



How the Contractor Recovery Fund Works

Introductions



Kelly Cooper

- Contractor Recovery Fund Administrator
- Supervises the Permitting Unit

What is the Contractor Recovery Fund?



- The Fund was created by the legislature in 1994
- The purpose of the Contractor Recovery Fund
- Governing Laws
 - Minn. Stat. § 326B.89
 - Minn. Stat. § 327A Statutory Warranties

Important Definitions in 326B.89



- **“Licensee”** means a person licensed as a residential contractor or remodeler
- **“Residential real estate”** means a new or existing building constructed for habitation by one to four families, and includes detached garages.
- **“Owner”** when used in connection with real property means a person who has any legal or equitable interest in real property and includes a condominium or townhome association that owns common property located in a condominium building or townhome building or an associated detached garage. Owner does not include any real estate developer or any owner using, or intending to use, the property for a business purpose and not as owner-occupied residential real estate.

Contractor Fees



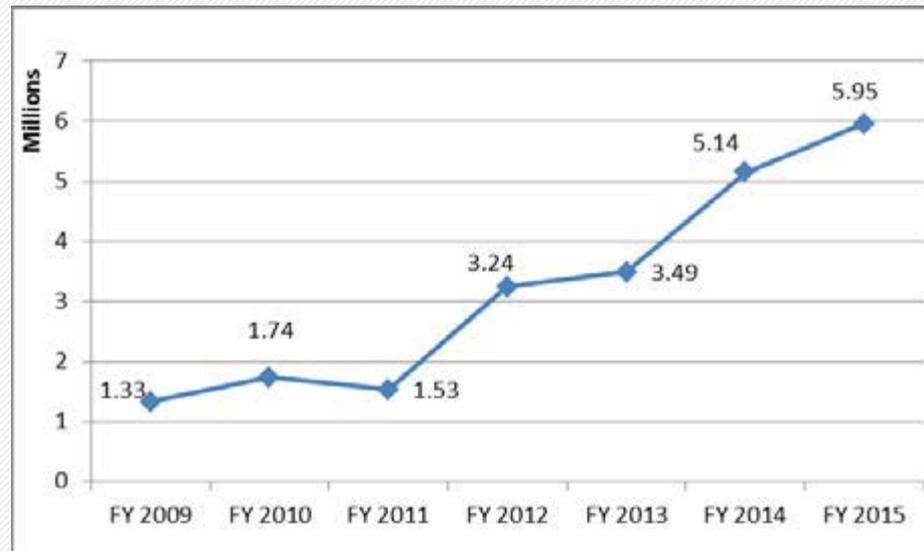
- Contractors pay a fee into the Fund as part of obtaining and renewing their license.
- License renewal occurs every 2 years.
- In the 2015 legislative session we were able to reduce the fees by \$70 per licensee.

Fees	Gross Annual Receipts
\$400	Under \$1,000,000
\$500	\$1,000,000 to \$5,000,000
\$600	Over \$5,000,000

How much money is in the Fund?



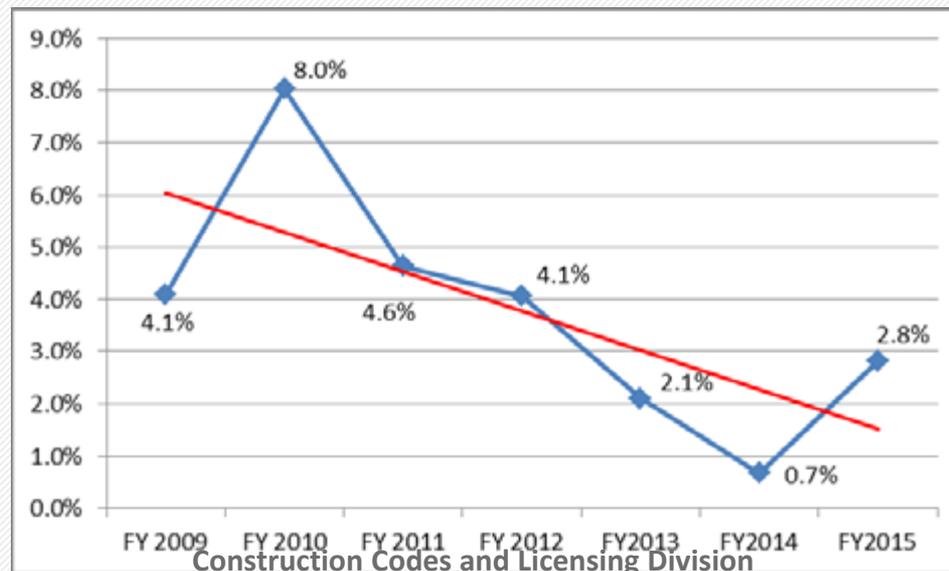
- The Fund's operating balance at the end of fiscal 2015 was \$5,952,408.00
 - This is 16 percent increase from 2014.
 - This increase is largely due to the cyclical nature of residential building licenses and declining payouts.



How much money is spent administering the Fund?



- Operating costs of the Fund were 2.8 percent of revenues in fiscal year 2015 (\$77,745.00).
- Since FY 2009, operating costs measured as a percentage of revenues have declined about 2 percent.
- Note: The peaks and valleys are primarily a result of the fluctuating revenue cycle.



The Basics of the Fund



- Maximum of \$75,000 per applicant
- Maximum of \$150,000 per contractor
- Application Deadline of June 1st
- Payout December 1st

DLI Requirements for Application



- To apply you must be an owner as defined under the statute
- There must be a contractual relationship between the owner and licensed contractor
- The licensed contractor must have engaged in one of the following while performing any of the special skills enumerated under Minn. Stat. §326B.802, subd. 15 (2014):
 - fraudulent practices
 - deceptive practices
 - dishonest practices
 - the conversion of funds, or
 - failed to perform

Requirements Cont.



- The owner must have a judgment against the contractor and in the proper name.
- The judgment must be docketed
- The owner must make an attempt to collect on the judgment by obtaining a Writ of Execution.
- The owner must complete the application and hand in the supporting documentation to the Fund by June 1st.

The Application



- A copy of the application can be found at
 - http://www.dli.mn.gov/CCLD/PDF/rbc_recoveryfund_packet2.pdf
- What documents must accompany the application?
 - A copy of the Summons and Complaint
 - A copy of the Judgment
 - A copy of the Notice of Entry and Docketing
 - A copy of the Writ of Execution
 - A copy of the original contract with change orders
 - Proof of Payment
 - Insurance paperwork
 - Estimate for repairs
 - Copies of liens



Minnesota Department of Labor and Industry
Contractor Recovery Fund
443 Lafayette Road N.
St. Paul, MN 55155
(651) 284-5057

**APPLICATION FOR COMPENSATION FROM
THE CONTRACTOR RECOVERY FUND:
FOR A CONTACTOR'S MISCONDUCT**

Name of owner/lessee (applicant/s): _____

Address: _____

Name of contractor (licensee): _____

Contractor license number: _____

PURSUANT TO Minnesota Statutes, section 326B.89 (2014) the Applicant, for their verified application for compensation from the Contractor Recovery Fund, state and affirm as follows:

1. The Applicant is an Owner of residential real estate or a Lessee of residential real estate that is eligible for payment of compensation from the Contractor Recovery Fund;

2. The specific grounds upon which the Applicant seeks to recover from the fund are:

_____;

3. The Applicant obtained a Final Judgment in the amount of \$ _____ in a court of competent jurisdiction against the Licensee, which was entered on _____ and docketed on _____, and is incorporated herein by reference;

4. The Applicant received \$ _____ toward the amount of the Final Judgment on _____ **OR** The Applicant has not received any payment toward the amount of the Final Judgment; (Cross out the sentence that does not apply.)

5. The Final Judgment against the Licensee was obtained on the grounds of fraudulent, deceptive, or dishonest practices, conversion of funds, or failure of performance that arose directly out of a transaction that occurred between the Applicant and the Licensee when the Licensee was licensed and performing any of the special skills enumerated under Minn. Stat. § 326B.02, subd. 15 (2014);

6. All proceedings on the judgment specified in item three have either been pursued and concluded or have been foregone, and there are no reviews or appeals pending in any court.

7. The amount of the Applicant's actual and direct out-of-pocket loss on the residential real estate or the leased residential real estate, or on new residential real estate that has never been occupied or that was occupied by the Licensee for less than one year prior to purchase by the Applicant, is \$ _____;

8. The residential real estate is located at _____ (address), City of _____, County of _____, State of Minnesota, _____ (ZIP code);

9. The Applicant is not the spouse of the Licensee or the personal representative of the Licensee;

10. The Applicant knows of no other individual or entity that would be liable to the Applicant in the transaction for which the Applicant is seeking recovery from the Contractor Recovery Fund. **OR** Other parties that are liable, or may be liable, to the Applicant in the transaction for which the Applicant is seeking recovery from the Contractor Recovery Fund are: (Cross out the sentence that does not apply.)



11. The Applicant filed a claim with their homeowner's insurance carrier on _____, based upon the facts alleged in the Final Judgment the Applicant obtained against the Licensee, and received \$ _____ for their claim/the claim is pending/the claim has been denied (circle one). **OR** The Applicant has not filed a claim with their homeowner's insurance carrier; (Cross out the sentence that does not apply.)

12. The Applicant filed a claim with the Licensee's insurance carrier on _____, based upon the facts alleged in the Final Judgment the Applicant obtained against the Licensee, and received \$ _____ for that claim/the claim is pending/the claim has been denied (circle one). **OR** The Applicant has not filed a claim with the Licensee's insurance carrier; (Cross out the sentence that does not apply.)

13. The Applicant has taken the following steps to try to collect on the Final Judgment:

14. This verified application is served upon the Commissioner of the Minnesota Department of Labor and Industry within two years of the date the Final Judgment specified in item three became final; and

15. The Applicant has complied with all the requirements of Minn. Stat. § 326B.89 (2014).

NOW, THEREFORE, the Applicant requests the following.

An Agreement or Order directing payment from the Contractor Recovery Fund to the Applicant herein in the amount of \$ _____, said amount being equal to the Applicant's actual and direct out-of-pocket loss/amount of the Final Judgment (circle one), but excluding attorney's fees, any costs and disbursements incurred in obtaining the judgment and applying to the Fund, costs awarded under Minn. Stat. § 549.02, any interest on the loss, and any pre-judgment and post-judgment interest.

Dated: _____ By: _____
 Attorney for plaintiff/applicant

VERIFICATION

STATE OF MINNESOTA)
) ss.
 COUNTY OF _____)

I have read the attached Verified Application for Compensation from the Contractor Recovery Fund, (the Application). I am an Applicant listed in the Application. I swear under oath that all of the statements made in the Application are true.

Signature of applicant/s _____
 Applicant

 Telephone number

 Applicant

 Telephone number

Subscribed and sworn to before me on this the _____ day of _____, 20____.

 Notary Public

My commission expires on _____.

Review Process



- The Fund opens a case file for each application.
- If there is an active license, enforcement is notified.
- Courtesy letters are sent to the licensee notifying them of the claim against their license.
- The Fund has 120 days to review a case once it receives a complete application.



The Order



- Settlement Agreement & Order
- Denial
- 30 Days to submit a written appeal to have a hearing in front of an administrative law judge
- Proration notifications will be mailed 45 days from the end of the fiscal year which is June 30th
- Partial Assignment Of Judgment
- Checks issued

Proration



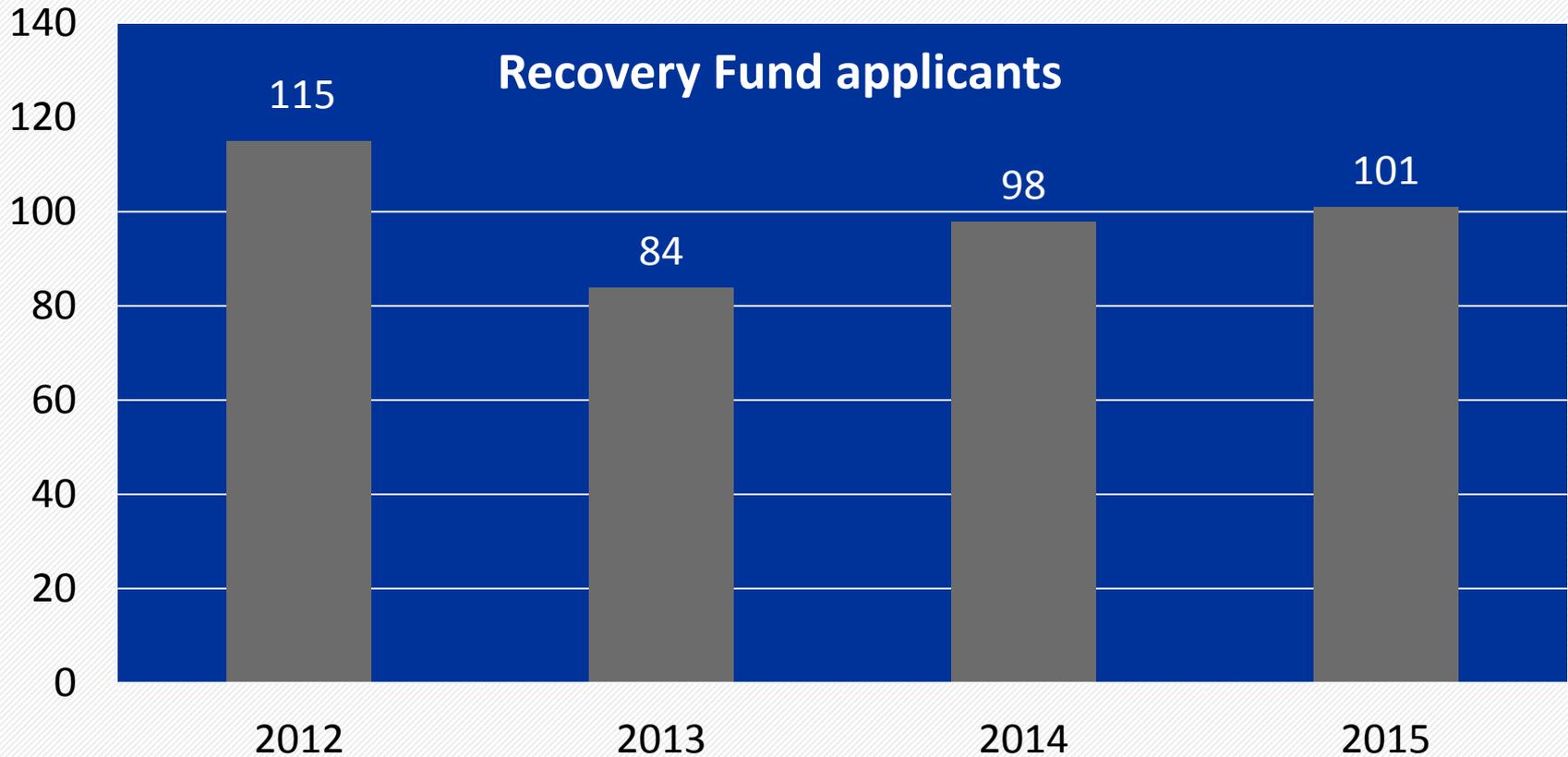
- **Proration Formula**
- Look to see how much has been previously paid out on behalf of a contractor.
- Take the amount of the award for the specific applicant.
- Divide that amount into the total of the awards from the specific contractor for the fiscal year.
- Multiple that number by the amount left in that contractor's fund for the fiscal year.
- Example:
 - Award to applicant= \$75,000
 - Total awards for a specific contractor for the fiscal year= \$113,489.31
 - Money left under Contractor from the beginning of the year= \$97,578.90
 - $75,000 / 113,489.31 = .6608551942$ (x) $97,578.90 = \$64,485.52$

Examples of a Prorated Case

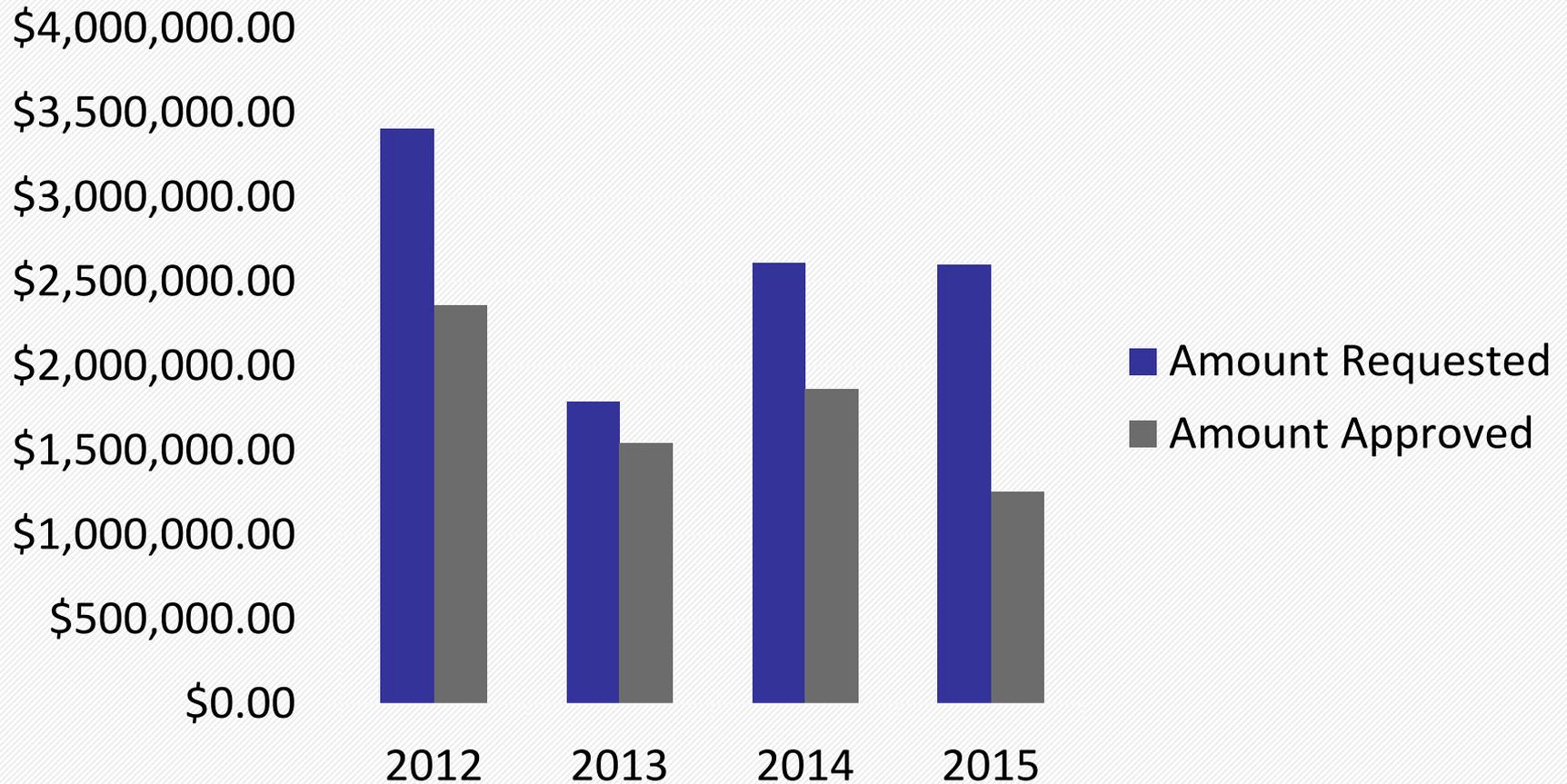


Applied	Approved	Proration
\$75,000.00	\$66,559.02	\$15,535.55
\$61,909.58	\$57,057.63	\$13,317.83
\$66,784.29	\$66,776.00	\$15,586.19
\$32,406.10	\$22,473.00	\$5,245.42
\$52,090.54	\$46,909.54	\$10,949.16
43,643.71	\$43,643.71	\$10,186.88
\$9,678.75	\$9,608.75	\$2,242.78
\$9,955.00	\$9,955.00	\$2,323.60
\$38,880.00	\$38,880.00	\$9,074.98
\$26,477.00	\$26,477.00	\$6,180.00

Applications



Payouts 2012 to 2015



Common Mistakes & Misconceptions



- Sweat equity
- Bankruptcy
- Subsequent homeowners
- Rent & Storage
- Out of pocket loss
- Work must be performed before application
- You must apply within 2 years of your judgment
- Tax payer funded
- Lifetime max

Common Mistakes & Misconceptions



- Investment properties
- Type of Contract
 - Construction
 - Written/oral
- Townhomes/Condos/Associations
- Fences, retaining walls, barns, sheds, garages
- Privity of contract
- Judgment amount vs Fund payout
- Default Judgments & Confessions of Judgment

Common Questions



1. Are “bad” contractors cheating the Fund?
2. How does DLI verify that a claim to the Fund is legitimate?
3. How do we collect from contractors once the Fund has paid out?



Thank you for your time!