

(1) NOTWITHSTANDING § 8-402(2) OF THIS SUBTITLE, A CLAIMANT MAY NOT CONCURRENTLY SUBMIT A CLAIM TO RECOVER FROM THE FUND AND BRING AN ACTION IN A COURT OF COMPETENT JURISDICTION AGAINST A CONTRACTOR BASED ON THE SAME FACTS ALLEGED IN THE CLAIM.

(2) IF THE CLAIMANT BRINGS AN ACTION IN A COURT OF COMPETENT JURISDICTION BASED ON THE SAME FACTS ALLEGED IN A PENDING CLAIM, THE COMMISSION SHALL STAY ITS PROCEEDINGS ON THE CLAIM UNTIL THERE IS A FINAL JUDGMENT AND ALL RIGHTS TO APPEAL ARE EXHAUSTED.

(3) (I) TO THE EXTENT THAT A FINAL JUDGMENT OR FINAL AWARD IN ARBITRATION IS DECIDED IN FAVOR OF THE CLAIMANT, THE COMMISSION SHALL APPROVE THE CLAIM AGAINST THE FUND.

(II) IF A FINAL JUDGMENT OR FINAL AWARD IN ARBITRATION IS DECIDED IN FAVOR OF THE DEFENDANT, THE COMMISSION SHALL DISMISS THE CLAIM AGAINST THE FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 56, § 257D(d)(2) and (3).

In subsections (a)(1) and (b)(1) of this section, the former references to "circumstances" are deleted as included in the words "facts".

In subsection (b)(3)(i) of this section, the former phrase "to the extent authorized under § 257E of this subtitle" is deleted as surplusage.

Defined terms: "Commission" § 8-101

"Fund" § 8-101

"Licensed contractor" § 8-101

8-409. PAYMENTS FROM FUND.

(A) IN GENERAL.

THE COMMISSION MAY ORDER PAYMENT OF A CLAIM AGAINST THE FUND ONLY IF:

(1) THE DECISION OR ORDER OF THE COMMISSION IS FINAL IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE AND ALL RIGHTS OF APPEAL ARE EXHAUSTED; OR

(2) THE CLAIMANT PROVIDES THE COMMISSION WITH A CERTIFIED COPY OF A FINAL JUDGMENT OF A COURT OF COMPETENT JURISDICTION OR A FINAL AWARD IN ARBITRATION, WITH ALL RIGHTS OF APPEAL EXHAUSTED, IN WHICH THE COURT OR ARBITRATOR:

(I) EXPRESSLY HAS FOUND ON THE MERITS THAT THE CLAIMANT IS ENTITLED TO RECOVER UNDER § 8-405(A) OF THIS SUBTITLE; AND