

HOME SICK

Home buyers can wind up paying twice to build a home in Florida thanks to a state law that leaves consumers on the hook for unpaid workers or supplies.

By Cynthia Barnett

Long before he signed the \$464,000 contract for construction of his family's new home in Sewall's Point on Florida's southeast coast, Philip Hellriegel read up on all the potential problems of building a house in the Sunshine State. Recently retired as president and CEO of an \$80-million New Jersey trucking company, Hellriegel figured he was a savvy enough businessman not to get burned.

But Hellriegel's 34 years of business experience had not prepared him for the pitfalls that Florida's Construction Lien Law creates for consumers. Fiercely protected by the state's \$42-billion home-building

industry, the law is meant to ensure that subcontractors and suppliers get paid for their labor and materials. But the law also insulates contractors from accountability when they take a home buyer's money but don't pay the subcontractors. And it leaves home buyers on the hook for the unpaid bills — meaning they end up paying twice for work or supplies.

Industry leaders contend that problems with the law are rare; consumers can protect themselves with due diligence, they say. But a FLORIDA TREND analysis of Hellriegel's case and more than 100 others like it across the state found that problems are widespread — and that consumers can do everything right

Editor's note: For this report on Florida's Construction Lien Law, Cynthia Barnett examined a year's worth of claims into the state's Construction Industries Recovery Fund. Claims to the fund, a last resort for consumers who have been financially harmed by a contractor and have no possibility of recovering losses, represent only a fraction of construction disputes statewide. But the cases clearly reveal the pitfalls for consumers in Florida construction law. Of the 230 claims made to the fund in 2002, more than half involved liens against homeowners who had already paid for work or supplies but had to pay again.

DUE DILIGENCE

Philip Hellriegel took all the right steps to protect himself when he hired a contractor to build his home but still found himself facing more than \$200,000 in liens when the contractor went broke.

Eileen Escarola



BROOKSVILLE

CHRISTIAN AND LISA SIMMONDS



THE BUILDER: Steven Randall Bultema, Lighthouse Building Co.

THE CONTRACT: After moving to Florida from Oregon in 1999 so the children could grow up near their grandparents, the Simmonds signed a contract for a \$240,000 home in Hernando County. They had given Bultema more than \$100,000 before he filed bankruptcy.

THE ORDEAL: Bultema had done little work on the Simmonds' home — land-clearing, roughed-in plumbing and the concrete slab — and what he had done, he hadn't paid for. Lisa Simmonds was on maternity leave with a week-old baby the day she learned Bultema was out of business. With Chris Simmonds a stay-at-home dad, the family didn't have the resources to pay the subcontractors and suppliers. Some negotiated lower amounts, but others would not. In the end, the Simmonds sold cars, borrowed money from relatives and ran up credit cards to hang on to their house.

THE CONSEQUENCES: Bultema left a total of 81 homes incomplete, and prosecutors found enough evidence to charge him with criminal fraud in 16 of those cases, including the Simmonds'. To avoid a criminal trial, Bultema made a deal with prosecutors to pay back some of what he owes. The Simmonds are receiving monthly payments from him. The DBPR revoked Bultema's license in August 2000. He is working in the construction industry in Tennessee, according to an attorney involved in the case.

TOTAL LOSSES: The Simmonds paid well over \$300,000 for what was supposed to be a \$240,000 home. They have a claim pending before the Construction Industries Recovery Fund. Their baby is now 3 years old — a reminder of how long they've been trying to recoup their losses.

THE LAST WORD: "Welcome to Florida — everything you heard about building a house here is true," says Lisa Simmonds, a Realtor who tells her clients: "Buy resell. Building a home in Florida is not worth the hidden costs and the hidden risks."

and still get burned.

The general contractor Hellriegel chose, Michael Trapani of Palm City-based Strathmore Contracting, was licensed. He had a clean record with the Florida Department of Business and Professional Regulation. Hellriegel interviewed former customers. And he set up the contract so that before each payment he could double-check that Trapani had paid his subcontractors.

Hellriegel and his wife signed the papers for their 4,400-sq.-ft. dream home just before Christmas in 1998. Trapani was to pull permits by June 1999 and finish the house by the following June, in time for the Hellriegels' son to begin second grade at his new school.

Construction began on time and proceeded on schedule for half a year. In March 2000, Hellriegel gave Trapani a scheduled \$60,000 payment. Soon after, in a pattern familiar to hundreds of consumers each year, progress slowed. Workers trickled in and out of the work site. For two months, Trapani offered excuses. In May, he told Hellriegel he was broke and couldn't finish the house.

Hellriegel demanded an accounting of the \$328,000 he'd paid. Trapani could account for only \$190,000.

"I was shocked," Hellriegel says. But the bad news from Trapani was only the first in a series of unpleasant surprises over the next two years.

In the end, Hellriegel paid more than \$700,000 for what was supposed to be a \$464,000 home. He spent another \$38,000 in legal fees.

Liens and more liens

Hellriegel's second dose of bad news came via certified mail. Florida's Construction Lien Law says that any subcontractor, supplier, laborer or professional who isn't paid can collect by making a claim — a lien — against the property. To remove the lien and obtain clear title to their property, homeowners have to pay the subs and suppliers even if they've already paid their contractor for the work — thus paying double.

In Hellriegel's case, 13 subcontractors were demanding more than \$200,000 for work and supplies for which Trapani had not paid them.

Hellriegel thought he had protected himself against that possibility by following the steps recommended by the state DBPR. Before each new payment, he had

required Trapani to produce "partial release of lien" documents from subcontractors and suppliers stating Trapani had paid them for work up to that point.

Hellriegel, who visited his home site every other day, says he had even asked several of the subcontractors whether Trapani was paying them on time. None let on there was a problem, he says, until Trapani's company imploded. "I feel like the subcontractors lied through their teeth to me so that I would hand the contractor 60 grand," Hellriegel says.

But one of Hellriegel's suppliers says he was as surprised as Hellriegel when Trapani's business went bust. Don Osteen, vice president of the Martin County division of East Coast Lumber, says Trapani had paid his debts on time for nine years before the day he sat down in Osteen's office to say he was broke. "When he went down, he went down fast," says Osteen, who says the company recouped only 60% of what it lost to Trapani and spent another \$23,000 in legal bills.

The cases TREND reviewed indicated it's common for subcontractors to fail to tell a home buyer when a contractor is in financial trouble. Ultimately, they know the lien law protects them even if the contractor doesn't pay them.

In addition, subcontractors told TREND that builders sometimes bully them into not communicating with homeowners. "The biggest reason why some of these subcontractors don't go to the homeowner more is that they want to keep working," says Cam Fentriss, a lobbyist for small subcontractors. "It's a whistleblower psychology."

Hellriegel was paying Trapani directly from his personal funds, but consumers who build with the help of a bank loan get little more protection. Before releasing funds to a contractor, banks require the contractor to sign notarized affidavits promising that they've paid all subs and suppliers. In the cases reviewed by TREND, contractors routinely falsified affidavits in order to get the next "draw" from the bank.

The law gives the banks no liability for releasing money based on fraudulent affidavits. In some of the cases reviewed by TREND, banks helped after the fact by negotiating settlements with vendors that let the consumers pay half of what was owed. In other cases, lenders helped only by offering financing for the new money owed.



Philip Hellriegel says he wants to sue Florida over its Construction Lien Law. He received \$25,000 compensation from the state's Construction Industries Recovery Fund nearly three years after his ordeal with his contractor. The impact on the family? "Let's just say my wife warned me not to have a home built in Florida."

DAVENPORT

LARRY AND THERESA BUSS



THE BUILDER: Ronnie Maddox, dba Accent Homes

THE CONTRACT: In spring 1998, the Busses signed a contract for a \$177,940 home. DBPR documents show that Maddox abandoned the house in September, before it was finished and after collecting \$141,340 from the Busses' mortgage company. Subcontractors filed \$24,685 in liens against the property for work and supplies for which the Busses had already paid.

THE ORDEAL: Larry Buss personally negotiated with every lien holder to pay 25 cents on the dollar, arguing that if his home foreclosed, they would get nothing.

TOTAL LOSSES: The Busses estimate they paid \$30,000 over the original contract, including additional interest to the bank. They collected the maximum \$25,000 from the Construction Industries Recovery Fund earlier this year.

THE CONSEQUENCES: Maddox relinquished his license to avoid disciplinary proceedings with the DBPR. He works as a project manager at an Orlando construction company.

THE LAST WORD: "I thought I did a good job checking out the builder and asking around," says Larry Buss. "But I didn't understand until the house of cards fell down that ultimately I would be responsible for everything."

Protection

So-called mechanic's lien rights are long-respected protections for people who provide labor, materials and services. Former state Sen. Fred Dudley, a construction lawyer and industry lobbyist who led the last major rewrite of the law in 1990, says the key idea is to prevent "unjust enrichment" — that is, increasing the value of an owner's property while the very people who've improved it go unpaid.

Paul Thompson, executive vice president of the Florida Home Builders Association, says the lien law puts the ultimate responsibility for payment on the right person — the homeowner. "They own the property, and they are responsible," says Thompson. "And that's why we have an elaborate mechanism in place to make them aware that they are responsible."

Indeed, Florida law makes clear that subcontractors who begin work on a home must notify the owner via certified mail that he is ultimately responsible for paying the subs even if he's already paid the contractor. Ironically, the law, which was intended to help small businesses, more often benefits bigger firms that have the time and resources to devote to the notification and collection process.

Contractors, meanwhile, often assure homeowners that the notice is nothing to worry about. But consider the impact of the lien law in the unraveling of four home builders in Florida over the past few years: Steven Bultema's Lighthouse Building Co. in Spring Hill; Michael Molloy's Starlight Homes in Cape Coral; Doug Reynaert's Reynaert & Sons in Lehigh Acres; and Glen Schultz's Artistic Home Builders in Citrus County. Eighty-one families in the counties served by Lighthouse, 66 in Cape Coral, 42 in Citrus County, and some 30 more in the southwest Florida area served by Reynaert lost tens of thousands of dollars each — much of it for work and supplies for which they had already paid.

In all four cases, home-building executives and state officials insisted the problems were isolated. Several blamed the victims for not understanding the law, not checking out their contractor or for choosing a contractor based on the lowest estimate.

"The same person who will spend an hour in the mall searching for a \$20 sweater will sign a complex construction contract in less time than that and assume everything is fine in the world," complains Robert Lang, a Tampa environmental contractor who chairs the state's Construction

Too Little, Too Late

The state's Construction Industries Recovery Fund — paid for by consumers with a per-square-footage charge on home-building permits — is a last resort for homeowners who lose money when a contractor leaves them in the lurch.

Navigating the fund and meeting its requirements, such as a court judgment against the contractor, can require thousands of dollars in legal fees. In two of the cases analyzed by TREND, consumers say they would not have been able to collect without their elected state lawmaker stepping in to help.

In many cases, it's not worth the hassle. The maximum recoverable, \$25,000, is paltry for those who've seen their retirement savings disappear. It also means that consumers who get ripped off in a case involving a swimming pool or remodeling job can recover 100% of their losses, while those who lose on a new home recover only a fraction.

Meanwhile, a \$250,000-per-contractor limit means there's a first-come, first-served race when a large group of homeowners is harmed. "In essence, the homeowner who helps pay for the fund has purchased a performance bond. It's supposed to be insurance," says Sherry Rogers, a DBPR regulatory consultant who worked on the fund until April, when she quit to start a construction-services business. "But this insurance is so difficult to collect on that it's almost completely ineffective."



Industries Licensing Board (CILB). "But everything is not fine in the world."

TREND found, in fact, that many Floridians harmed by the lien law, like the Hellriegels, were sophisticated and informed and put considerable time and care into choosing a builder. They include physicians, judges, professors, even a property appraiser who was intimately familiar with the lien law and the builders in his community ("Savvy Victims," page 53).

No help

In the wake of Trapani's business collapse, Hellriegel took over managing construction for his home in June 2000, the month his family had planned to move in. "It's was just basically a pretty bad house," says Hellriegel, "a shell."

He spent all summer at the site, from 5 a.m. to 5 p.m. every day, making the 45-minute commute from his family's condo in Jupiter. When the school year started, he brought his son along so the boy could start second grade in his new neighborhood.

Hellriegel's close-up view of construction would make him even angrier with the lien law. Knee-deep in \$200,000 worth of liens, Hellriegel found that some materials on which he owed money hadn't even been used on his house. He paid \$6,000 for treated lumber used in decking when his house didn't have a deck. He found he owed for doorknobs even though the house didn't yet have doors. He was made

to pay twice for the lumber he needed to finish the job — yet it was no where to be found. So he had to pay for it a third time.

The lien law doesn't require a supplier filing a lien to prove that materials used for a home were delivered to the home's address. In fact, it specifically allows suppliers to have delivered the materials to the contractor at a different location.

When it seemed like things couldn't get much worse, Hellriegel headed to a hearing in federal bankruptcy court, where Trapani had filed a personal bankruptcy petition. Hellriegel argued that he felt Trapani had committed fraud and therefore shouldn't be entitled to bankruptcy protection.

"What you have in Florida is a good-old-boy system that looks out for everyone but the consumer." — Angela Barnes, homeowner

The court gave Trapani the protection. Hellriegel was told not to bother coming back — there was simply nothing left for creditors. The same story was repeated in numerous other cases that TREND reviewed.

Hellriegel's trip to the federal courthouse also revealed that this wasn't Trapani's first bankruptcy. He'd filed Chapter 7 in 1989.

That didn't matter because the state's

licensing board only scrutinizes applicants with bankruptcies within the past five years. And it probably wouldn't have mattered if the bankruptcy had been more recent: The board routinely licenses contractors with recent bankruptcies — despite continuing problems with contractors who go in and out of business.

Worse: The board has allowed some bankrupt contractors to keep building houses even after their financial misdoings result in compensation from the state's Construction Industries Recovery Fund ("Too Little, Too Late," above).

To win an award from the fund, a consumer must meet stringent burdens of proof — and under Florida law, any con-

tractor whose customers have successfully filed for compensation from the fund must relinquish his license until he has paid the fund back. But TREND found that several contractors whose clients had to be reimbursed by the state are still licensed — and still building houses — even though they never repaid the fund.

Case in point: Doug Reynaert, the long-time builder who left southwest Florida families with half-built homes and tens of

INVERNESS

MONA LESLIE



THE BUILDER: Glen Schultz, dba Artistic Home Builders

THE CONTRACT: Recently widowed, Leslie decided to move from Orlando to Citrus County to be near friends. She signed a contract in April 2001. The final price was to be \$133,000. She'd paid just over \$100,000 when she moved to Inverness in October to find her house unfinished and subcontractors and suppliers unpaid.

THE ORDEAL: Leslie lived out of a suitcase at a motel for five weeks and had to pay double for numerous supplies and services. In the end, her \$133,000 house wound up costing her \$150,000. Much more frustrating: Bad advice from numerous lawyers who she says knew less about the Construction Lien Law than she did. Leslie says she found the Construction Industries Recovery Fund almost impossible to access; she was able to collect from the fund only with the help of Gov. Jeb Bush's office, she says.

TOTAL LOSSES: \$26,363 for finishing the house, paying subs and suppliers and legal fees. Leslie recovered the maximum \$25,000 from the fund this year.

THE CONSEQUENCES: Schultz left more than 40 other Citrus County consumers with tens of thousands of dollars in liens. He later filed Chapter 7 bankruptcy. Leslie says she is among the luckier consumers in the case. The DBPR found Schultz guilty of breaking various construction laws and revoked his license in August 2002.

THE LAST WORD: Leslie, a retired officer with Chase-Manhattan Bank, managed Venezuela's debt for the bank. Which is more complex, Venezuela's debt or Florida's Construction Lien Law? "There's no question," she says, "it's the lien law."

thousands of dollars in liens when he filed for bankruptcy in 2001. Angela Barnes, a former Fort Myers physician's assistant who lost \$65,000 to Reynaert, received the maximum \$25,000 compensation from the state. But the construction board has let Reynaert hold on to his license, citing more than a dozen contractors around the state who have appealed their suspensions based on the fresh-start provisions of the federal bankruptcy laws.

Barnes, meanwhile, has sold her Fort Myers home and returned to her native Ohio. She says she would never build a home in Florida again. "The lien law is a scam, and the fact that Doug is still building houses is a scam," she says. "What you have in Florida is a good-old-boy system that looks out for everyone but the consumer."

Lang, the licensing board's chairman, says his group's hands are tied: "The federal bankruptcy law is the wild card that can trump the state laws." Lang says the board tries to find other ways to suspend contractors who have mismanaged finances or committed fraud. "If it were up to us, they would be suspended. But if they pursue it with the right lawyer, they're going to beat us."

Trapani relinquished his license voluntarily to avoid further administrative proceedings with the CILB. In doing so, he agreed to pay restitution of \$246,000 to the Hellriegels and between \$32,000 and \$52,000 each to three other families whose homes he abandoned. The U.S. Bankruptcy Court discharged each of these debts.

Prosecution?

The more Hellriegel learned about Trapani's business practices, the more convinced he became that his contractor had committed crimes. Armed with a letter signed by Trapani acknowledging he'd collected \$328,000, paid out \$190,000 and couldn't account for the difference, Hellriegel met with various police agencies and prosecutors. But the law-enforcement officials all said the same thing: It's not a criminal matter.

Willingness to pursue home builders varies greatly among Florida's 20 judicial circuits. In the First Judicial Circuit in Pensacola, State Attorney Curtis Golden's economic crimes division has used bank-fraud laws to prosecute contractors who signed false affidavits in order to draw more of a consumer's loan. But many prosecutors seem to take the view that it's a

civil matter.

In the Fifth Circuit, which includes Citrus County, State Attorney Brad King came under enormous community pressure earlier this year to build a case against Fred Colebrooke, a sheriff's detective-turned-contractor who cost six customers more than \$300,000 after he decided not to use their payments toward their jobs. A state investigation found that while Colebrooke had been operating on the financial edge, transferring money from one business interest to pay for others, he was not criminally liable because he didn't divert the money for personal use.

In the wake of the Schultz and Colebrooke cases in Citrus County, Sen. Nancy Argenziano, R-Crystal River, and Rep. Charles Dean, R-Inverness, shepherded bills through the Legislature that make falsifying documents regarding subcontractors a felony. But industry observers say that and other amendments to the lien law this year will make a difference only if more of Florida's prosecutors are willing to pursue dishonest contractors.

"Some of the state attorneys have to be hounded and pushed and prodded and politically motivated," says Deborah Lawson, a Tallahassee lobbyist representing subcontractors and suppliers and the executive director of the American Subcontractors Association of Florida. "We all know that if they were more aggressive, fewer people would do the crime."

Bad business

In fact, both contractors and law-enforcement officials ignore a number of provisions in the lien law. For example, the law makes the intentional misapplication of construction funds — that is, using one family's money to pay the bills on another family's house — a felony.

But small contractors busy juggling jobs say it's common to mingle money for one building project with another. Typically, small builders deposit all funds into one operating account and pay all bills out of that account. The contractors say there's rarely intent to misapply money. They point out that initial funds provided by a consumer or bank are often not enough to launch a new home project for a small, custom home builder without the capital backing that big corporate builders enjoy.

"There is a discrepancy between the real world and what the law says," acknowledges Jacksonville construction lawyer Chip Bachara, who believes this year's changes will make a big difference for con-

Savvy Victims

Industry insiders often paint people harmed under Florida's lien law as naive retirees who didn't understand the complexities of their new-home contract. Amendments passed this year by the Florida Legislature say that warnings about the lien law required in all construction contracts must be "printed in no less than 18-point, capitalized, boldfaced type" — about the size of the headline above.

But TREND's analysis found that even savvy consumers who well know their rights and responsibilities can get burned.

Case in point: A Jacksonville property appraiser — who asked that his name not be used — chose a reputable builder. He called and interviewed eight former clients. He went to the builder's job sites and interviewed current clients as well as subcontractors. Just like all

the consumer-protection literature recommends, he had the builder produce a partial release of lien before each bank draw — and he insisted that he co-sign each draw. He visited the job site every day to monitor progress on his house.

None of this protected him when the builder failed to pay subcontractors and suppliers, falsified documents saying he had paid subs and suppliers in order to draw more money for the job, used that money for other jobs, and finally committed suicide as his finances began to unravel.

"The construction lien law desperately needs reform," says the appraiser, who lost \$80,000. "No one watched closer than we did, and it happened right in front of our eyes." While the suicide may seem highly unusual, three of the cases reviewed by TREND involved contractor suicides.



POLK COUNTY

BARBARA DUTCHER



THE BUILDER: Ronnie Maddox, dba Accent Homes

THE CONTRACT: Larry and Barbara Dutcher signed a \$130,000 contract in March 1998 to build what they hoped would be their retirement home. Having managed a Kansas City credit union for 15 years, Barbara Dutcher set up a different sort of loan she thought would protect her family. With the so-called "end-loan," Maddox, not the Dutchers, was to be responsible for all but their \$28,000 down payment.

THE ORDEAL: Maddox went out of business after collecting from the Dutchers and several other families but not paying subcontractors and suppliers for the work done on their homes. While Barbara Dutcher had protected herself from paying twice, she could not recoup her \$28,000. In this case the subs and suppliers lost everything. The bank foreclosed on the home. The Dutchers had to live in a travel trailer for nine months before they bought a home elsewhere in Polk County.

TOTAL LOSSES: \$28,000 plus legal fees. The Dutchers collected \$25,000 from the recovery fund this year.

THE CONSEQUENCES: Maddox continues to work in the construction industry. The Dutchers lost their dream home.

THE LAST WORD: "We tried to get the state attorney to prosecute because our builder had co-mingled funds, which we learned was against the law," says Barbara Dutcher. "The response was that this is commonplace."

sumers. "But that doesn't mean the contractor is dishonest; most are honest people working hard to make a living."

Indeed, among Florida's more than 30,000 home builders, it's highly unusual to come across someone clearly intent on embezzling a buyer's money.

The vast majority of problems are the result of poor financial management by a contractor. The files reviewed by TREND are filled with small and medium-sized builders who took pride in building houses but paid too little attention to their balance sheets.

Many of the builders were juggling funds among jobs until one thing went wrong — in Cape Coral, contractor Michael Molloy blamed a disgruntled subcontractor who suddenly called in liens.

Epilogue

Hellriegel took solace in the fact that Trapani, in relinquishing his license, agreed "never again to apply for licensure as a contractor in the state of Florida."

But as it turns out, Trapani may not need his license after all. Like many other unlicensed contractors, he can set up another business with a licensed contractor as its "qualifier," allowing him to continue building homes.

According to documents filed with the state's Division of Corporations, a home-building company called Hemmingway Homes is being run from the address where Trapani lives in Palm City. Martin County Building Department records say the business is owned by Linda Usher, a certified general contractor in nearby Stuart. But Division of Corporations documents make no mention of Usher. They show the company is owned by Mary Knierim, who is Trapani's girlfriend and the co-owner of his house.

Knierim told TREND that Trapani is also her business partner and that the two would be willing to be interviewed but then apparently changed her mind. Neither she nor Trapani would speak to TREND.

According to DBPR documents, Trapani is disputing another part of his license relinquishment that says he cannot be employed in a supervisory or managerial capacity in a contracting business in Florida for five years. That provision, Trapani argues, contradicts the fresh-start policies of the U.S. Bankruptcy Code.

Hellriegel doesn't want to hear about it. "This man could walk away with my money and not go to jail," he says. "There's not much else that can surprise me." □

Possible Solutions

Over three decades and 17 rewrites of the Construction Lien Law, state lawmakers have focused on more public notice, more public disclosure and more public education about home buyer responsibilities under the law. But the public probably would be better protected if the state could reduce the number of contractors who operate at the financial margins.

Florida leads the nation in new-home permits, with 63,741 issued through April of this year — that's 11.5% of permits nationwide, leading California, which had 62,245, and Texas, which had 56,269. But the state's oversight of contractors is somewhere in the middle of the pack, consumer advocates say. Much better than oversight in Georgia or Texas, which don't even license home builders, but not as strong as in California or Arizona, which keep close tabs on contractor finances.

Florida's DBPR revoked or suspended more licenses last year than ever before as consumer complaints against contractors climbed near 4,000. But investigations can take years, and actions against contractors come too late for consumers who've already lost money. Tightening licensure rules on the front-end would be more effective. Possibilities include:

► **Requiring more substantial capital backing for a license.** The present requirement — a net worth of \$10,000 for a residential or \$20,000 for a general contractor — is paltry considering the price of homes and contractor workloads. "These businesses quickly get into the millions, and at that point the contractor is so busy building homes he's forgetting about the business model," says Constantine "Chuck" Kalogianis, a Pasco County real estate lawyer who represents two families that lost tens of thousands of dollars when a contractor named David Olsen of Landmark Homes in New Port

Richey abandoned their homes in the middle of construction. Some states, such as North Carolina, base licensure on a contractor's available working capital. North Carolina grants a limited license for contractors with \$12,500; an intermediate for those with \$50,000; and an unlimited license for those with \$100,000.

► **Requiring a licensing bond.** California, Washington and Arizona all do. Licensing boards can base the amount of the bond on the contractor's experience level or business record. The bonds are relatively inexpensive for



contractors in good standing. California's \$7,500 bond required for a contractor with a good record costs \$89 a year. California's licensing board ups the bond requirement any time a contractor is found to have violated the state's construction law. Florida CILB Chairman Robert Lang argues that half to two-thirds of Florida's contractors, many of them top-notch small businesspeople, are not bondable. "They may be excellent craftsmen and honest people and not have financial wherewithal," says Lang. "We might weed out a bunch of folks, but we would cripple the system."

► **Tightening the licensure requirements for builders with recent bankruptcies.** The DBPR flags applications with recent bankruptcies and

sends them before the CILB for scrutiny. But they don't get much. The board routinely allows those applications to proceed, relying on the contractor's word that the bankruptcy was personal and had nothing to do with business. "I don't think we have enough information to really see the whole picture," says Lee-En Chung, a Sarasota general contractor and professional engineer who serves on the CILB. Chung and other members acknowledge the state has a problem with contractors who maintain a cycle of starting a business, harming consumers, shutting down, declaring bankruptcy and starting a new business.

There's also wide agreement that the recovery fund needs reforming. According to Stephen Schmidt, executive director of the National Association of State Contractors' Licensing Agencies, 15 states have recovery funds, and Florida's is among the most difficult to navigate. Arizona's was, too, until the state got rid of the court judgment, debtors' search and other requirements. The fund is now entirely administrative. "If the debt is justified, why should you have to incur thousands of dollars in attorneys fees and get a

default judgment?" Schmidt asks. "It's not that hard to verify what happened and figure out the loss."

Sherry Rogers, a former administrator at the fund who now runs a construction-services business, would like to see a bigger step: Taking homeowners out of the equation entirely, so that contractors and subcontractors are the ones who pay for the fund and collect from the fund when they are harmed. "Subcontractors and suppliers usually know when they are dealing with a bad risk," Rogers says. "If the industry was responsible for the recovery fund, you might see people being more careful about who they do business with. At that point, the bad guys would have to go."