

CHAPTER 326

EMPLOYMENTS LICENSED BY STATE

326.02	Licensure or certification of architects, engineers, surveyors, landscape architects, geoscientists, and interior designers.	326.13	Practice exempt.
326.03	License or certificate required.	326.14	Corporations and partnerships authorized.
326.04	Board of architecture, engineering, land surveying, landscape architecture, geoscience, and interior design.	326.2421	Alarm and communication systems.
326.05	Qualifications of board members.	326.244	Inspection.
326.06	General powers and duties of board.	326.41	Advisory council.
326.07	Board, meetings of, officers, quorum.	326.47	Application, permit, filing, and inspection fees.
326.08	Expenses of board and members.	326.48	Licensing.
326.09	Records of board.	326.50	Application; fees.
326.10	Licensure and certification.	326.51	Department may revoke licenses.
326.11	License or certificate suspension, revocation, reissuance, replacement.	326.52	Deposit of fees.
326.111	Issuance, denial, revocation, and suspension of licenses and certificates; discipline.	326.71	Definitions.
326.12	License or certificate as evidence; seal.	326.75	Fees.
		326.78	Duties of the commissioner.
		326.83	Definitions.
		326.84	Licensing requirements.
		326.91	Denial, suspension, or revocation of licenses.
		326.95	License number; advertising.
		326.975	Contractor's recovery fund.

326.02 LICENSURE OR CERTIFICATION OF ARCHITECTS, ENGINEERS, SURVEYORS, LANDSCAPE ARCHITECTS, GEOSCIENTISTS, AND INTERIOR DESIGNERS.

Subdivision 1. **Registration mandatory.** In order to safeguard life, health, and property, and to promote the public welfare, any person in either public or private capacity practicing, or offering to practice, architecture, professional engineering, land surveying, landscape architecture, or professional geoscience, or using the title certified interior designer in this state, either as an individual, a copartner, or as agent of another, shall be licensed or certified as hereinafter provided. It shall be unlawful for any person to practice, or to offer to practice, in this state, architecture, professional engineering, land surveying, landscape architecture, or professional geoscience, or to use the title certified interior designer, or to solicit or to contract to furnish work within the terms of sections 326.02 to 326.15, or to use in connection with the person's name, or to otherwise assume, use or advertise any title or description tending to convey the impression that the person is an architect, professional engineer (hereinafter called engineer), land surveyor, landscape architect, professional geoscientist (hereinafter called geoscientist), or certified interior designer, unless such person is qualified by licensure or certification under sections 326.02 to 326.15.

[For text of subs 2 and 3, see M.S.1994]

Subd. 3a. **Practice of professional geoscience.** A person is considered to be practicing professional geoscience within the meaning of sections 326.02 to 326.15 who holds out as being able to perform or who does perform any technical professional services, the adequate performance of which requires professional geoscience education, training, and experience in the application of special knowledge of the mathematical, physical, chemical, biological, and earth sciences to such services or creative work as consultation, investigation, evaluation, planning, mapping, and inspection of geoscientific work and its responsible supervision.

A person is considered to practice or offer to practice professional geoscience, within the meaning and intent of sections 326.02 to 326.15 who practices any of the geoscience disciplines defined by the board; who by verbal claim, sign, advertisement, letterhead, card, or in any other way represents oneself to be a professional geoscientist; through the use of some other title implies that the person is a professional geoscientist; or who presents oneself as able to perform or who does perform any geoscience services or that constitutes the practice of a professional geoscience discipline as defined by the board.

“Geoscience” means the science which includes treatment of the earth and its origin and history; the investigation, measurement or sampling, of the earth’s constituent rocks, natural and induced fields of force, minerals, fossils, solids, soils, fluids including surface and underground waters, gases, and other materials; and the study, interpretation, and analysis of the natural agents, forces, and processes which cause changes in the earth.

Nothing in this subdivision shall be construed to prevent a professional engineer, as defined in sections 326.02 to 326.15, from acquiring engineering data involving soil, rock, groundwater, and other earth materials; evaluating physical and chemical properties of soil, rock, groundwater, and other earth materials for engineering; and from utilizing these data for analysis, design, and construction. Nothing in this subdivision shall be construed to permit a professional geoscientist to engage in the practice of professional engineering, architecture, landscape architecture, or land surveying or to use the title “certified interior design” as those terms are defined in this section. Nothing in this subdivision shall be construed to regulate persons who take soil samples for the purpose of providing recommendations on crop production.

Subd. 4. Practice of land surveying. Land surveying means the application of the principles of mathematics, physical and applied sciences and law to measuring and locating lines, angles, elevations and natural or artificial features in the air, on the surface of the earth, underground and on the beds of bodies of water for the purpose of:

- (a) monumenting property boundaries;
- (b) planning, designing, and platting of land and subdivisions including the topography, alignment and grades of streets; and
- (c) preparing and perpetuating maps, record plats and property descriptions.

Any person who offers to perform, holds out as being able to perform, or who does perform land surveying for others shall be practicing land surveying.

Nothing contained in the provisions of sections 326.02 to 326.15, shall prohibit a licensed professional engineer, architect, landscape architect, or professional geoscientist from doing any work included in the practice of engineering, architecture, landscape architecture, and professional geoscience, if the work does not involve the establishment or reestablishment of property corners or property lines.

Subd. 4a. Practice of landscape architecture. Any person shall be deemed to be practicing landscape architecture, within the meaning of sections 326.02 to 326.15, who holds out as being able to perform or who does perform any professional service in connection with the development of land areas where the dominant purpose of the service is the preservation, enhancement or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, the settings, approaches or environment for structures or other improvements, and the consideration and determination of inherent problems of the land relating to erosion, wear and tear, blight and hazards. This practice shall include the location and arrangement of tangible objects and features incidental and necessary to the purposes outlined but shall not include the design of structures or facilities with separate and self-contained purposes as ordinarily included in the practice of engineering or architecture or the preparation of boundary surveys or final land plats, as ordinarily included in the practice of land surveying.

Nothing contained in sections 326.02 to 326.15 concerning landscape architects shall be construed:

- (a) To apply to a professional engineer duly registered under the laws of this state;
- (b) To apply to an architect registered under the laws of this state;
- (c) To apply to a land surveyor registered under the laws of this state;
- (d) To prevent a registered architect or professional engineer from doing landscape planning and designing;
- (e) To exclude nursery operators or other small business people from the preparation of landscape plans appropriate to the normal operation of their business;
- (f) To authorize a landscape architect to engage in the practice of architecture, engineering, land surveying, or geoscience.

No person shall use the designation landscape architect or any title or device indicating or representing that the person is a landscape architect or is practicing landscape architecture unless the person is registered under the provisions of sections 326.02 to 326.15.

[For text of subs 4b and 5, see M.S.1994]

History: 1995 c 206 s 4-7

326.03 LICENSE OR CERTIFICATE REQUIRED.

Subdivision 1. **Plans; documents.** No person, except an architect, engineer, land surveyor, landscape architect, geoscientist, or certified interior designer, licensed or certified as provided for in sections 326.02 to 326.15 shall practice architecture, professional engineering, land surveying, landscape architecture, or professional geoscience, or use the title certified interior designer, respectively, in the preparation of plans, specifications, reports, plats or other architectural, engineering, land surveying, landscape architectural, geoscientific, or interior design documents, or in the observation of architectural, engineering, land surveying, landscape architectural, geoscientific, or interior design projects. In preparation of such documents, reasonable care shall be given to compliance with applicable laws, ordinances, and building codes relating to design.

[For text of subs 2 and 3, see M.S.1994]

Subd. 4. **Exception for persons elected in office.** The provisions hereof shall not apply to any person holding an elective office when in discharging the duties thereof such person is required to do work or perform service of the character of work or service usually done or performed by an architect, engineer, land surveyor, landscape architect, or geoscientist.

[For text of subd 5, see M.S.1994]

History: 1995 c 206 s 8,9

326.04 BOARD OF ARCHITECTURE, ENGINEERING, LAND SURVEYING, LANDSCAPE ARCHITECTURE, GEOSCIENCE, AND INTERIOR DESIGN.

To carry out the provisions of sections 326.02 to 326.15 there is hereby created a board of architecture, engineering, land surveying, landscape architecture, geoscience, and interior design consisting of 21 members, who shall be appointed by the governor. Three members shall be licensed architects, five members shall be licensed engineers, two members shall be licensed landscape architects, two members shall be licensed land surveyors, two members shall be certified interior designers, two members shall be licensed geoscientists, and five members shall be public members. Not more than one member of the board shall be from the same branch of the profession of engineering. The first professional geoscientist members shall be appointed as soon as possible and no later than October 1, 1995. One of these members shall serve for a term to end January 1, 1997. The other member shall serve for a term to end January 1, 1999. The second licensed landscape architect and certified interior designer members shall be appointed to succeed the two public members whose terms end on January 1, 1996. The second licensed landscape architect and certified interior designer members shall be appointed by the governor no later than October 1, 1995, and shall serve a term to end on January 1, 2000. During the time from the appointment of these members until January 1, 1996, the board shall consist of 23 members. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214.

History: 1995 c 206 s 10

326.05 QUALIFICATIONS OF BOARD MEMBERS.

Each member of the board shall be a resident of this state at the time of appointment. Each member except the public members shall have been engaged in the practice of the rele-

vant profession for at least ten years and shall have been in responsible charge of work for at least five years. Each such member shall be a member in good standing of a recognized society of architects, engineers, land surveyors, landscape architects, geoscientists, or interior designers; and, except as provided in section 326.06, shall be a licensed architect, licensed engineer, licensed land surveyor, licensed landscape architect, licensed geoscientist, or certified interior designer. The certified interior design member must have passed the National Council for Interior Design Qualifications test.

History: 1995 c 206 s 11

326.06 GENERAL POWERS AND DUTIES OF BOARD.

Each member of the board shall receive a certificate of appointment from the governor, and, before beginning a term of office, shall file with the secretary of state the constitutional oath of office. The board shall adopt and have an official seal, which shall be affixed to all licenses granted; shall make all rules, not inconsistent with law, needed in performing its duties; and shall fix standards for determining the qualifications of applicants for certificates, which shall not exceed the requirements contained in the curriculum of a recognized school of architecture, landscape architecture, engineering, geoscience, or interior design. The board shall make rules to define classes of buildings with respect to which persons performing services described in section 326.03, subdivision 2, may be exempted from the provisions of sections 326.02 to 326.15, by a finding of no probable risk to life, health, property or public welfare.

History: 1995 c 206 s 12

326.07 BOARD, MEETINGS OF, OFFICERS, QUORUM.

The board shall hold meetings at such times as the bylaws of the board may provide. Notice of all meetings shall be given in such manner as the bylaws may provide. The board shall elect annually from its members a chair, a vice-chair, a secretary and a treasurer. A quorum of the board shall consist of not less than 11 members, of whom four shall be architects, landscape architects, land surveyors, or certified interior designers, four engineers or geoscientists, and three public members.

History: 1995 c 206 s 13

326.08 EXPENSES OF BOARD AND MEMBERS.

[For text of subd 1, see M.S.1994]

Subd. 2. **Members.** Any member of the board, the executive secretary of the board, or the attorney for the board may be authorized by the board to attend any architectural, engineering, land surveying, landscape architectural, geoscientific, or interior design conference or meeting held outside of this state, the major purpose of which is the consideration of problems directly associated with the registration or licensing of architects, professional engineers, land surveyors, landscape architects, professional geoscientists, or certified interior designers.

History: 1995 c 206 s 14

326.09 RECORDS OF BOARD.

The board shall keep a record of its proceedings and a register of all applicants for licensing, showing for each the date of application, name, age, educational and other qualifications, place of business, and the place of residence, whether or not an examination was required and whether the applicant was rejected or a license granted, and the date of such action. The books and register of the board shall be prima facie evidence of all matters recorded therein. A roster showing the names and places of business or of residence of all licensed architects, engineers, land surveyors, landscape architects, geoscientists, and certified interior designers shall be prepared by the executive secretary of the board during the month of July, of each even numbered year. Roster supplements listing newly licensed persons shall be published semiannually between publications of the biennial roster. Rosters may be printed out of the funds of the board, as provided in section 326.08.

History: 1995 c 206 s 15

326.10 LICENSURE AND CERTIFICATION.

Subdivision 1. **Issuance.** (a) The board shall on application therefor on a prescribed form, and upon payment of a fee prescribed by rule of the board, issue a license or certificate as an architect, engineer, land surveyor, landscape architect, geoscientist, or certified interior designer. A separate fee shall be paid for each profession licensed.

(1) To any person over 25 years of age, who is of good moral character and repute, and who has the experience and educational qualifications which the board by rule may prescribe.

(2) To any person who holds an unexpired certificate of registration or license issued by proper authority in the District of Columbia, any state or territory of the United States, or any foreign country, in which the requirements for registration or licensure of architects, engineers, land surveyors, landscape architects, geoscientists, or certified interior designers, respectively, at the time of registration or licensure in the other jurisdiction, were equal, in the opinion of the board, to those fixed by the board and by the laws of this state, and in which similar privileges are extended to the holders of certificates of registration or licensure issued by this state. The board may require such person to submit a certificate of technical qualification from the National Council of Architectural Registration Boards in the case of an architect, from the National Council of Engineering Examiners in the case of an engineer, from the National Council of Landscape Architects Registration Board in the case of a landscape architect, and from the National Council for Interior Design Qualifications in the case of a certified interior designer.

(b) Notwithstanding paragraph (a), for one year from the effective date of rules adopted by the board with respect to the discipline of professional geoscience, the board may accept as evidence that the applicant is qualified for licensing in the discipline of professional geoscience:

(1) a record of graduation with a baccalaureate degree from a school or college having accreditation defined by the board and a geoscience or associated science curriculum approved by the board; and

(2) at least five years of active professional practice in the discipline of professional geoscience as approved by the board.

Subd. 2. **Examination.** The board may subject any applicant for licensure to such examinations as may be deemed necessary to establish qualifications.

In determining the qualifications in such cases of applicants for licensure as architects, a majority vote of the architect members of the board only shall be required; in determining the qualifications in such cases of applicants for licensure as engineers, a majority vote of the engineer members of the board only, shall be required; in determining the qualifications of applicants for registration as land surveyors, the affirmative vote of the land surveyor member and of one engineer of the board only, shall be required; in determining the qualifications of applicants for licensure as landscape architects, the affirmative vote of the landscape architect member of the board and of one architect member or one civil engineer member of the board only, shall be required; and in determining the qualifications of applicants for certification as certified interior designers, the affirmative vote of the interior designer member of the board, of two public members, and of one architect or engineer member of the board only, is required; and in determining the qualifications of applicants for registration as geoscientists, only the affirmative vote of the two geoscientist members of the board is required.

[For text of subs 2a and 5, see M.S.1994]

Subd. 7. **Engineer-in-training; land surveyor-in-training; landscape architect-in-training; geoscientist-in-training.** (1) An applicant for certification as an engineer-in-training who is a graduate with a bachelor of engineering degree from a school or college having an engineering curriculum accredited by the engineers' council for professional development or whose education, in the opinion of the board, is equivalent thereto, shall receive from the board, upon passing an examination in fundamental engineering subjects, a certificate stating that the applicant has passed such examination and that the applicant's name has been recorded as an engineer-in-training.

(2) An applicant for certification as a land surveyor-in-training who has had a minimum of four years of qualifying experience of a character satisfactory to the board, of which

a formal education in an accredited engineering or land surveying curriculum may constitute a part thereof, shall receive from the board, upon passing a written examination in the fundamentals of mathematics and the basic principles of land surveying, a certificate stating that the applicant has passed such examination and that the applicant's name has been recorded as a land surveyor-in-training.

(3) Any applicant for certification as a landscape architect-in-training who is a graduate with a degree from a school or college having a landscape architecture curriculum accredited by the American Society of Landscape Architects committee on education or who has had equivalent education or experience or a combination thereof of a grade and character acceptable to the board shall receive from the board, upon passing an examination in fundamental landscape architectural subjects, a certificate stating that the applicant has passed that examination and that the applicant's name has been recorded as a landscape architect-in-training.

(4) An applicant for certification as a geoscientist-in-training who is a graduate with a baccalaureate degree from a school or college having accreditation defined by the board and a geoscience or associated science curriculum approved by the board, shall receive from the board, upon passing the appropriate examination in fundamental geoscience subjects for the applicant's discipline as approved by the board, a certificate stating that the applicant's name has been recorded as a geoscientist-in-training with the appropriate geoscientist-in-training legend as approved by the board.

History: 1995 c 206 s 16-18

326.11 LICENSE OR CERTIFICATE SUSPENSION, REVOCATION, REISSUANCE, REPLACEMENT.

Subdivision 1. Revocation or suspension. The board shall have the power to revoke or suspend the license or certificate of any architect, engineer, land surveyor, landscape architect, geoscientist, or certified interior designer, who is found guilty by the board of any fraud or deceit in obtaining a license or certificate, or of attaching the licensee's or certificate holder's seal or signature to any plan, specification, report, plat, or other architectural, engineering, land surveying, landscape architectural, geoscientific, or interior design document not prepared by the person signing or sealing it or under that person's direct supervision, or of gross negligence, incompetency, or misconduct in the practice of architecture, engineering, land surveying, landscape architecture, geoscience, or interior design, or upon conviction of any violation of sections 326.02 to 326.15 or amendments thereof, or of any crime involving moral turpitude or upon adjudication of insanity or incompetency.

[For text of subs 5 and 6, see M.S.1994]

History: 1995 c 206 s 19

326.111 ISSUANCE, DENIAL, REVOCATION, AND SUSPENSION OF LICENSES AND CERTIFICATES; DISCIPLINE.

Subdivision 1. Generally. (a) If the board, or the complaint committee if authorized by the board, has a reasonable basis to believe that a person has engaged in an act or practice constituting the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience, or the unauthorized use of the title certified interior designer, or a violation of a statute, rule, or order that the board has issued or is empowered to enforce, the board, or the complaint committee if authorized by the board, may proceed as described in subdivisions 2 and 3.

(b) The board shall establish a complaint committee to investigate, mediate, or initiate administrative or legal proceedings on behalf of the board with respect to complaints filed with or information received by the board alleging or indicating the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience, or the unauthorized use of the title certified interior designer, or a violation of statute, rule, or order that the board has issued or is empowered to enforce. The complaint committee shall consist of five members of the board, with no more than one from each of the professions licensed by the board, and no more than two public members.

(c) Except as otherwise described in this section, all hearings shall be conducted in accordance with chapter 14.

Subd. 2. Legal action. (a) When necessary to prevent the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience, or the unauthorized use of the title certified interior designer, or a violation of a statute, rule, or order that the board has issued or is empowered to enforce, the board, or the complaint committee if authorized by the board, may bring an action in the name of the state in the district court in Ramsey county or in any county in which jurisdiction is proper to enjoin the act, practice, or violation and to enforce compliance with the statute, rule, or order. Upon a showing that a person has engaged in an act or practice constituting the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience, or the unauthorized use of the title certified interior designer, or a violation of a statute, rule, or order that the board has issued or is empowered to enforce, a permanent or temporary injunction, restraining order, or other appropriate relief shall be granted.

(b) For purposes of injunctive relief under this subdivision, irreparable harm exists when the board shows that a person has engaged in an act or practice constituting the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience, or the unauthorized use of the title certified interior designer, or a violation of a statute, rule, or order that the board has issued or is empowered to enforce.

(c) Injunctive relief granted under paragraph (a) does not relieve an enjoined person from criminal prosecution by a competent authority or from disciplinary action by the board with respect to the person's license, certificate, or application for examination, license, or renewal.

Subd. 3. Cease and desist orders. (a) The board, or the complaint committee if authorized by the board, may issue and have served upon a person an order requiring the person to cease and desist from the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience, or the unauthorized use of the title certified interior designer, or violation of the statute, rule, or order. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing and shall state the reasons for the entry of the order.

(b) Service of the order is effective if the order is served on the person or counsel of record personally or by certified mail to the most recent address provided to the board for the person or counsel of record.

(c) Unless otherwise agreed by the board, or the complaint committee if authorized by the board, and the person requesting the hearing, the hearing shall be held no later than 30 days after the request for the hearing is received by the board.

(d) The administrative law judge shall issue a report within 30 days of the close of the contested case hearing record, notwithstanding Minnesota Rules, part 1400.8100, subpart 3. Within 30 days after receiving the report and any exceptions to it, the board shall issue a further order vacating, modifying, or making permanent the cease and desist orders as the facts require.

(e) If no hearing is requested within 30 days of service of the order, the order becomes final and remains in effect until it is modified or vacated by the board.

(f) If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person is in default and the proceeding may be determined against that person upon consideration of the cease and desist order, the allegations of which may be considered to be true.

Subd. 4. Actions against applicants and licensees. (a) The board may, by order, deny, refuse to renew, suspend, temporarily suspend, or revoke the application, license, or certification of a person; censure or reprimand that person; condition or limit the person's practice; refuse to permit a person to sit for examination; or refuse to release the person's examination grades if the board finds that the order is in the public interest and the applicant, licensee, or certificate holder:

(1) has violated a statute, rule, or order that the board has issued or is empowered to enforce;

(2) has engaged in conduct or acts that are fraudulent, deceptive, or dishonest whether or not the conduct or acts relate to the practice of architecture, engineering, land surveying, landscape architecture, geoscience, or certified interior design, providing that the fraudulent, deceptive, or dishonest conduct or acts reflect adversely on the person's ability or fitness to engage in the practice of architecture, engineering, land surveying, landscape architecture, geoscience, or certified interior design;

(3) has engaged in conduct or acts that are negligent or otherwise in violation of the standards established by Minnesota Rules, chapters 1800 and 1805, where the conduct or acts relate to the practice of architecture, engineering, land surveying, landscape architecture, geoscience, or use of the title certified interior designer;

(4) has been convicted of or has pled guilty or nolo contendere to a felony, an element of which is dishonesty or fraud, whether or not the person admits guilt, or has been shown to have engaged in acts or practices tending to show that the applicant or licensee is incompetent or has engaged in conduct reflecting adversely on the person's ability or fitness to engage in the practice of architecture, engineering, land surveying, landscape architecture, geoscience, or use of the title certified interior designer;

(5) employed fraud or deception in obtaining a certificate, license, renewal, or reinstatement or in passing all or a portion of the examination;

(6) has had the person's architecture, engineering, land surveying, landscape architecture, geoscience, or interior design license, certificate, right to examine, or other similar authority revoked, suspended, canceled, limited, or not renewed for cause in any state, commonwealth, or territory of the United States, in the District of Columbia, or in any foreign country;

(7) has had the person's right to practice before any federal, state, or other government agency revoked, suspended, canceled, limited, or not renewed;

(8) failed to meet any requirement for the issuance or renewal of the person's license or certificate;

(9) has attached the person's seal or signature to a plan, specification, report, plat, or other architectural, engineering, land surveying, landscape architectural, geoscientific, or interior design document not prepared by the person sealing or signing it or under that person's direct supervision; or

(10) with respect to temporary suspension orders, has committed an act, engaged in conduct, or committed practices that may, or has in the opinion of the board, or the complaint committee if authorized by the board, resulted in an immediate threat to the public.

(b) In lieu of or in addition to any remedy provided in paragraph (a), the board may require, as a condition of continued licensure, possession of certificate, termination of suspension, reinstatement of license or certificate, examination, or release of examination grades, that the person:

(1) submit to a quality review of the person's ability, skills, or quality of work, conducted in such fashion and by such persons, entity, or entities as the board may require including, but not limited to, remedial education courses; and

(2) complete to the satisfaction of the board such continuing professional education courses as the board may specify by rule.

(c) Service of the order is effective if the order is served on the licensee, certificate holder, applicant, person, or counsel of record personally or by certified mail, to the most recent address provided to the board for the licensee, certificate holder, applicant, person, or counsel of record. The order shall state the reasons for the entry of the order.

(d) All hearings required by this section shall be conducted in accordance with chapter 14, except with respect to temporary suspension orders, as provided for in subdivision 5, paragraph (d).

[For text of subd 5, see M.S.1994]

Subd. 6. Violations; penalties; costs of proceeding. (a) The board may impose a civil penalty not to exceed \$2,000 per violation upon a person who commits an act or practice constituting the unauthorized practice of architecture, engineering, land surveying, land-

scape architecture, geoscience, or the unauthorized use of the title certified interior designer, or violates a statute, rule, or order that the board has issued or is empowered to enforce.

(b) The board may, in addition, impose a fee to reimburse the board for all or part of the cost of the proceedings resulting in disciplinary action authorized by this section, the imposition of civil penalties, or the issuance of a cease and desist order. The fee may be imposed when the board shows that the position of the person who commits an act or practice constituting the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience, or the unauthorized use of the title certified interior designer, or violates a statute, rule, or order that the board has issued or is empowered to enforce is not substantially justified, unless special circumstances make an award unjust, notwithstanding the provisions of Minnesota Rules, part 1400.8401. The costs include, but are not limited to, the amount paid by the board for services from the office of administrative hearings, attorney fees, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and expense incurred by board members and staff.

[For text of subd 7, see M.S.1994]

History: 1995 c 206 s 20-24

326.12 LICENSE OR CERTIFICATE AS EVIDENCE; SEAL.

Subdivision 1. **Judicial proof.** The issuance of a license or certificate by the board shall be evidence that the person named therein is entitled to all the rights and privileges of a licensed architect, licensed engineer, licensed land surveyor, licensed landscape architect, licensed geoscientist, or certified interior designer while the license or certificate remains unrevoked or has not expired or has not been suspended.

Subd. 2. **Seal.** Each licensee or certificate holder may, upon registration, obtain a seal of a design approved by the board, bearing the licensee's or certificate holder's name and the legend "licensed architect," "licensed professional engineer," "licensed land surveyor," "licensed landscape architect," the appropriate licensed professional geoscientist legend as defined by the board, or "certified interior designer." Plans, specifications, plats, reports, and other documents prepared by a licensee or certificate holder may be stamped with the seal during the life of the license or certificate. A rubber stamp facsimile thereof may be used in lieu of the seal on tracings from which prints are to be made or on papers which would be damaged by the regular seal. It shall be unlawful for any one to stamp or seal any document with the stamp or seal after the license of the registrant named thereon has expired, been revoked or suspended, unless said license or certificate shall have been renewed or reissued.

Subd. 3. **Certified signature.** Each plan, specification, plat, report, or other document which under sections 326.02 to 326.15 is prepared by a licensed architect, licensed engineer, licensed land surveyor, licensed landscape architect, licensed geoscientist, or certified interior designer must bear the signature of the licensed or certified person preparing it, or the signature of the licensed or certified person under whose direct supervision it was prepared. Each signature shall be accompanied by a certification that the signer is licensed under sections 326.02 to 326.15, by the person's license number, and by the date on which the signature was affixed. The provisions of this paragraph shall not apply to documents of an intraoffice or intracompany nature. A government agency or local unit of government need sign and certify only the title page or first page of a highway construction document that is described in this subdivision; provided that all other pages must have printed or stamped on them a facsimile signature and the information required by this subdivision. The stamp or printed signature has the same force and effect as an actual signature.

History: 1995 c 206 s 25; 1995 c 265 art 2 s 28

326.13 PRACTICE EXEMPT.

Practice of architecture, engineering, landscape architecture, land surveying, or geoscience, or use of the title certified interior designer in this state prior to licensure by the board shall be permitted under the following conditions and limitations:

(1) By any person or firm not a resident of and having no established place of business in this state, or any person or firm resident in this state, but whose arrival in the state is recent; provided, however, such person or a person connected with such firm:

(a) is registered or licensed and qualified to practice such profession in a state or country to which the board grants registration or licensure by comity in accordance with the provisions of section 326.10, subdivision 1, clause (2); and

(b) shall have filed an application for licensure as an architect, an engineer, a geoscientist, or a certified interior designer shall have paid the fee provided for in section 326.10, and shall have been notified by the board that the applicant meets the requirements for licensure or certification in this state and is entitled to receive a license or certificate;

(c) notwithstanding the provisions of paragraph (b) and prior to the notification provided for therein, an applicant who meets the requirements of paragraph (a) shall be permitted to practice in this state provided that such practice is limited solely to solicitation of work within the terms of sections 326.02 to 326.15;

(2) Practice as an architect, an engineer, a land surveyor, a landscape architect, or geoscientist, or use of the title certified interior designer by any person not a resident of, and having no established place of business in, this state, as a consulting associate of an architect, an engineer, a land surveyor, a landscape architect, or a geoscientist, or use of the title certified interior designer licensed or certified under the provisions of sections 326.02 to 326.15; provided, the nonresident is licensed or certified and qualified to practice the profession in a state or country to which the board grants licensure or certification by comity in accordance with the provisions of section 326.10, subdivision 1, clause (2);

(3) Practice as an architect, an engineer, a land surveyor, a landscape architect, or a geoscientist, or use of the title certified interior designer solely as an officer or employee of the United States;

(4) Practice as a geoscientist by a person who would be qualified under sections 326.02 to 326.15 by virtue of experience and education while (i) engaged in exploration, development, extraction, and reclamation of minerals and mineral deposits or energy resources including sand, gravel, peat, industrial minerals, metallic minerals, iron ore, coal, oil, and gas and other mineral fuels; (ii) an employee of a corporation or agency engaged in such exploration, development, extraction, and reclamation of minerals and mineral deposits; (iii) acting in accordance with the provisions of section 82B.035, subdivision 3; 103I.205, subdivision 4; or 103I.601, subdivision 2; or (iv) engaged in academic geoscience research.

History: 1995 c 206 s 26

326.14 CORPORATIONS AND PARTNERSHIPS AUTHORIZED.

A corporation, partnership or other firm may engage in work of an architectural or engineering character, in land surveying, in landscape architecture, or in geoscience, or use the title of certified interior designer in this state, provided the person or persons connected with such corporation, partnership or other firm in responsible charge of such work is or are licensed or certified as herein required for the practice of architecture, engineering, land surveying, landscape architecture, and geoscience, and use of the title of certified interior designer.

History: 1995 c 206 s 27

326.2421 ALARM AND COMMUNICATION SYSTEMS.

[For text of subd 2, see M.S.1994]

Subd. 3. Alarm and communication contractor's licenses. No person may lay out, install, maintain, or repair alarm and communication systems, unless the person is licensed as an alarm and communication contractor under this subdivision, or is a licensed electrical contractor under section 326.242, subdivision 6, or is an employee of the contractor. The board of electricity shall issue an alarm and communication contractor's license to any individual, corporation, partnership, sole proprietorship, or other business entity that provides adequate proof that a bond and insurance in the amounts required by section 326.242, subdivision 6, have been obtained by the applicant. The board shall set license fees pursuant to section 16A.1285. Installation of alarm and communication systems are subject to inspection and inspection fees as provided in section 326.244, subdivision 1a.

[For text of subs 4 to 9, see M.S.1994]

History: 1995 c 233 art 2 s 52

326.244 INSPECTION.

[For text of subs 1 to 4, see M.S.1994]

Subd. 5. **Exemptions from inspections.** Installations, materials, or equipment shall not be subject to inspection under sections 326.241 to 326.248:

(1) when owned or leased, operated and maintained by any employer whose maintenance electricians are exempt from licensing under sections 326.241 to 326.248, while performing electrical maintenance work only as defined by board rule;

(2) when owned or leased, and operated and maintained by any electric, communications or railway utility or telephone company in the exercise of its utility or telephone function; and

(i) are used exclusively for the generations, transformation, distribution, transmission, or metering of electric current, or the operation of railway signals, or the transmission of intelligence, and do not have as a principal function the consumption or use of electric current by or for the benefit of any person other than such utility or telephone company; and

(ii) are generally accessible only to employees of such utility or telephone company or persons acting under its control or direction; and

(iii) are not on the load side of the meter;

(3) when used in the street lighting operations of an electric utility;

(4) when used as outdoor area lights which are owned and operated by an electric utility and which are connected directly to its distribution system and located upon the utility's distribution poles, and which are generally accessible only to employees of such utility or persons acting under its control or direction;

(5) when the installation, material, and equipment are alarm or communication systems laid out, installed, or maintained within residential units not larger than a duplex;

(6) when the installation, material, and equipment are in facilities subject to the jurisdiction of the federal Mine Safety and Health Act; or

(7) when the installation, material, and equipment is part of an elevator installation for which the elevator contractor, licensed under section 326.242, is required to obtain a permit from the authority having jurisdiction as provided by section 16B.747, and the inspection has been or will be performed by an elevator inspector certified by the department of administration and licensed by the board of electricity. This exemption shall apply only to installations, material, and equipment permitted or required to be connected on the load side of the disconnecting means required for elevator equipment under National Electric Code Article 620, and elevator communications and alarm systems within the machine room, car, hoistway, or elevator lobby.

[For text of subd 6, see M.S.1994]

History: 1995 c 166 s 16,17

326.41 ADVISORY COUNCIL.

The state commissioner of health shall appoint nine persons to the advisory council on plumbing code and examinations, two of whom shall be master plumbers, one who represents greater Minnesota and one who represents the metropolitan area, and two journeyman plumbers, one who represents greater Minnesota and one who represents the metropolitan area. The council shall expire and the terms, compensation and removal of members of the council shall be as provided in section 15.059.

History: 1995 c 246 s 1

326.47 APPLICATION, PERMIT, FILING, AND INSPECTION FEES.

[For text of subs 1 and 2, see M.S.1994]

Subd. 3. [Repealed, 1995 c 123 s 9]

Subd. 4. [Repealed, 1995 c 123 s 9]

[For text of subs 5 and 6, see M.S.1994]

326.48 LICENSING.

Subdivision 1. **License required; rules; time credit.** No person shall engage in or work at the business of a contracting pipefitter unless issued an individual contracting pipefitter license to do so by the department of labor and industry. No license shall be required for repairs on existing installations. No person shall engage in or work at the business of journeyman pipefitter unless issued an individual journeyman pipefitter competency license to do so by the department of labor and industry. A person possessing an individual contracting pipefitter competency license may also work as a journeyman pipefitter.

No person, partnership, firm, or corporation shall install high pressure piping, nor install high pressure piping in connection with the dealing in and selling of high pressure pipe material and supplies, unless, at all times, a person possessing a contracting pipefitter individual competency license or a journeyman pipefitter individual competency license is responsible for the high pressure pipefitting work conducted by the person, partnership, firm, or corporation being in conformity with Minnesota Statutes and Minnesota Rules.

The department of labor and industry shall prescribe rules, not inconsistent herewith, for the examination and individual competency licensing of contracting pipefitters and journeyman pipefitters and for issuance of permits by the department and municipalities for the installation of high pressure piping.

An employee performing the duties of inspector for the department of labor and industry in regulating pipefitting shall not receive time credit for the inspection duties when making an application for a license required by this section.

Subd. 2. **High pressure pipefitting business license.** Before obtaining a permit for high pressure piping work, a person, partnership, firm, or corporation must obtain or utilize a business with a high pressure piping business license.

A person, partnership, firm, or corporation must have at all times as a full-time employee at least one individual holding an individual contracting pipefitter competency license. Only full-time employees who hold individual contracting pipefitter licenses are authorized to obtain high pressure piping permits in the name of the business. The individual contracting pipefitter competency license holder can be the employee of only one high pressure piping business at a time.

To retain its business license without reapplication, a person, partnership, firm, or corporation holding a high pressure piping business license that ceases to employ a person holding an individual contracting pipefitter competency license shall have 60 days from the last day of employment of its previous individual contracting pipefitter competency license holder to employ another license holder. The department of labor and industry must be notified no later than five days after the last day of employment of the previous license holder.

No high pressure pipefitting work may be performed during any period when the high pressure pipefitting business does not have an individual contracting pipefitter competency license holder on staff. If a license holder is not employed within 60 days, the pipefitting business license shall lapse.

The department of labor and industry shall prescribe by rule procedures for application for and issuance of business licenses and fees.

Subd. 3. **Bond.** The applicant for a high pressure piping business license or renewal shall give bond to the state in the total penal sum of \$15,000 conditioned upon the faithful and lawful performance of all work entered upon within the state. The bond shall run to and be for the benefit of persons injured or suffering financial loss by reason of failure of payment or performance. Claims and actions on the bond may be brought according to sections 574.26 to 574.38.

The term of the bond must be concurrent with the term of the high pressure pipefitting business license and run without interruption from the date of the issuance of the license to the end of the calendar year. All high pressure pipefitting business licenses must be annually renewed on a calendar year basis.

The bond must be filed with the secretary of state and shall be in lieu of any other business license bonds required by any political subdivision for high pressure pipefitting. The bond must be written by a corporate surety licensed to do business in the state.

Subd. 4. Insurance. In addition to the bond described in subdivision 3, each applicant for a high pressure pipefitting business license or renewal shall have in force public liability insurance, including products liability insurance, with limits of at least \$100,000 per person and \$300,000 per occurrence and property damage insurance with limits of at least \$50,000.

The insurance must be kept in force for the entire term of the high pressure pipefitting business license, and the license shall be suspended by the department if at any time the insurance is not in force.

The insurance must be written by an insurer licensed to do business in the state and shall be in lieu of any other insurance required by any subdivision of government for high pressure pipefitting. Each person, partnership, firm, or corporation holding a high pressure pipefitting business shall maintain on file with the department a certificate evidencing the insurance. Any purported cancellation of insurance shall not be effective without the insurer first giving 30 days' written notice to the department.

Subd. 5. Fee. The state department of labor and industry may charge each applicant for a high pressure pipefitting business license or for a renewal of a high pressure pipefitting business license and an additional fee commensurate with the cost of administering the bond and insurance requirements of subdivisions 3 and 4.

History: 1995 c 123 s 1-5

326.50 APPLICATION; FEES.

Application for an individual contracting pipefitter competency or an individual journeyman pipefitter competency license shall be made to the department of labor and industry, with fees. The applicant shall be licensed only after passing an examination by the department of labor and industry. Fees and conditions for renewal of an individual contracting pipefitter competency or an individual journeyman pipefitter competency license shall be determined by the department by rule under chapter 14 and section 16A.128.

History: 1995 c 123 s 6

326.51 DEPARTMENT MAY REVOKE LICENSES.

The department may revoke or suspend, for cause, any license obtained through error or fraud, or if the licensee is shown to be incompetent, or for a violation of any of its rules and regulations applicable to high pressure pipefitting work. The licensee shall have notice, in writing, enumerating the charges, and be entitled to a hearing on at least ten days' notice, with the right to produce testimony. The hearing shall be held pursuant to chapter 14. The commissioner shall issue a final order based on testimony and the record at hearing. One year from the date of revocation application may be made for a new license.

History: 1995 c 123 s 7

326.52 DEPOSIT OF FEES.

All fees received under sections 326.46 to 326.52 shall be deposited by the department of labor and industry to the credit of the general fund in the state treasury. The salaries and per diem of the inspectors and examiners hereinbefore provided, their expenses, and all incidental expenses of the department in carrying out the provisions of sections 326.46 to 326.52 shall be paid from the appropriations made to the department of labor and industry. The commissioner by rule shall set the amount of the fees at a level that approximates, to the greatest extent possible, the salaries, per diem, and incidental expenses of the department.

History: 1995 c 123 s 8

326.71 DEFINITIONS.

[For text of subs 1 to 3, see M.S.1994]

Subd. 4. Asbestos-related work. "Asbestos-related work" means the enclosure, removal, or encapsulation of asbestos-containing material in a quantity that meets or exceeds

260 lineal feet of friable asbestos-containing material on pipes, 160 square feet of friable asbestos-containing material on other facility components, or, if linear feet or square feet cannot be measured, a total of 35 cubic feet of friable asbestos-containing material on or off all facility components in one facility. In the case of single or multifamily residences, "asbestos-related work" also means the enclosure, removal, or encapsulation of greater than ten but less than 260 lineal feet of friable asbestos-containing material on pipes or ducts or greater than six but less than 160 square feet of friable asbestos-containing material on other facility components. This provision excludes asbestos-containing floor tiles and sheeting, roofing materials, siding, and all ceilings with asbestos-containing material in single family residences and buildings with no more than four dwelling units. Asbestos-related work includes asbestos abatement area preparation; enclosure, removal, or encapsulation operations; and an air quality monitoring specified in rule to assure that the abatement and adjacent areas are not contaminated with asbestos fibers during the project and after completion.

For purposes of this subdivision, the quantity of asbestos containing material applies separately for every project.

[For text of subds 4a to 8, see M.S.1994]

History: 1995 c 165 s 12; 1995 c 185 s 6

326.75 FEES.

[For text of subds 1 to 3, see M.S.1994]

Subd. 3a. **Asbestos-related training course permit fee.** The commissioner shall establish by rule a permit fee to be paid by a training course provider on application for a training course permit or renewal of a permit of each asbestos-related training course required for certification or registration.

[For text of subd 4, see M.S.1994]

History: 1995 c 165 s 13

326.78 DUTIES OF THE COMMISSIONER.

[For text of subd 1, see M.S.1994]

Subd. 2. **Issuance of licenses and certificates.** The commissioner may issue licenses to persons and certificates to individuals who meet the criteria in sections 326.70 to 326.81 and the commissioner's rules. Licenses shall be valid for 12 months. Certificates shall be valid for 12 months after the completion date on the approved training course diploma.

Subd. 3. **Delegation.** The commissioner may, in writing, delegate the inspection and enforcement authority granted in sections 326.70 to 326.81 to other state agencies regulating asbestos.

Subd. 5. **Subpoenas.** In matters under investigation by or pending before the commissioner under sections 326.70 to 326.81, the commissioner may issue subpoenas and compel the attendance of witnesses and the production of papers, books, records, documents, and other relevant evidentiary material. A person failing or refusing to comply with the subpoena or order may, upon application by the commissioner to the district court in any district, be ordered by the court to comply with the order or subpoena. The commissioner may also administer oaths and affirmations to witnesses. Depositions may be taken within or without the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon any person anywhere within the state by an officer authorized to serve subpoenas in civil actions, with the same fees and mileage costs paid, and in the manner as prescribed by law, for process of the state district courts. Fees and mileage and other costs of persons subpoenaed by the commissioner shall be paid in the manner prescribed for proceedings in district court.

Subd. 9. **Penalties.** A person who violates any of the requirements of sections 326.70 to 326.81 or any requirement, rule, or order issued under those sections is subject to a civil penalty of not more than \$10,000 per day of violation. Penalties may be recovered in a civil action in the name of the state brought by the attorney general.

History: 1995 c 165 s 14,15; 1995 c 186 s 119

326.83 DEFINITIONS.

[For text of subs 1 to 4, see M.S.1994]

Subd. 5. **Gross annual receipts.** "Gross annual receipts" means the total amount derived from residential contracting or remodeling activities, regardless of where the activities are performed, and must not be reduced by cost of goods sold, expenses, losses, or any other amount.

[For text of subs 6 to 20, see M.S.1994]

Subd. 21. **Garage.** "Garage" means a structure attached to or in reasonable proximity to a dwelling, which is used or intended to be used primarily for the protection or storage of automobiles or other personal vehicles owned or driven by the occupants of the dwelling.

History: 1995 c 169 s 1,2

326.84 LICENSING REQUIREMENTS.

[For text of subs 1 to 1c, see M.S.1994]

Subd. 3. **Exemptions.** The license requirement does not apply to:

- (1) an employee of a licensee performing work for the licensee;
- (2) a material person, manufacturer, or retailer furnishing finished products, materials, or articles of merchandise who does not install or attach the items;
- (3) an owner or owners of residential real estate who build or improve residential real estate and who do the work themselves or jointly with the owner's own bona fide employees. This exemption does not apply to a person who engages in a pattern of building or improving real estate for purposes of resale. Such a pattern is presumed to exist if the person constructs or improves more than one property within any 12-month period;
- (4) an architect or engineer engaging in professional practice as defined in this chapter;
- (5) a person whose total gross annual receipts from projects regulated under this section do not exceed \$15,000;
- (6) a mechanical contractor;
- (7) a plumber, electrician, or other person whose profession is otherwise subject to statewide licensing, when engaged in the activity which is the subject of licensure;
- (8) specialty contractors who provide only one special skill as defined in section 326.83;
- (9) a school district, or a technical college governed under chapter 136C;
- (10) manufactured housing installers; and
- (11) Habitat for Humanity and Builders Outreach Foundation, and their individual volunteers when engaged in activities on their behalf.

To qualify for the exemption in clause (5), a person must obtain a certificate of exemption from licensing from the commissioner.

A certificate of exemption will be issued upon the applicant's filing with the commissioner, an affidavit stating that the applicant does not expect to exceed \$15,000 in gross annual receipts derived from contracting activities during the calendar year for which the exemption is requested.

To renew the exemption in clause (5), the applicant must file an affidavit stating that the applicant did not exceed \$15,000 in gross annual receipts during the past calendar year, and the applicant does not expect to exceed \$15,000 in gross annual receipts during the calendar year for which the exemption is requested.

If a person, operating under the exemption in clause (5), exceeds \$15,000 in gross receipts during any calendar year, the person must immediately surrender the exemption certificate and apply for the appropriate license. The person must remain licensed until such time as the person's gross annual receipts during a calendar year fall below \$15,000. The person may then apply for this exemption for the next calendar year.

History: 1995 c 169 s 3

326.91 DENIAL, SUSPENSION, OR REVOCATION OF LICENSES.

Subdivision 1. **Cause.** The commissioner may by order deny, suspend, or revoke any license or may censure a licensee, and may impose a civil penalty as provided for in section 45.027, subdivision 6, if the commissioner finds that the order is in the public interest, and that the applicant, licensee, or affiliate of an applicant or licensee, or other agent, owner, partner, director, governor, shareholder, member, officer, qualifying person, or managing employee of the applicant or licensee or any person occupying a similar status or performing similar functions:

(1) has filed an application for a license which is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, is false or misleading with respect to any material fact;

(2) has engaged in a fraudulent, deceptive, or dishonest practice;

(3) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the business;

(4) has failed to reasonably supervise employees, agents, subcontractors, or salespersons, or has performed negligently or in breach of contract, so as to cause injury or harm to the public;

(5) has violated or failed to comply with any provision of sections 326.83 to 326.98 or any rule or order under sections 326.83 to 326.98;

(6) has been shown to be incompetent, untrustworthy, or financially irresponsible;

(7) has been convicted of a violation of the state building code;

(8) has failed to use the proceeds of any payment made to the licensee for the construction of, or any improvement to, residential real estate, as defined in section 326.83, subdivision 17, for the payment of labor, skill, material, and machinery contributed to the construction or improvement, knowing that the cost of any labor performed, or skill, material, or machinery furnished for the improvement remains unpaid;

(9) has not furnished to the person making payment either a valid lien waiver as to any unpaid labor performed, or skill, material, or machinery furnished for an improvement, or a payment bond in the basic amount of the contract price for the improvement conditioned for the prompt payment to any person or persons entitled to payment;

(10) has engaged in conduct which was the basis for a contractor's recovery fund payment pursuant to section 326.975, which payment has not been reimbursed;

(11) has engaged in bad faith, unreasonable delays, or frivolous claims in defense of a civil lawsuit arising out of their activities as a licensee under this chapter;

(12) has had a judgment entered against them for failure to make payments to employees or subcontractors, and all appeals of the judgment have been exhausted or the period for appeal has expired;

(13) if unlicensed, has obtained a building permit by the fraudulent use of a fictitious license number or the license number of another, or, if licensed, has knowingly allowed an unlicensed person to use the licensee's license number for the purpose of fraudulently obtaining a building permit; or

(14) has made use of forged mechanics' lien waivers under chapter 514.

[For text of subd 2, see M.S.1994]

History: 1995 c 169 s 4

326.95 LICENSE NUMBER; ADVERTISING.

[For text of subd 1, see M.S.1994]

Subd. 2. **Advertising.** The license number of a licensee must appear in any advertising by that licensee including but not limited to signs, vehicles, business cards, published display ads, flyers, and brochures.

[For text of subds 3 and 4, see M.S.1994]

History: 1995 c 169 s 5

326.975 CONTRACTOR'S RECOVERY FUND.

Subdivision 1. **Generally.** (a) In addition to any other fees, each applicant for a license under sections 326.83 to 326.98 shall pay a fee to the contractor's recovery fund. The contractor's recovery fund is created in the state treasury and must be administered by the commissioner in the manner and subject to all the requirements and limitations provided by section 82.34 with the following exceptions:

(1) each licensee who renews a license shall pay in addition to the appropriate renewal fee an additional fee which shall be credited to the contractor's recovery fund. The amount of the fee shall be based on the licensee's gross annual receipts for the licensee's most recent fiscal year preceding the renewal, on the following scale:

Fee	Gross Receipts
\$100	under \$1,000,000
\$150	\$1,000,000 to \$5,000,000
\$200	over \$5,000,000

Any person who receives a new license shall pay a fee based on the same scale;

(2) the sole purpose of this fund is to compensate any aggrieved owner or lessee of residential property who obtains a final judgment in any court of competent jurisdiction against a licensee licensed under section 326.84, on grounds of fraudulent, deceptive, or dishonest practices, conversion of funds, or failure of performance arising directly out of any transaction when the judgment debtor was licensed and performed any of the activities enumerated under section 326.83, subdivision 19, on the owner's residential property or on residential property rented by the lessee, or on new residential construction which was never occupied prior to purchase by the owner, or which was occupied by the licensee for less than one year prior to purchase by the owner, and which cause of action arose on or after April 1, 1994;

(3) nothing may obligate the fund for more than \$50,000 per claimant, nor more than \$50,000 per licensee; and

(4) nothing may obligate the fund for claims based on a cause of action that arose before the licensee paid the recovery fund fee set in clause (1), or as provided in section 326.945, subdivision 3.

(b) Should the commissioner pay from the contractor's recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, the license shall be automatically suspended upon the effective date of an order by the court authorizing payment from the fund. No licensee shall be granted reinstatement until the licensee has repaid in full, plus interest at the rate of 12 percent a year, twice the amount paid from the fund on the licensee's account, and has obtained a surety bond issued by an insurer authorized to transact business in this state in the amount of at least \$40,000.

[For text of subds 2 and 3, see M.S.1994]

History: 1995 c 169 s 6