For specialty commercial contracting, not more than nine hundred dollars;**

23          **(f) For specialty dual licensed contracting, not more than one thousand one**  
24 **hundred seventy dollars.**

25          **2. The registrar may establish reasonable fees for services performed by the**  
26 **registrar relating to reexaminations, processing of applications for change of qualifying**  
27 **party and approval of name changes on licenses.**

28          **3. The penalty for failure to apply for renewal of a license within the time**  
29 **prescribed by sections 324.1400 to 324.1518 shall be fifty dollars.**

30          **4. The registrar may establish a separate fee for examination.**

31          **5. The registrar may contract with private testing services to establish and**  
32 **administer such examinations and may authorize the payment of the examination fee to the**  
33 **private testing service.**

324.1426. 1. The terms "responsible managing employee" and "qualifying party" shall, for the purpose of administering sections 324.1400 to 324.1518, be synonymous, and shall mean an employee who is regularly employed by the licensee and is actively engaged in the classification of work for which such responsible managing employee qualifies in behalf of the licensee. While engaged as a qualifying party for a licensee, the qualifying party shall not take other employment that would conflict with his or her duties as qualifying party or conflict with his or her ability to adequately supervise the work performed by the licensee. Such person may act in the capacity of the qualifying party for one additional licensee if one of the following conditions exists:

(1) There is a common ownership of at least twenty-five percent of each licensed entity for which the person acts in a qualifying capacity;

(2) One licensee is a subsidiary of another licensee for which the same person acts in a qualifying capacity. "Subsidiary" as used in this section means a corporation of which at least twenty-five percent is owned by the other licensee.

324.1428. 1. The director of occupational safety and health within the industrial commission with the assistance of the registrar of contractors and the director of the department of environmental quality shall prepare an educational pamphlet relating to asbestos to help contractors identify asbestos in the workplace and to inform them of state and federal asbestos rules and of the health hazards associated with asbestos contact.

2. The registrar shall distribute asbestos educational pamphlets with each contractor's license or license renewal.

324.1430. 1. In sections 324.1432 to 324.1440 the following terms mean:

(1) "Construction contract", a written or oral agreement relating to the construction, alteration, repair, maintenance, moving or demolition of any building, structure or improvement or relating to the excavation of or other development or improvement to land;

(2) "Contractor", any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that has a direct contract with an owner to perform work under a construction contract;

(3) "Owner", any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that causes a building, structure or improvement to be constructed, altered, repaired, maintained, moved or demolished or that causes land to be excavated or otherwise developed or improved, whether the interest or estate of the person is in fee, as vendee under a contract to purchase, as lessee or another interest or estate less than fee;

15           **(4) "Subcontractor", any person, firm, partnership, corporation, association or**  
16 **other organization, or a combination of any of them, that has a direct contract with a**  
17 **contractor or another subcontractor to perform a portion of the work under a construction**  
18 **contract.**

**324.1432. 1. By mutual agreement with a contractor, an owner may make progress payments on construction contracts of less than sixty days. An owner shall make progress payments to a contractor on all other construction contracts. Progress payments shall be made on the basis of a duly certified and approved billing or estimate of the work performed and the materials supplied during the preceding thirty-day billing cycle, or such other billing cycle as stated in the construction contract. If billings or estimates are to be submitted in other than thirty-day billing cycles, the construction contract and each page of the plans, including bid plans and construction plans, shall specifically identify such other billing cycle in a clear and conspicuous manner as prescribed in subsection 2 of this section. Except as provided in subsection 3 of this section, the owner shall make progress payments to the contractor within seven days after the date the billing or estimate is certified and approved under subsection 3 of this section.**

13           **2. A construction contract may provide for a billing cycle other than a thirty-day**  
14 **billing cycle if the construction contract specifically sets forth such other billing cycle and**  
15 **either of the following applies:**

16           (1) The following legend or substantially similar language setting forth the other  
17 billing cycle appears in clear and conspicuous type on each page of the plans, including bid  
18 plans and construction plans:

19 **Notice of Alternate Billing Cycle**

20

21 **This contract allows the owner to require the submission of billings or estimates in billing**  
 22 **cycles other than thirty days. Billings or estimates for this contract shall be submitted as**  
 23 **follows:**

24           (2) The following legend or substantially similar language setting forth the other  
25   billing cycle appears in clear and conspicuous type on each page of the plans, including bid  
26   plans and construction plans:

27 **Notice of Alternate Billing Cycle**

28

29 **This contract allows the owner to require the submission of billings or estimates in billing**  
30 **cycles other than thirty days. A written description of such other billing cycle applicable**  
31 **to the project is available from the owner or the owner's designated agent at (telephone**

32 number or address, or both), and the owner or its designated agent shall provide this  
33 written description on request;

34 (3) An owner may make progress payments later than seven days after the date the  
35 billing or estimate is certified and approved if both:

36 (a) The construction contract in a clear and conspicuous manner specifically  
37 provides for a later payment defined by a specified number of days after certification and  
38 approval;

39 (b) The following legend or substantially similar language setting forth the specified  
40 number of days appears in clear and conspicuous type on each page of the plans, including  
41 bid plans and construction plans:

42 Notice of Extended Payment Provision

43

44 This contract allows the owner to make payment within ..... days after certification and  
45 approval of billings and estimates.

46 3. A billing or estimate shall be deemed approved and certified fourteen days after  
47 the owner receives the billing or estimate, unless before that time the owner or the owner's  
48 agent prepares and issues a written statement detailing those items in the billing or  
49 estimate that are not approved and certified. An owner may decline to approve and certify  
50 a billing or estimate or portion of a billing or estimate for unsatisfactory job progress,  
51 defective construction work or materials not remedied, disputed work or materials, failure  
52 to comply with other material provisions of the construction contract, third-party claims  
53 filed or reasonable evidence that a claim will be filed, failure of the contractor or a  
54 subcontractor to make timely payments for labor, equipment and materials, damage to the  
55 owner, reasonable evidence that the construction contract cannot be completed for the  
56 unpaid balance of the construction contract sum or a reasonable amount for retention.  
57 The owner is deemed to have received the billing or estimate when the billing or estimate  
58 is submitted to any person designated by the owner for the receipt of these submissions or  
59 for review or approval of the billing or estimate.

60 4. An owner may withhold from a progress payment only an amount that is  
61 sufficient to pay the direct expenses the owner reasonably expects to incur to correct any  
62 items set forth in writing under subsection 3 of this section.

63 5. An owner may extend the period within which the billing or estimate is certified  
64 and approved if both:

65 (1) The construction contract in a clear and conspicuous manner specifically  
66 provides for an extended time period within which a billing or estimate shall be certified

67 and approved defined by a specified number of days after the owner has received the  
68 billing or estimate;

69 (2) The following legend or substantially similar language, setting forth the  
70 specified number of days, appears in clear and conspicuous type on each page of the plans,  
71 including bid plans and construction plans:

72 **Notice of Extended Certification and**  
73 **Approval Period Provision**  
74

75 This contract allows the owner to certify and approve billings and estimates within .....  
76 days after the billings and estimates are received from the contractor.

77 6. After the effective date of a construction contract, an owner and contractor may  
78 change the number of specified days after certification and approval for the owner to make  
79 payment to the contractor or within which a billing or estimate must be certified and  
80 approved. Any contractor or subcontractor that does not provide written consent to the  
81 change shall continue to be paid as previously agreed.

82 7. When a contractor completes and an owner approves and certifies all work  
83 under a construction contract, the owner shall make payment in full on the construction  
84 contract within seven days. When a contractor completes and an owner approves and  
85 certifies all work under a portion of a construction contract for which the contract states  
86 a separate price, the owner shall make payment in full on that portion of the construction  
87 contract within seven days. On projects that require a federal agency's final approval or  
88 certification, the owner shall make payment in full on the construction contract within  
89 seven days of the federal agency's final approval or certification.

90 8. Payment shall not be required under this section unless the contractor provides  
91 the owner with a billing or estimate for the work performed or the material supplied in  
92 accordance with the terms of the construction contract between the parties.

93 9. A construction contract shall not alter the rights of any contractor, subcontractor  
94 or material supplier to receive prompt and timely progress payments as provided under  
95 this section.

96 10. If an owner or a third party designated by an owner as the person responsible  
97 for making progress payments on a construction contract does not make a timely payment  
98 under this section, the owner shall pay the contractor interest at the rate of one and one-  
99 half percent a month or fraction of a month on the unpaid balance, or at a higher rate as  
100 the parties to the construction contract agree.

101 11. On the written request of a subcontractor, the owner shall notify the  
102 subcontractor within five days after the issuance of a progress payment to the contractor.

103 On the written request of a subcontractor, the owner shall notify the subcontractor within  
104 five days after the owner makes the final payment to the contractor on the construction  
105 contract.

106 12. In any action or arbitration brought to collect payments or interest under this  
107 section, the successful party shall be awarded costs and attorney fees in a reasonable  
108 amount.

109 13. If the owner and contractor are a single entity, that entity shall pay its  
110 subcontractors or material suppliers within fourteen days after the billing or estimate is  
111 certified and approved unless the deadlines for approval and certification or for payment  
112 have been modified under subsection 3 of this section or subsection 5 of this section.

324.1434. 1. Notwithstanding other provisions of this section, performance by a  
2 contractor, subcontractor or material supplier in accordance with the provisions of a  
3 construction contract entitles the contractor, subcontractor or material supplier to  
4 payment from the party with whom the contractor, subcontractor or material supplier  
5 contracts.

6 2. If a subcontractor or material supplier has performed in accordance with the  
7 provisions of a construction contract, the contractor shall pay to its subcontractors or  
8 material suppliers and each subcontractor shall pay to its subcontractors or material  
9 suppliers, within seven days of receipt by the contractor or subcontractor of each progress  
10 payment or final payment, the full amount received for such subcontractor's work and  
11 materials supplied based on work completed or materials supplied under the subcontract.  
12 Payment shall not be required under this subsection unless the subcontractor or material  
13 supplier provides to the contractor or subcontractor a billing or invoice for the work  
14 performed or material supplied in compliance with the terms of the contract between the  
15 parties. Each subcontractor or material supplier shall provide a waiver of any mechanic's  
16 or materialman's lien conditioned upon payment for the work completed or material  
17 supplied. The contractor or subcontractor may require that such conditional waivers of  
18 lien be notarized. Any diversion by the contractor or subcontractor of payments received  
19 for work performed under a contract, or failure to reasonably account for the application  
20 or use of such payments, constitutes grounds for disciplinary action by the registrar of  
21 contractors. Violations of this section shall be grounds for suspension or revocation of a  
22 license or other disciplinary action by the registrar under subsections 2, 3, and 4 of section  
23 324.1478. The subcontractor or material supplier may notify the registrar of contractors  
24 and the owner in writing of any payment less than the amount or percentage approved for  
25 the class or item of work as set forth in this section.

26           **3. Nothing in this section prevents the contractor or subcontractor, at the time of**  
27 **application or certification to the owner or contractor, from withholding such application**  
28 **or certification to the owner or contractor for payment to the subcontractor or material**  
29 **supplier for unsatisfactory job progress, defective construction work or material not**  
30 **remedied, disputed work, failure to comply with other material provisions of the**  
31 **construction contract, third-party claims filed or reasonable evidence that a claim will be**  
32 **filed, failure of the subcontractor to make timely payments for labor, equipment and**  
33 **materials, damage to a contractor or another subcontractor or material supplier,**  
34 **reasonable evidence that the subcontract cannot be completed for the unpaid balance of**  
35 **the subcontract sum or a reasonable amount for retention that does not exceed the actual**  
36 **percentage retained by the owner.**

37           **4. If a periodic or final payment to a subcontractor or material supplier is delayed**  
38 **by more than seven days after receipt of periodic or final payment by the contractor or**  
39 **subcontractor, the contractor or subcontractor shall pay its subcontractor or material**  
40 **supplier interest, except for periods of time during which payment is withheld under**  
41 **subsection 3 of this section, beginning on the eighth day, at the rate of one and one-half**  
42 **percent per month or a fraction of a month on the unpaid balance or at such higher rate**  
43 **as the parties agree.**

44           **5. Any licensed contractor, licensed subcontractor, or material supplier who files**  
45 **a complaint with the registrar of contractors under this section shall be required to post**  
46 **a surety bond or cash deposit of five hundred dollars or one-half of the amount due,**  
47 **whichever is less, with the registrar to secure the payment of claims under this section. If**  
48 **the complaint is determined by the registrar to be without merit and frivolous, the**  
49 **registrar shall order the person who filed the complaint to pay one-half of the amount of**  
50 **the required surety bond or cash deposit to the respondent and one-half to the registrar**  
51 **for deposit into the state general fund. If no claim may be made under this section against**  
52 **the surety bond or cash deposit, the surety bond or cash deposit shall be returned to the**  
53 **complainant. The surety bond or cash deposit shall be in the name of the licensee or**  
54 **material supplier who files the complaint and shall be subject to claims by the registrar of**  
55 **contractors and the respondent licensee as provided in this section. The surety bond or**  
56 **cash deposit shall be conditioned upon and provide for payment upon the presentation of**  
57 **a certified copy of the order of the registrar and a certification by the complainant of**  
58 **nonpayment within thirty days after the order becomes final. The surety bond shall be**  
59 **executed by the complainant as principal with a corporation duly authorized to transact**  
60 **surety business in this state. Evidence of the surety bond shall be submitted to the**



61 registrar in a form acceptable to the registrar. The cash deposit shall be held by the  
62 registrar for the payment of claims.

63         **6. In any action or arbitration brought to collect payments or interest under this**  
64 **section, the successful party shall be awarded costs and attorney fees in a reasonable**  
65 **amount.**

**324.1436. 1. A contractor licensed under sections 324.1400 to 324.1518 may**  
2 **interrupt the performance of a construction contract without penalty or liability for breach**  
3 **of contract if any applicable law or rule requires the cessation of work or the contractor**  
4 **encounters any hazardous substance or hazardous material which is required to be**  
5 **removed or contained by any applicable law or rule and either of the following apply:**

6         **(1) Any applicable law or rule prohibits the contractor from proceeding to remove**  
7 **or contain the hazardous material or hazardous substance unless the contractor is duly**  
8 **licensed and the contractor is not so licensed;**

9         **(2) The removal or containment of the hazardous material or hazardous substance**  
10 **cannot be accomplished without a cessation of work.**

11         **2. A contractor licensed under sections 324.1400 to 324.1518 whose work is**  
12 **impaired, impeded or prohibited under subsection 1 of this section may interrupt**  
13 **performance of the construction contract as provided in this section only to the extent of**  
14 **the area affected by the hazardous materials or hazardous substances removed or**  
15 **contained by the owner or as otherwise required by applicable statute or rule.**

16         **3. A person who interrupts the performance of a construction contract under**  
17 **subsection 1 of this section is entitled to reasonable and foreseeable damages caused by the**  
18 **delay unless the existence of the specific hazardous substance or hazardous material is**  
19 **disclosed in writing prior to entering into the contract. The right to damages is conditioned**  
20 **upon notification within a reasonable period of time to the owner of the discovery by the**  
21 **person of the existence of the hazardous material or hazardous substance. This section**  
22 **shall not affect any legal rights and remedies otherwise existing between the parties,**  
23 **including but not limited to rights to damages, setoff and counterclaim.**

24         **4. The owner may terminate the construction contract on payment to the**  
25 **contractor, subcontractor or other person whose work is delayed under subsection 1 of this**  
26 **section of the amount of any services or materials supplied or expended which conform to**  
27 **the contract terms and specifications and the payment of damages subject to the provisions**  
28 **of subsection 3 of this section to the date of the termination of the contract.**

**324.1438. 1. A contractor may suspend performance under a construction contract**  
2 **or terminate a construction contract for failure by the owner to make timely payment of**  
3 **the amount certified and approved under section 324.1440. A contractor shall provide**

4 written notice to the owner at least seven calendar days before the contractor's intended  
5 suspension or termination unless a shorter notice period is prescribed in the construction  
6 contract between the owner and contractor. A contractor shall not be deemed in breach  
7 of the construction contract for suspending performance or terminating a construction  
8 contract under this subsection. A construction contract shall not extend the time period  
9 for a contractor to suspend performance or terminate a construction contract under this  
10 subsection.

11       2. A subcontractor may suspend performance under a construction contract or  
12 terminate a construction contract if the owner fails to make timely payment of amounts  
13 certified and approved under section 324.1440 for the subcontractor's work and the  
14 contractor fails to pay the subcontractor for the certified and approved work. A  
15 subcontractor shall provide written notice to the contractor and owner at least three  
16 calendar days before the subcontractor's intended suspension or termination unless a  
17 shorter notice period is prescribed in the construction contract between the contractor and  
18 subcontractor. A subcontractor shall not be deemed in breach of a construction contract  
19 for suspending performance or terminating a construction contract under this subsection.  
20 A construction contract shall not extend the time period for a subcontractor to suspend  
21 performance or terminate a construction contract under this subsection.

22       3. A subcontractor may suspend performance under a construction contract or  
23 terminate a construction contract if the owner makes timely payment of amounts certified  
24 and approved under section 324.1440 for the subcontractor's work but the contractor fails  
25 to pay the subcontractor for the certified and approved work. A subcontractor shall  
26 provide written notice to the contractor and owner at least seven calendar days before the  
27 subcontractor's intended suspension or termination unless a shorter notice period is  
28 prescribed in the construction contract between the contractor and subcontractor. A  
29 subcontractor shall not be deemed in breach of a construction contract for suspending  
30 performance or terminating a construction contract under this subsection. A construction  
31 contract shall not extend the time period for a subcontractor to suspend performance or  
32 terminate a construction contract under this subsection.

33       4. A subcontractor may suspend performance under a construction contract or  
34 terminate a construction contract if the owner declines to approve and certify portions of  
35 the contractor's billing or estimate under section 324.1440 for that subcontractor's work  
36 but the reasons for that failure by the owner to approve and certify are not the fault of or  
37 directly related to the subcontractor's work. A subcontractor shall provide written notice  
38 to the contractor and the owner at least seven calendar days before the subcontractor's  
39 intended suspension or termination unless a shorter notice period is prescribed in the

40 construction contract between the contractor and subcontractor. A subcontractor shall  
41 not be deemed in breach of a construction contract for suspending performance or  
42 terminating a construction contract under this subsection. A construction contract shall  
43 not extend the time period for a subcontractor to suspend performance or terminate a  
44 construction contract under this subsection.

45       5. A contractor or subcontractor that suspends performance as provided in this  
46 section is not required to furnish further labor, materials or services until the contractor  
47 or subcontractor is paid the amount that was certified and approved, together with any  
48 costs incurred for mobilization resulting from the shutdown or start-up of a project.

49       6. In any action or arbitration brought under this section, the successful party shall  
50 be awarded costs and attorney fees in a reasonable amount.

51       7. Written notice required under this section shall be deemed to have been provided  
52 if either of the following occurs:

53       (1) The written notice is delivered in person to the individual or a member of the  
54 entity or to an officer of the corporation for which it was intended;

55       (2) The written notice is delivered at or sent by any means that provides written,  
56 third-party verification of delivery to the last business address known to the party giving  
57 notice.

      324.1440. The following are against this state's public policy and are void and  
2 unenforceable:

3       (1) A provision, covenant, clause, or understanding in, collateral to or affecting a  
4 construction contract that makes the contract subject to the laws of another state or that  
5 requires any litigation, arbitration or other dispute resolution proceeding arising from the  
6 contract to be conducted in another state;

7       (2) A provision, covenant, clause or understanding in, collateral to or affecting a  
8 construction contract stating that a party to the contract cannot suspend performance  
9 under the contract or terminate the contract if another party to the contract fails to make  
10 prompt payments under the contract under sections 324.1430, 324.1432, and 324.1434.

      324.1442. In this section, the following terms mean:

2       (1) "Assessment", the contribution by a contractor to the residential contractors'  
3 recovery fund;

4       (2) "Fund", the residential contractors' recovery fund;

5       (3) "Person injured", any owner of residential real property which is actually  
6 occupied or intended to be occupied by the owner as a residence including community  
7 property, tenants in common, or joint tenants who are damaged by the failure of a  
8 residential contractor or a dual licensed contractor to adequately build or improve a

9 residential structure or appurtenance on that real property. Included in this definition are  
10 lessees of residential real property who contract directly with a residential contractor or  
11 indirectly with a subcontractor of that contractor and homeowners' or unit owners'  
12 associations after transfer of control from the builder or developer for damages to the  
13 common elements within the complex;

14 (4) "Residential contractor", a contractor as defined in section 324.1400 who is  
15 licensed to perform work on residential property under sections 324.1400 to 324.1518 and  
16 who engages in residential contracting.

324.1444. 1. The "Residential Contractors' Recovery Fund" is established, to be  
2 administered by the registrar, from which any person injured by an act, representation,  
3 transaction or conduct of a residential contractor licensed under sections 324.1400 to  
4 324.1518 that is in violation of sections 324.1400 to 324.1518 or the rules adopted under  
5 sections 324.1400 to 324.1518 may be awarded in the county where the violation occurred  
6 an amount of not more than thirty thousand dollars for damages sustained by the act,  
7 representation, transaction or conduct. An award from the fund is limited to the actual  
8 damages suffered by the claimant as a direct result of the contractor's violation but shall  
9 not exceed an amount necessary to complete or repair a residential structure or  
10 appurtenance within residential property lines. Actual damages shall not be established  
11 by bids supplied by or the value of work performed by a person or entity that is not  
12 licensed under sections 324.1400 to 324.1518 and that is required to be licensed under  
13 sections 324.1400 to 324.1518. If the claimant has paid a deposit or down payment and no  
14 actual work is performed or materials are delivered, the award of actual damages shall not  
15 exceed the exact dollar amount of the deposit or down payment plus interest at the rate of  
16 ten percent a year from the date the deposit or down payment is made or not more than  
17 thirty thousand dollars, whichever is less. Interest shall not be paid from the fund on any  
18 other awards under sections 324.1400 to 324.1518 unless ordered by a court of competent  
19 jurisdiction. An award from the fund shall not be available to persons injured by an act,  
20 representation, transaction or conduct of a residential contractor who was not licensed  
21 under sections 324.1400 to 324.1518 or whose license was in an inactive status, expired,  
22 cancelled, revoked, suspended or not issued at the time of the contract. No more than the  
23 maximum individual award from the fund shall be made on any individual residence or  
24 to any injured person. Notwithstanding any other provision of law, moneys in the  
25 residential contractors' recovery fund shall not be directly awarded for attorney fees or  
26 costs except in contested cases appealed to the superior court.

27 2. Except as provided in subsection 3 of section 324.1472, every person making  
28 application for a contractor's license or for renewal of a contractor's license to engage in

29 residential contracting shall pay an assessment of not more than six hundred dollars  
30 during the biennial license period for deposit in the fund. In the event that the registrar  
31 does not issue the license, this assessment shall be returned to the applicant.

**324.1446. 1. The registrar shall:**

2 (1) Establish assessments and maintain the fund balance at a level sufficient to pay  
3 operating costs and anticipated claims using the cash basis of accounting;

4 (2) Cause an examination of the fund to be made every three years by an  
5 independent certified public accountant;

6 (3) File with the department of insurance an annual statement of the condition of  
7 the fund;

8 (4) Employ accountants and attorneys from moneys in the fund, but not to exceed  
9 ten thousand dollars in any fiscal year, that are necessary for the performance of the duties  
10 prescribed in this section;

11 (5) Employ or contract with individuals and procure equipment and operational  
12 support, to be paid from or purchased with moneys in the fund, but not to exceed ten  
13 percent of the fund in any fiscal year as may be necessary to monitor, process or oppose  
14 claims filed by injured persons which may result in collection from the recovery fund.

15 2. Notwithstanding section 324.1452, the registrar may expend interest moneys  
16 from the fund to increase public awareness of the fund. This expenditure shall not exceed  
17 fifty thousand dollars in any fiscal year.

324.1448. If at any time the balance remaining in the residential contractors'  
2 recovery fund is less than two million dollars, every residential contractor who paid into  
3 the fund under section 324.1444 may be reassessed in an amount determined by the  
4 registrar under section 324.1446 and shall make the required payment into the fund. The  
5 registrar shall suspend a residential contractor's license for failure to make the required  
6 payment until the amount owed is paid in full.

324.1450. If at any time the moneys deposited in the residential contractors'  
2 recovery fund are insufficient to satisfy any duly authorized claim or portion thereof, the  
3 registrar shall, when sufficient moneys have been deposited in the residential contractors'  
4 recovery fund, satisfy any unpaid claims or portion of unpaid claims with priority for  
5 payment based on the time of filing a certified copy of the court order with the registrar.

324.1452. The assessments received by the registrar for deposit in the fund shall be  
2 held in trust for carrying out the purposes of the fund. On notice from the registrar, the  
3 state treasurer shall invest moneys in the fund in the same manner as other funds are  
4 invested. Any interest and moneys earned on such investments shall be credited to the  
5 fund.

**324.1454. 1. An action for a judgment which may subsequently result in an order for collection from the fund shall not be commenced later than two years from the date of the commission of the act by the contractor that is the cause of the injury or from the date of occupancy. When any injured person commences action for a judgment which may result in collection from the fund, the injured person shall notify the registrar in writing to this effect at the time of the commencement of the action. The registrar may at any time intervene in and defend any such action.**

**2. When any injured person recovers a valid judgment against any residential contractor for such act, representation, transaction or conduct which is in violation of sections 324.1400 to 324.1518 or the rules adopted under sections 324.1400 to 324.1518, the injured person may on twenty days' written notice to the registrar apply to the court for an order directing payment out of the fund, of the amount unpaid on the judgment, subject to the limitations stated in this section. If the injured person failed to give notice to the registrar at the time of commencement of the action as required by subsection 1 of this section, the court may direct payment out of the fund upon receipt of a consent to payment signed on behalf of the registrar. If the injured person has given notice to the registrar as required by subsection 1 of this section, the court may direct payment out of the fund either on receipt of a consent to payment signed on behalf of the registrar or, in the absence of any written consent, after the notice period required by this subsection. If the court receives written objections by the registrar, the court shall not direct payment from the fund without affording the registrar a reasonable opportunity to present and support his or objections.**

**3. The injured person shall not be the spouse of the residential contractor or the personal representative of the spouse of the residential contractor.**

**4. The court shall proceed on an application in a summary manner and, on the hearing, the injured person is required to show that he or she:**

**(1) Has given notice as required by subsections 1 and 2 of this section;**

**(2) Has obtained a judgment which has become final, as provided in subsection 2 of this section, stating the amount and the amount owing at the date of the application;**

**(3) Has proceeded against any existing bond covering the residential contractor and has not collected upon such bond an amount of thirty thousand dollars or more, except when the award is made under subsection 5 of this section or section 324.1478;**

**(4) Is not aware of any personal or real property or other assets of the debtor which can be applied in satisfaction of the judgment.**

**5. The court shall make an order directed to the registrar requiring payment from the fund of whatever sum it finds to be payable on the claim, in accordance with this**

37 section, if the court is satisfied on the hearing of the truth of all matters required to be  
38 shown by the injured person by subsection 4 of this section. The recovery limits  
39 established under this section apply to all judgments awarded after September 1, 2009. If  
40 the injured person has recovered a portion of his or her loss from sources other than the  
41 fund, the registrar, if the award is made under section 324.1478, or the court shall deduct  
42 the amount recovered from other sources from the amount of actual damages suffered  
43 under subsection 1 of section 324.1408 and direct the difference, not to exceed thirty  
44 thousand dollars, to be paid from the fund.

45 6. On receipt of a certified copy of the order specified in subsection 5 of this section,  
46 the registrar may authorize payment from the residential contractors' recovery fund even  
47 if an appeal has been instituted but not completed.

324.1456. On authorization of payment from the residential contractors' recovery  
2 fund, the registrar shall notify the injured person that:

3 (1) The amount authorized for payment is subject to repayment by the recipient if  
4 the judgment of the court is finally reversed;

5 (2) It is the responsibility of the recipient to respond to an appeal from the  
6 judgment;

7 (3) On appeal from the judgment, postponement of acceptance by the injured  
8 person of the amount authorized for payment does not operate as a waiver of any rights  
9 of the injured person.

324.1458. On authorization of payment from the residential contractors' recovery  
2 fund, the registrar shall notify the injured person that:

3 (1) The amount authorized for payment is subject to repayment by the recipient if  
4 the judgment of the court is finally reversed;

5 (2) It is the responsibility of the recipient to respond to an appeal from the  
6 judgment;

7 (3) On appeal from the judgment, postponement of acceptance by the injured  
8 person of the amount authorized for payment does not operate as a waiver of any rights  
9 of the injured person.

324.1460. The state has the right of subrogation to the extent of payments made  
2 from the residential contractors' recovery fund including the right to collect from a bond,  
3 cash payment or alternative to cash payment made under section 324.1472 or 324.1474.  
4 The registrar and the attorney general shall promptly enforce all subrogation claims.

324.1462. 1. The liability of the fund shall not exceed two hundred thousand  
2 dollars for any one residential contractor's license. If claims against the fund on behalf of  
3 any one residential contractor's license exceed two hundred thousand dollars, the claims

4 shall be paid in order of the date of entry of the order of the registrar or court, and the  
5 registrar or a court entering an order for payment after the sum of two hundred thousand  
6 dollars has been paid from the fund shall modify the order indicating that no further  
7 recovery from the fund shall be allowed.

8       2. If any amount is paid from the fund in settlement of a claim arising from the act,  
9 representation, transaction or conduct of a residential contractor, the license of the  
10 contractor shall be automatically suspended by operation of law until the amount paid  
11 from the fund is repaid in full, plus interest at the rate of ten percent a year. Any person  
12 who is or was, at the time of the act or omission, named on a license that has been  
13 suspended because of a payment from the recovery fund is not eligible to receive a new  
14 license or retain another existing license that also shall be suspended by operation of law,  
15 nor shall any suspended license be reactivated, until the amount paid from the fund is  
16 repaid as provided in this subsection.

      324.1464. This section shall not limit the authority of the registrar to take  
2 disciplinary action against any licensed contractor for a violation of sections 324.1400 to  
3 324.1518, or of the rules and regulations of the registrar, nor does the repayment in full of  
4 all obligations to the fund by any contractor nullify or modify the effect of any other  
5 disciplinary proceeding brought under sections 324.1400 to 324.1518 or the rules and  
6 regulations.

      324.1466. It is unlawful for any person, firm, partnership, corporation, association  
2 or other organization, or a combination of any of them, to engage in the business of, submit  
3 a bid or respond to a request for qualification or a request for proposals for construction  
4 services as, act or offer to act in the capacity of or purport to have the capacity of a  
5 contractor without having a contractor's license in good standing in the name of the  
6 person, firm, partnership, corporation, association or other organization as provided in  
7 sections 324.1400 to 324.1518, unless the person, firm, partnership, corporation, association  
8 or other organization is exempt as provided in sections 324.1400 to 324.1518. Evidence of  
9 securing a permit from a governmental agency or the employment of a person on a  
10 construction project shall be accepted in any court as prima facie evidence of existence of  
11 a contract.

      324.1468. A corporation, association or other organization which is a licensed  
2 contractor shall immediately notify the registrar of any transfer of ownership of fifty  
3 percent or more of the stock or beneficial interest in the company.

      324.1470. 1. The registrar shall maintain a list of persons who have been convicted  
2 of contracting without a license in violation of section 324.1456 or administratively



3 adjudicated to have been contracting without a license after having been issued a civil  
4 citation under section 324.1504. The list shall be published on the registrar's web site.

5       2. The registrar shall remove a person from the list within ten business days when  
6 the person becomes licensed under sections 324.1400 to 324.1518 and submits a written  
7 request to the registrar requesting the person's name to be removed from the list.

8       3. If a member of the public requests a copy of the list prescribed by subsection 1  
9 of this section, the registrar shall provide a copy of the list.

324.1472. 1. Before granting an original contractor's license, the registrar shall  
2 require of the applicant a surety bond in a form acceptable to the registrar or a cash  
3 deposit as provided in this section. No contractor's license may be renewed unless the  
4 applicant's surety bond or cash deposit is in full force and effect.

5       2. The bonds or the cash deposit as provided in this section, shall be in the name  
6 of the licensee in amounts fixed by the registrar with the following schedules after giving  
7 due consideration to the volume of work and the classification contemplated by the  
8 applicant:

9       (1) General commercial building contractors and subclassifications of general  
10 commercial contractors shall furnish a surety bond or cash deposit in an amount which  
11 shall be determined as follows:

12       (a) If the estimated annual volume of construction work of the applicant is ten  
13 million dollars or more, the applicant shall furnish a surety bond or cash deposit of not less  
14 than fifty thousand dollars or more than one hundred thousand dollars;

15       (b) If the estimated annual volume of construction work of the applicant is more  
16 than five million dollars and less than ten million dollars, the applicant shall furnish a  
17 surety bond or cash deposit of not less than thirty-five thousand dollars or more than  
18 seventy-five thousand dollars;

19       (c) If the estimated annual volume of construction work of the applicant is more  
20 than one million dollars and less than five million dollars, the applicant shall furnish a  
21 surety bond or cash deposit of not less than fifteen thousand dollars or more than fifty  
22 thousand dollars;

23       (d) If the estimated annual volume of construction work of the applicant is more  
24 than five hundred thousand dollars and less than one million dollars, the applicant shall  
25 furnish a surety bond or cash deposit of not less than ten thousand dollars or more than  
26 twenty-five thousand dollars;

27       (e) If the estimated annual volume of construction work of the applicant is more  
28 than one hundred fifty thousand dollars and less than five hundred thousand dollars, the

29 applicant shall furnish a surety bond or cash deposit of not less than five thousand dollars  
30 or more than fifteen thousand dollars;

31 (f) If the estimated annual volume of construction work of the applicant is less than  
32 one hundred fifty thousand dollars, the applicant shall furnish a surety bond or cash  
33 deposit of five thousand dollars;

34 (2) Specialty commercial contractors shall furnish a surety bond or cash deposit in  
35 an amount which shall be determined as follows:

36 (a) If the estimated annual volume of construction work of the applicant is ten  
37 million dollars or more, the applicant shall furnish a surety bond or cash deposit of not less  
38 than thirty-seven thousand five hundred dollars or more than fifty thousand dollars;

39 (b) If the estimated annual volume of construction work of the applicant is more  
40 than five million dollars and less than ten million dollars, the applicant shall furnish a  
41 surety bond or cash deposit of not less than seventeen thousand five hundred dollars or  
42 more than thirty-seven thousand five hundred dollars;

43 (c) If the estimated annual volume of construction work of the applicant is more  
44 than one million dollars and less than five million dollars, the applicant shall furnish a  
45 surety bond or cash deposit of not less than seven thousand five hundred dollars or more  
46 than twenty-five thousand dollars;

47 (d) If the estimated annual volume of construction work of the applicant is more  
48 than five hundred thousand dollars and less than one million dollars, the applicant shall  
49 furnish a surety bond or cash deposit of not less than five thousand dollars or more than  
50 seventeen thousand five hundred dollars;

51 (e) If the estimated annual volume of construction work of the applicant is more  
52 than one hundred fifty thousand dollars and less than five hundred thousand dollars, the  
53 applicant shall furnish a surety bond or cash deposit of not less than two thousand five  
54 hundred dollars or more than seven thousand five hundred dollars;

55 (f) If the estimated annual volume of construction work of the applicant is less than  
56 one hundred fifty thousand dollars, the applicant shall furnish a surety bond or cash  
57 deposit of two thousand five hundred dollars;

58 (3) The total amount of the surety bond or cash deposit required of a licensee who  
59 holds more than one license under this subsection and subsection 1 of this section shall be  
60 the sum of the surety bond or cash deposit required for each license based on the estimated  
61 annual volume of construction work of the applicant allocated to and performed under  
62 each license. The applicant at his or her option may post a single surety bond or cash  
63 deposit which shall be the sum of the bonds or deposits determined under this subdivision  
64 for all such licenses;

65           (4) General dual licensed contractors and subclassifications of general dual licensed  
66 contractors shall furnish a single surety bond or cash deposit with amounts for each  
67 classification of license that are determined based on the volume of commercial work as  
68 determined under this subsection and subsection 1 of this subsection and the volume of  
69 residential work as determined under subdivision (5) of this subsection. Liability under  
70 the bond or cash deposit shall be limited to the amount established for each commercial or  
71 residential license and is subject to the limitations and requirements set forth in  
72 subdivision (5) of this section;

73           (5) General residential contractors and subclassifications of general residential  
74 contractors shall furnish a surety bond or cash deposit in an amount of not more than  
75 fifteen thousand dollars and not less than five thousand dollars;

76           (6) Specialty dual licensed contractors shall furnish a single surety bond or cash  
77 deposit with amounts for each classification of license that are determined based on the  
78 volume of commercial work as determined under subdivision (2) of this subsection and the  
79 volume of residential work as determined under subdivision (7) of this subsection.  
80 Liability under the bond or cash deposit shall be limited to the amount established for each  
81 commercial or residential license and is subject to the limitations and requirements set  
82 forth in subsection 5 of this section;

83           (7) Specialty residential contractors shall furnish a surety bond or cash deposit in  
84 an amount of not more than seven thousand five hundred dollars and not less than one  
85 thousand dollars.

86           3. Dual licensed contractors and residential contractors shall also either:

87           (1) Furnish an additional surety bond or cash deposit in the amount of two hundred  
88 thousand dollars solely for actual damages suffered by persons injured as described in  
89 section 324.1442. This bond shall be subject to the limitations on the amounts that may be  
90 awarded to individual claimants as established in section 324.1444;

91           (2) Participate in the residential contractors' recovery fund and pay the assessment  
92 prescribed by section 324.1444.

93           4. The surety bonds shall be executed by the contractor as principal with a  
94 corporation duly authorized to transact surety business in this state. Evidence of a surety  
95 bond shall be submitted to the registrar in a form acceptable to the registrar. The  
96 contractor may in the alternative establish a cash deposit in the amount of the bond with  
97 the state treasurer in accordance with rules adopted by the registrar. Such cash bond  
98 moneys shall be deposited in the contractors' cash bond fund. The state treasurer shall  
99 invest and divest moneys in the fund and moneys earned from investment shall be credited  
100 to the state general fund. Such cash deposits may be withdrawn, if there are no

101 outstanding claims against them, two years after the termination of the license in  
102 connection with which the cash is deposited. The cash deposit may be withdrawn two  
103 years after the filing of a commercial surety bond as a replacement to the cash deposit.

104       **5. The bonds or deposit required by subsection 2 of this section shall be for the**  
105 **benefit of and shall be subject to claims by the registrar of contractors for failure to pay**  
106 **any sum required under sections 324.1400 to 324.1518. The bond or deposit required by**  
107 **subdivisions (1), (2), and (3) of subsection 2 of this section is for the benefit of and subject**  
108 **to claims by a licensee under sections 324.1400 to 324.1518 or a lessee, owner or co-owner**  
109 **of nonresidential real property including, but not limited to, a tenant in common or joint**  
110 **tenant, or their successors in interest, who has a direct contract with the licensee against**  
111 **whose bond or deposit the claim is made and who is damaged by the failure of the licensee**  
112 **to build or improve a structure or appurtenance on that real property at the time the work**  
113 **was performed in a manner not in compliance with the requirements of any building or**  
114 **construction code applicable to the construction work under the laws of this state or any**  
115 **political subdivision, or if no such code was applicable, in accordance with the standards**  
116 **of construction work approved by the registrar. The residential bond or deposit required**  
117 **by subdivisions (4) to (8) of subsection 2 of this section is for the benefit of and subject to**  
118 **claims by any person furnishing labor, materials or construction equipment on a rental**  
119 **basis used in the direct performance of a construction contract involving a residential**  
120 **structure or by persons injured as defined in section 324.1430. The bond or deposit**  
121 **required by subdivision (1) of subsection 2 of this section is for the benefit of and is subject**  
122 **to claims only by persons injured as described in section 324.1430. The person seeking**  
123 **recovery from the bond or cash deposit shall maintain an action at law against the**  
124 **contractor if claiming against the cash deposit or against the contractor and surety if**  
125 **claiming against the surety bond. If the person seeking recovery is required to give the**  
126 **notice, he or she is entitled to seek recovery only if he or she has given such notice and has**  
127 **made proof of service. The surety bond or cash deposit shall be subject to claims until the**  
128 **full amount thereof is exhausted. The court may award reasonable attorney's fees in a**  
129 **judgment against a contractor's surety bond or cash deposit. No suit may be commenced**  
130 **on the bond or for satisfaction from the cash deposit after the expiration of two years**  
131 **following the commission of the act or delivery of goods or rendering of services on which**  
132 **the suit is based. The surety bond or cash deposit shall be continuous in form and shall be**  
133 **conditioned so that the total aggregate liability of the surety or cash deposit for all claims,**  
134 **including reasonable attorney's fees, shall be limited to the face amount of the surety bond**  
135 **or cash deposit irrespective of the number of years the bond or cash deposit is in force. If**  
136 **the corporate surety desires to make payment without awaiting court action, the amount**

of any bond filed in compliance with sections 324.1400 to 324.1518 shall be reduced to the extent of any payment or payments made by the corporate surety in good faith thereunder. Any such payments shall be based on priority of written claims received by the corporate surety prior to court action. If more than one cash deposit exists, the judgment against the contractor shall state which cash deposit shall be used to satisfy the judgment. A certified copy of the judgment shall then be filed with the registrar, and such judgment shall specify that it may be satisfied from the contractor's cash deposit. Priority for payment shall be based upon the time of filing with the registrar. Upon receipt of a certified copy of the judgment, the registrar may authorize payment from the cash deposit of the amount claimed or of whatever lesser amount remains on file. In any action against a cash deposit, the claimant, at the time of filing suit, may notify the registrar in writing of the action against the cash deposit, but shall not name as a defendant in the action the registrar, the treasurer, or the state. Failure to so notify the registrar at the time of filing suit may result in the cash deposit being withdrawn by the licensee prior to judgment under subsection 4 of this section.

6. When a corporate surety cancels a bond, the surety shall not less than thirty days prior to the effective date of the cancellation give the principal and the registrar a written notice of the cancellation. Notice to the principal shall be by certified mail in a sealed envelope with postage fully prepaid. Proof of notice to the principal shall be made available to the registrar on request. On reduction or depletion of the cash deposit, the registrar shall immediately notify the licensee of said reduction or depletion and that the licensee must replenish the cash deposit or furnish a surety bond on or before thirty days from the date of said reduction or depletion or the contractor's license shall be suspended on the thirtieth day without further notice or hearing. Notice to the contractor shall be by certified mail in a sealed envelope with postage fully prepaid thereon, addressed to the contractor's latest address of record in the registrar's office. The contractor's license shall be suspended by operation of law on the date the bond is canceled or thirty days from the date of reduction or depletion of the cash deposit unless a replacement bond or cash deposit is on file with the registrar.

7. The registrar and the state treasurer shall have no personal liability for the performance of duties relating to the bonds, cash deposits, certificates of deposit, investment certificates or share accounts required or permitted by sections 324.1400 to 324.1518 as long as such duties are performed in good faith.

8. In the following instances the registrar, after a hearing, may require, as a condition precedent to issuance, renewal, continuation or removal of suspension of a license, a surety bond or cash deposit in an amount and duration to be fixed by the

173 registrar based upon the seriousness of the violations, which shall be not more than ten  
174 times the amount required by subsection 2 of this section:

175 (1) When a license of either the applicant or the qualifying party has been  
176 suspended or revoked or a surety bond or cash deposit requirement has been increased  
177 under section 324.1478 previously as the result of disciplinary action for a violation of  
178 sections 324.1400 to 324.1518;

179 (2) When either the applicant or qualifying party was an officer, member, partner  
180 or qualifying party for a licensee at any time during which cause for disciplinary action  
181 occurred resulting in suspension or revocation of such licensee's license and such applicant  
182 or qualifying party had knowledge of or participated in the act or omission which was the  
183 cause of such disciplinary action for a violation of sections 324.1400 to 324.1518;

184 (3) The bonds required by this subsection shall be in addition to any other bond or  
185 cash deposit required by sections 324.1400 to 324.1518 or any other bond required of a  
186 contractor by an owner or any other contracting party on any contract undertaken by him  
187 or her under the authority of such license.

324.1474. 1. As an alternative to the cash deposit provided for in subsection 2 of  
2 section 324.1472, a contractor may substitute any of the following:

3 (1) Certificates of deposit assigned to the registrar, issued by banks doing business  
4 in this state and insured by the federal deposit insurance corporation;

5 (2) Investment certificates or share accounts assigned to the registrar and issued  
6 by a savings and loan association doing business in this state and insured by the federal  
7 deposit insurance corporation.

8 2. The terms and conditions surrounding each of such types of security shall be  
9 prescribed by the registrar.

324.1476. No contractor as defined in section 324.1400 shall act as agent or  
2 commence or maintain any action in any court of the state for collection of compensation  
3 for the performance of any act for which a license is required by sections 324.1400 to  
4 324.1518 without alleging and proving that the contracting party whose contract gives rise  
5 to the claim was a duly licensed contractor when the contract sued upon was entered into  
6 and when the alleged cause of action arose.

324.1478. 1. The holder of a license or any person listed on a license under sections  
2 324.1400 to 324.1518 shall not commit any of the following acts or omissions:

3 (1) Abandonment of a contract or refusal to perform after submitting a bid on  
4 work without legal excuse for the abandonment or refusal;

5 (2) Departure from or disregard of plans or specifications or any building codes of  
6 the state or any political subdivision of the state in any material respect which is

- 7 prejudicial to another without consent of the owner or the owner's duly authorized  
8 representative and without the consent of the person entitled to have the particular  
9 construction project or operation completed in accordance with such plans and  
10 specifications and code;
- 11 (3) Violation of any rule adopted by the registrar;
- 12 (4) Failure to comply with the statutes or rules governing Social Security, workers'  
13 compensation or unemployment insurance;
- 14 (5) Failure to pay income taxes and withholding taxes incurred in the operation of  
15 the licensed business;
- 16 (6) Misrepresentation of a material fact by the applicant in obtaining a license;
- 17 (7) The doing of a wrongful or fraudulent act by the licensee as a contractor  
18 resulting in another person being substantially injured;
- 19 (8) Conviction of a felony;
- 20 (9) Failure in a material respect by the licensee to complete a construction project  
21 or operation for the price stated in the contract, or in any modification of the contract;
- 22 (10) Aiding or abetting a licensed or unlicensed person to evade sections 324.1400  
23 to 324.1518, knowingly or recklessly combining or conspiring with a licensed or unlicensed  
24 person, allowing one's license to be used by a licensed or unlicensed person or acting as  
25 agent, partner, associate or otherwise of a licensed or unlicensed person with intent to  
26 evade sections 324.1400 to 324.1518;
- 27 (11) Failure by a licensee or agent or official of a licensee to pay moneys in excess  
28 of seven hundred fifty dollars when due for materials or services rendered in connection  
29 with the licensee's operations as a contractor when the licensee has the capacity to pay or,  
30 if the licensee lacks the capacity to pay, when the licensee has received sufficient moneys  
31 as payment for the particular construction work project or operation for which the services  
32 or materials were rendered or purchased;
- 33 (12) Failure of a contractor to comply with any safety or labor laws or codes of the  
34 federal government, state or political subdivisions of the state;
- 35 (13) Failure in any material respect to comply with sections 324.1400 to 324.1518;
- 36 (14) Knowingly entering into a contract with a contractor for work to be performed  
37 for which a license is required with a person not duly licensed in the required  
38 classification;
- 39 (15) Acting in the capacity of a contractor under any license issued under sections  
40 324.1400 to 324.1518 in a name other than as set forth upon the license;
- 41 (16) False, misleading or deceptive advertising whereby any member of the public  
42 may be misled and injured;

43           (17) Knowingly contracting beyond the scope of the license or licenses of the  
44 licensee;

45           (18) Contracting or offering to contract or submitting a bid while the license is  
46 under suspension or while the license is on inactive status;

47           (19) Failure to notify the registrar in writing within a period of fifteen days of any  
48 disassociation of the person who qualified for the license. Such licensee shall have sixty  
49 days from the date of such disassociation to qualify through another person;

50           (20) Subsequent discovery of facts which if known at the time of issuance of a  
51 license or the renewal of a license would have been grounds to deny the issuance or renewal  
52 of a license;

53           (21) Having a person named on the license who is named on any other license in  
54 this state or in another state which is under suspension or revocation unless the prior  
55 revocation was based solely on a violation of this subdivision;

56           (22) Continuing a new single-family residential construction project with actual  
57 knowledge that a pretreatment wood-destroying pests or organisms application was either:

58               (a) Not performed at the required location;

59               (b) Performed in a manner inconsistent with label requirements, state law or rules;

60           (23) Failure to take appropriate corrective action to comply with sections 324.1400  
61 to 324.1518 or with rules adopted under sections 324.1400 to 324.1518 without valid  
62 justification within a reasonable period of time after receiving a written directive from the  
63 registrar. The written directive shall set forth the time within which the contractor is to  
64 complete the remedial action. The time permitted for compliance shall not be less than  
65 fifteen days from the date of issuance of the directive. A license shall not be revoked or  
66 suspended nor shall any other penalty be imposed for a violation of this subdivision until  
67 after a hearing has been held.

68           2. The registrar may on the registrar's own motion, and shall on the written  
69 complaint of any person, investigate the acts of any contractor within this state and may  
70 temporarily suspend, with or without imposition of specific conditions in addition to  
71 increased surety bond or cash deposit requirements, or permanently revoke any or all  
72 licenses issued under sections 324.1400 to 324.1518 if the holder of the license issued under  
73 sections 324.1400 to 324.1518 is guilty of or commits any of the acts or omissions set forth  
74 in subsection 1 of this section.

75           3. The expiration, cancellation, suspension, or revocation of a license by operation  
76 of law or by decision and order of the registrar or a court of law or the voluntary  
77 surrender of a license by a licensee shall not deprive the registrar of jurisdiction to proceed  
78 with any investigation of or action or disciplinary proceeding against such licensee, or to



79 render a decision suspending or revoking such a license, or denying the renewal or right  
80 of renewal of such license.

81       **4. The registrar may impose a civil penalty of not to exceed five hundred dollars**  
82 **on a contractor for each violation of subdivision (23) of subsection 1 of this section. Civil**  
83 **penalties collected under this subsection shall be deposited in the residential contractors'**  
84 **recovery fund. The failure by the licensee to pay any civil penalty imposed under this**  
85 **subsection results in the automatic revocation of the license thirty days after the effective**  
86 **date of the order providing for the civil penalty. No future license may be issued to an**  
87 **entity consisting of a person associated with the contractor, as defined in section 324.1400,**  
88 **unless payment of any outstanding civil penalty is tendered.**

89       **5. The registrar shall impose a civil penalty of not to exceed one thousand dollars**  
90 **on a contractor for each violation of subdivision (18) of subsection 1 of this section. Civil**  
91 **penalties collected under this subsection shall be deposited in the residential contractors'**  
92 **recovery fund. The failure by the licensee to pay any civil penalty imposed under this**  
93 **subsection results in the automatic permanent revocation of the license thirty days after**  
94 **the effective date of the order providing for the civil penalty. No future license may be**  
95 **issued to an entity consisting of a person associated with the contractor, as defined in**  
96 **section 324.1400 unless payment of any outstanding civil penalty is tendered.**

97       **6. Notwithstanding any other provisions in sections 324.1400 to 324.1518, if a**  
98 **contractor's license has been revoked or has been suspended as a result of an order to**  
99 **remedy a violation of sections 324.1400 to 324.1518, and the contractor refuses or is unable**  
100 **to comply with the order of the registrar to remedy the violation, the registrar may order**  
101 **payment from the residential contractors' recovery fund to remedy the violation. The**  
102 **registrar shall serve the contractor with a notice setting forth the amount claimed or to be**  
103 **awarded. If the contractor contests the amount or propriety of the payment, the contractor**  
104 **shall respond within ten days of the date of service by requesting a hearing to determine**  
105 **the amount or propriety of the payment. Failure by the contractor to respond in writing**  
106 **within ten days of the date of service shall be deemed a waiver by the contractor of the**  
107 **right to contest the amount claimed or to be awarded. Service may be made by personal**  
108 **service to the contractor or by mailing a copy of the notice by registered mail with postage**  
109 **prepaid to the contractor's latest address of record on file in the registrar's office. If**  
110 **service is made by registered mail, it is effective five days after the notice is mailed. The**  
111 **contractor or injured person may seek judicial review of the registrar's final award to the**  
112 **same extent and in the same manner prescribed by chapter 536, RSMo.**

**324.1480. 1. Upon the filing of a written complaint with the registrar charging a**  
2 **licensee with the commission, within two years prior to the date of filing the complaint, of**

3 an act that is cause for suspension or revocation of a license, the registrar after  
4 investigation may issue a citation or upon written request of the complainant may issue a  
5 citation directing the licensee, within ten days after service of the citation upon the licensee,  
6 to appear by filing with the registrar the licensee's written answer to the citation and  
7 complaint showing cause, if any, why the licensee's license should not be suspended or  
8 revoked. Service of citation upon the licensee shall be fully effected by personal service or  
9 by mailing a true copy thereof, together with a true copy of the complaint, by registered  
10 mail in a sealed envelope with postage prepaid and addressed to the licensee at the  
11 licensee's latest address of record in the registrar's office. Service of the citation and  
12 complaint shall be complete at the time of personal service or five days after deposit in the  
13 mail. The two-year period prescribed by this subsection shall commence on the earlier of  
14 the close of escrow or actual occupancy for new home or other new building construction  
15 and otherwise shall commence on completion of the specific project.

16 2. Failure of the licensee to answer within ten days after service shall be deemed an  
17 admission by the licensee of the licensee's commission of the act or acts charged in the  
18 complaint and the registrar may then suspend or revoke the licensee's license.

324.1482. 1. The provisions of chapter 535, RSMo, pertaining to administrative  
2 hearing procedures shall apply to hearings under sections 324.1400 to 324.1518.

3 2. In a hearing or rehearing conducted under this section a corporation may be  
4 represented by a corporate officer or employee who is not a member of the state bar if:

5 (1) The corporation has specifically authorized the officer or employee to represent  
6 it;

7 (2) The representation is not the officer's or employee's primary duty to the  
8 corporation but is secondary or incidental to the officer's or employee's duties relating to  
9 the management or operation of the corporation.

324.1484. After a hearing under this section, an administrative law judge may  
2 recommend that a licensee provide restitution to any person who is injured or whose  
3 property is damaged by an action of the licensee.

324.1486. 1. A final decision of the registrar may be appealed to the Missouri  
2 Supreme Court.

3 2. The party who is appealing may request in writing and shall receive from the  
4 registrar a certified copy of all documents and evidence in the administrative record. The  
5 party shall pay the registrar for the cost of producing the administrative record. Within  
6 thirty days after receipt of the request and payment, the registrar shall certify the  
7 administrative record and file it with the clerk of the superior court in the county in which  
8 the appeal is pending.

9           **3. By order of the court or by stipulation of the parties to the action, the record may**  
10 **be shortened or supplemented.**

11           **4. If the appeal is from an action instituted by the registrar and the court**  
12 **determines that the appellant is the successful party in the appeal, the appealing party is**  
13 **entitled to recover from the registrar any moneys paid by the appealing party for**  
14 **transcriptions or for copies of documents provided by the registrar.**

**324.1488. 1. From and after December 31, 2008, until December 31, 2023, any**  
2 **contract in an amount of more than one thousand dollars and less than one hundred fifty**  
3 **thousand dollars entered into between a contractor and the owner of a property to be**  
4 **improved shall contain in writing at least the following information:**

5           **(1) The name of the contractor and the contractor's business address and license**  
6 **number;**

7           **(2) The name and mailing address of the owner and the job site address or legal**  
8 **description;**

9           **(3) The date the parties entered into the contract;**

10           **(4) The estimated date of completion of all work to be performed under the**  
11 **contract;**

12           **(5) A description of the work to be performed under the contract;**

13           **(6) The total dollar amount to be paid to the contractor by the owner for all work**  
14 **to be performed under the contract, including all applicable taxes;**

15           **(7) The dollar amount of any advance deposit paid or scheduled to be paid to the**  
16 **contractor by the owner;**

17           **(8) The dollar amount of any progress payment and the stage of construction at**  
18 **which the contractor will be entitled to collect progress payments during the course of**  
19 **construction under the contract.**

20           **2. From and after December 31, 2023, any contract in an amount of more than one**  
21 **thousand dollars entered into between a contractor and the owner of a property to be**  
22 **improved shall contain in writing at least the following information:**

23           **(1) The name of the contractor and the contractor's business address and license**  
24 **number;**

25           **(2) The name and mailing address of the owner and the job site address or legal**  
26 **description;**

27           **(3) The date the parties entered into the contract;**

28           **(4) The estimated date of completion of all work to be performed under the**  
29 **contract;**

30           **(5) A description of the work to be performed under the contract;**

31           (6) The total dollar amount to be paid to the contractor by the owner for all work  
32 to be performed under the contract, including all applicable taxes;

33           (7) The dollar amount of any advance deposit paid or scheduled to be paid to the  
34 contractor by the owner;

35           (8) The dollar amount of any progress payment and the stage of construction at  
36 which the contractor will be entitled to collect progress payments during the course of  
37 construction under the contract;

38           (9) That the property owner has the right to file a written complaint with the  
39 registrar for an alleged violation of subsection 1 of section 324.1478. The contract shall  
40 contain the registrar's telephone number and web site address and shall state that  
41 complaints must be made within the applicable time period as set forth in subsection 1 of  
42 section 324.1480. The information in this subdivision shall be prominently displayed in the  
43 contract in ten-point bold type, and the contract shall be signed by the property owner and  
44 the contractor or the contractor's designated representative.

45           3. At the time of signing a contract the owner shall be provided a legible copy of all  
46 documents signed and a written and signed receipt for and in the true amount of any cash  
47 paid to the contractor by the owner.

48           4. The requirements of this section shall not constitute prerequisites to the  
49 formation or enforcement of a contract. Failure to comply with the requirements of this  
50 section shall not constitute a defense by either party to an action for compensation,  
51 damages, breach, enforcement, or other cause of action based on the contract.

          324.1490. 1. In addition to the requirements of section 324.1488, a licensed  
2 contractor who enters into a contract for the construction or installation of a residential  
3 in-ground swimming pool or spa with a purchaser who resides in the residence or who  
4 intends to reside in the residence after the completion of the contract shall include at least  
5 the following provisions:

6           (1) A provision providing the purchaser the opportunity to request standard  
7 contractor's payment and performance bonds in a form approved by the registrar,  
8 securing the completion of the work and payment for services and materials. The cost of  
9 the payment and performance bond shall be paid by the purchaser of the swimming pool  
10 or spa and the contractor shall not charge a surcharge or a service charge;

11           (2) The following payment provisions:

12           (a) A down payment payable on the execution of the contract of not more than one  
13 thousand dollars;

14           (b) After the completion of the excavation work on the swimming pool or spa, a  
15 payment of not more than thirty percent of the amount of the original contract price plus  
16 any written change orders approved by the purchaser;

17           (c) After the installation of steel, plumbing and pneumatically applied concrete  
18 materials or the installation of a prefabricated swimming pool or spa, a payment of not  
19 more than thirty percent of the amount of the original contract price plus any written  
20 change orders approved by the purchaser;

21           (d) After the installation of decking materials, a payment of not more than thirty  
22 percent of the amount of the original contract price plus any written change orders  
23 approved by the purchaser;

24           (e) Before the application of the finishing interior materials or completion of all  
25 work on a prefabricated pool or spa, payment of all remaining sums due on the original  
26 contract plus any written change orders approved by the purchaser;

27           (3) A provision that gives notice to the purchaser, in a form approved by the  
28 registrar that is in at least ten-point type, of the purchaser's right to receive written  
29 material that advises the purchaser of the provisions of this section and of the procedures  
30 provided for by the registrar for the resolution of claims and disputes with licensed  
31 contractors;

32           (4) A provision in a form approved by the registrar that is in at least ten point type,  
33 advising the purchaser of the purchaser's rights under chapter 536, RSMo.

34           2. If a purchaser requires the contractor to furnish a payment and performance  
35 bond securing the performance of the contract, the provisions of subdivision (2) of  
36 subsection 1 of this section may be changed in any manner agreed to by the parties to the  
37 contract.

38           3. Any changes, additions or deletions to the work specified in the original contract  
39 shall be included in a written change order.

40           4. A contractor's failure to comply with this section is a violation of subsection 1 of  
41 section 324.1478.

324.1492. 1. A covenant, clause or understanding in, collateral to or affecting a  
2 construction contract or architect-engineer professional service contract that purports to  
3 indemnify, to hold harmless or to defend the promisee from or against liability for loss or  
4 damage resulting from the sole negligence of the promisee or the promisee's agents,  
5 employees or indemnitee is against the public policy of this state and is void.

6           2. Notwithstanding subsection 1 of this section, a contractor who is responsible for  
7 the performance of a construction contract may fully indemnify a person for whose  
8 account the construction contract is not being performed and who, as an accommodation,

9 enters into an agreement with the contractor that permits the contractor to enter on or  
10 adjacent to its property to perform the construction contract for others.

11 3. This section applies to all contracts entered into between private parties. This  
12 section shall not apply to agreements to which this state or a political subdivision of this  
13 state is a party, including intergovernmental agreements.

14 4. For purposes of this section, the following terms mean:

15 (1) "Architect-engineer professional service contract", a written or oral agreement  
16 relating to the design, design-build, construction administration, study, evaluation or other  
17 professional services furnished in connection with any actual or proposed construction,  
18 alteration, repair, maintenance, moving, demolition or excavation of any structure, street  
19 or roadway, appurtenance or other development or improvement to land;

20 (2) "Construction contract", a written or oral agreement relating to the  
21 construction, alteration, repair, maintenance, moving, demolition or excavation or other  
22 development or improvement to land.

324.1494. 1. At least thirty days before filing suit against a contractor for money  
2 damages resulting from termites, a claimant shall give written notice to that contractor at  
3 that contractor's last known address, specifying in reasonable detail the facts that are the  
4 subject of the complaint. Within ten days after the date the contractor receives the notice,  
5 the contractor may request an opportunity to inspect the premises and may make a written  
6 offer to the claimant that may include an agreement by the contractor to inspect, treat,  
7 repair or have repaired at the contractor's expense any area damaged by the termites and  
8 shall describe in reasonable detail the kind of repairs or treatment offered. If accepted, the  
9 repairs or treatment shall be made within forty-five days after the date the contractor  
10 receives written notice of acceptance of the offer of compromise, unless completion is  
11 delayed by the claimant or by other events beyond the control of the contractor. Failure  
12 to provide a written notice or refusal to allow a contractor to inspect the premises for  
13 termite damage and provide a retreatment program shall create a rebuttable presumption  
14 that the damages could have been mitigated.

15 2. The notice prescribed by subsection 1 of this section is not required if the  
16 claimant must file suit at an earlier date to prevent expiration of the statute of limitations  
17 or if the complaint is asserted as a counterclaim.

18 3. This section does not create an implied warranty or extend any limitation period.  
19 This section applies only to a claim for money damages to a residence or an appurtenance  
20 to a residence resulting from termites and for which suit is filed after the effective date of  
21 this section.

22           **4. For purposes of this section "contractor" means a person or entity, including any**  
23 **subsidiaries, parents, partners or affiliates, that contracts with a claimant for the**  
24 **construction or sale of a new residence constructed by that person or entity, or for an**  
25 **alteration of or addition to an existing residence, repair of a new or existing residence, or**  
26 **construction, sale, alteration, addition or repair of an appurtenance to a new or existing**  
27 **residence.**

**324.1496. 1. After suspension of the license upon any of the grounds set forth in**  
2 **section 324.1478, the registrar shall renew it upon proof of compliance by the contractor**  
3 **with provisions of the judgment relating to renewal of the license, or in the absence of a**  
4 **judgment or provisions therein as to renewal, upon proper showing that all loss caused by**  
5 **the act or omission for which the license was suspended has been fully satisfied.**

6           **2. After suspension of the license under the provisions of section 324.1478 the**  
7 **licensee may perform, without compensation, warranty work or other corrective work.**

8           **3. After revocation of a license upon any of the grounds set forth in section**  
9 **324.1478, the license shall not be renewed or reissued for one year after final determination**  
10 **of revocation and then only on proper showing that all loss caused by the act or omission**  
11 **for which the license was revoked has been fully satisfied.**

**324.1498. If any provision or condition contained in sections 324.1400 to 324.1518**  
2 **conflicts with any provision of federal law, or a rule or regulation made under federal law**  
3 **pertaining to federal aid contracts, such provision in conflict with the federal law, rule or**  
4 **regulation shall not apply on federal aid contracts to the extent such conflict exists, but all**  
5 **provisions of sections 324.1400 to 324.1518 with which there is no such conflict, shall apply**  
6 **to federal aid contracts.**

**324.1500. 1. Commission by a contractor of any of the following acts is a class A**  
2 **misdemeanor:**

3           **(1) Any act specified in subdivision (7) or (10) of subsection 1 of section 324.1478;**

4           **(2) Acting in the capacity of a contractor within the meaning of sections 324.1400**  
5 **to 324.1518 without a license.**

6           **2. For the first offense under subsection 1 of this section, a contractor shall be fined**  
7 **not less than one thousand dollars. For the second or any subsequent offense under**  
8 **subsection 1 of this section, a contractor shall be fined not less than two thousand dollars.**

9           **3. If a person is convicted of a violation of subsection 1 of this section and the court**  
10 **sentences the person to a term of probation, the court shall order that as conditions of**  
11 **probation the person does all of the following:**

12           **(1) Pays in full all transaction privilege tax or use tax amounts that are due that**  
13 **arise from the acts or omissions constituting the violation;**

14           (2) Pays in full all use tax amounts that are due to the county in which the violation  
15 occurred and that arise from the acts or omissions constituting the violation;

16           (3) Pays in full all use tax amounts that are owed to the local municipal  
17 government, city or town in which the violation occurred and that arise from the acts or  
18 omissions constituting the violation.

          324.1502. Except as authorized by paragraph (c) of subdivision (14) of subsection  
2 1 of section 324.1410, it is a class A misdemeanor for any person to advertise that he or she  
3 is able to perform any service or contract for compensation subject to regulation by the  
4 registrar under the terms of sections 324.1400 to 324.1518 unless a license under the terms  
5 of sections 324.1400 to 324.1518 is first obtained regardless of whether his or her  
6 operations as a contractor are otherwise exempt.

          324.1504. 1. In addition to all other remedies, when it appears to the registrar,  
2 either upon complaint or otherwise, that any person, firm, partnership, corporation,  
3 association or other organization, or a combination of any of them, has engaged in or is  
4 engaging in any act of contracting, practice or transaction which constitutes a violation of  
5 sections 324.1400 to 324.1518, or any rule or order of the registrar, the registrar may serve  
6 upon such person, firm, partnership, corporation, association or other organization not  
7 currently licensed under sections 324.1400 to 324.1518, by certified mail or by personal  
8 service, a cease and desist order requiring the person, firm, partnership, corporation,  
9 association or other organization to cease and desist immediately, upon receipt of the  
10 notice, from engaging in such act, practice or transaction. In conjunction with the cease  
11 and desist order, the registrar may issue a citation for a violation. Each citation shall be  
12 in writing and shall clearly describe the violation for which the citation was issued. Each  
13 citation shall contain an order to cease and desist and an assessment of a civil penalty in  
14 an amount of at least two hundred dollars for each violation but not more than two  
15 thousand five hundred dollars for the multiple violations committed on the same day. If  
16 after the issuance of a citation by the registrar, the person or organization receiving the  
17 citation fails to cease and desist in the violation or violations described in the citation, the  
18 registrar may assess an additional civil penalty of up to two thousand five hundred dollars  
19 for each day the violation or violations continue. The registrar shall adopt rules covering  
20 the assessment of a civil penalty that give due consideration to the gravity of the violation  
21 and any history of previous violations. The penalties authorized under this section are  
22 separate from, and in addition to, all other remedies either civil or criminal.

23           2. Each violation of sections 324.1400 to 324.1518 or a rule or order of the registrar  
24 by a person who is required to be licensed by sections 324.1400 to 324.1518 and who does  
25 not possess the required license shall constitute a separate offense, and the registrar may



26 impose a civil penalty of not to exceed two thousand five hundred dollars for each violation  
27 except that for multiple violations committed on the same day the civil penalty shall not  
28 exceed two thousand five hundred dollars for all such violations. Moneys collected from  
29 civil penalties shall be deposited in the state general fund.

30 3. The registrar of contractors may issue citations containing orders to cease and  
31 desist and of civil penalties against persons who have never been licensed under sections  
32 324.1400 to 324.1518 who are acting in the capacity of or engaging in the business of a  
33 contractor in this state.

324.1506. A citation issued under section 324.1504 may be served personally or by  
2 certified mail at the last known business address or residence address of the person cited.

324.1508. A citation under section 324.1504 shall be issued by the registrar within  
2 ninety days after actual discovery of the offense by this state or the political subdivision  
3 having jurisdiction.

324.1510. After the exhaustion of administrative review procedures under chapter  
2 536, RSMo, and if judicial review has not been sought, a certified copy of any registrar's  
3 order requiring the payment of civil penalties may be filed in the office of the clerk of the  
4 superior court in any county of this state. The clerk shall handle the registrar's order in  
5 the same manner as a superior court judgment. A registrar's order that is filed in the  
6 office of the clerk of the superior court has the same effect as a superior court judgment  
7 and may be recorded, enforced or satisfied in a similar manner. A person who files a  
8 registrar's order under this section is not required to pay a filing fee.

324.1512. Notwithstanding any other law, the registrar may waive all, except two  
2 hundred dollars, of the civil penalty if the person against whom the civil penalty is assessed  
3 completes all of the requirements for, and is issued, a contractor's license. Any loss or  
4 damage to the public caused by the violator's activities shall be remedied before issuance  
5 of the license.

324.1514. 1. If a person who qualified for a license ceases for any reason  
2 whatsoever to be connected with the licensee, both the licensee and the qualifying party  
3 shall notify the registrar in writing within fifteen days after such disassociation.

4 2. A licensee shall have sixty days from the date of any such disassociation to  
5 qualify through another person. If the licensee fails to qualify through another person  
6 within sixty days, the license is automatically suspended by operation of law at the end of  
7 the period until the licensee does qualify through another person.

324.1516. At the request of the registrar, and after the issuance of a citation or a  
2 cease and desist order, the county, city or authority of the state may cause work on a  
3 construction project to cease or be suspended on that project until there is compliance with

4 the licensing requirements of section 324.1470 by those contractors employed on that  
5 project.

324.1518. Each county, city or other political subdivision or authority of this state  
2 or any agency, department, board or commission of this state which requires the issuance  
3 of a building permit as a condition precedent to the construction, alteration, improvement,  
4 demolition or repair of a building, structure or other improvement to real property for  
5 which a license is required under sections 324.1400 to 324.1518, as part of the application  
6 procedures which it utilizes, shall require that each applicant for a building permit file a  
7 signed statement that the applicant is currently licensed under the provisions of sections  
8 324.1400 to 324.1518 with the applicant's license number. If the applicant purports to be  
9 exempt from the licensing requirements of sections 324.1400 to 324.1518, the statement  
10 shall contain the basis of the asserted exemption and the name and license number of any  
11 general, mechanical, electrical, or plumbing contractor who will be employed on the work.  
12 The local issuing authority may require from the applicant a statement signed by the  
13 registrar to verify any purported exemption.

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