

The Virginia Real Estate Transaction Recovery Act became effective July 1, 1980. The Act provides relief to consumers who have incurred losses through the improper and dishonest conduct of a real estate licensee. Filing a claim does not guarantee payment.

WHO IS ELIGIBLE TO FILE A CLAIM?

A person who has been awarded a judgment in a court of competent jurisdiction in the Commonwealth of Virginia against a licensed real estate broker or real estate salesperson ("the licensee") may be eligible to file a claim.

The judgment must be obtained against an individual or entity who is licensed by the Real Estate Board. The judgment must be based upon the **improper or dishonest conduct** of the licensee. A claimant cannot be denied recovery from the Fund due the fact that the judgment does not contain a specific finding of improper or dishonest conduct. Any language in the judgment that supports the conclusion that the court found the conduct of the licensee to be improper or dishonest may be used by the Board to determine eligibility for recovery from the Fund. Improper or dishonest conduct includes only the wrongful and fraudulent taking or conversion of money, property or other things of value or material misrepresentation or deceit.

If the licensee has filed bankruptcy, the claimant shall file a claim with the proper bankruptcy court. If no distribution is made, the claimant may then file a claim with the Board. The Board shall determine whether the conduct was improper and dishonest and what amount, if any, such claimant is entitled to recover from the Fund.

The licensee must have been **licensed** during the period in which the improper or dishonest conduct occurred in connection with a transaction involving the sale, lease, or management of real property by the licensee acting in the capacity of a real estate broker or real estate salesperson and not in the capacity of a principal.

The consumer filing the claim cannot be any of the following: 1) a licensee; 2) the personal representative of the licensee; 3) the spouse or child of the licensee against whom the judgment was awarded, nor the personal representative of such spouse or child; or 4) any lending or financial institution nor anyone whose business involves the construction or development of real property.

LIMITATIONS

A single claim against one licensee is limited to \$20,000.00.

If multiple claims are filed against one licensee, claim amounts may be prorated and payment may be delayed for a period

not to exceed one year from the date of judgment.

The Fund will **not pay** interest, punitive damages, exemplary damages, or any amounts that do not constitute actual monetary loss to the claimant. However, the payment **may** include attorney's fees and court costs.

REVOCAION OF LICENSE

When a payment involving a licensee is made from the Fund, in most cases, the licensee's license is automatically revoked. Any licensee whose license is revoked shall not be eligible to apply for a license as a real estate broker or real estate salesperson until the licensee has repaid in full the amount paid from the Fund on his account, plus interest. The Real Estate Board may also take further disciplinary action against the licensee.

SOURCE OF FUNDING

The Real Estate Transaction Recovery Fund is NOT supported by tax revenues. All administrative costs and claims are funded with assessments paid by real estate brokers and real estate salespersons licensed by the Commonwealth of Virginia.

HOW TO FILE A CLAIM

When the consumer takes any legal action against a licensee, the Clerk of Court should be notified that the Real Estate Board must also receive a copy of the notice served on the licensee. An affidavit stating the acts of improper or dishonest conduct of the licensee should be included with the notice given to the Board.

After the consumer has obtained a judgment from a court, an attempt **must be made** to collect from the licensee by conducting debtor interrogatories. This action determines whether the licensee has any assets which can be sold or applied in satisfaction of the judgment. If any assets are revealed by the interrogatories, the consumer must provide evidence that all legally available actions have been taken to sell the assets and disclose amounts realized from such actions.

A Real Estate Transaction Recovery Act claim form must be filed with the Department of Professional and Occupational Regulation within **twelve (12) months** after the judgment became final. Please attach a certified copy of the judgment order, copies of all pleadings filed by either party (if any), a copy of the contract, a **notarized** affidavit stating the acts of improper or dishonest conduct by the licensee which form the basis of this claim, and evidence of the conducting of debtor interrogatories, which should include

the front and back of the summons for interrogatories.

To obtain more information or to request a claim form, contact us at:

Department of Professional and
Occupational Regulation
Real Estate Transaction Recovery Fund
Perimeter Center, Suite 400
9960 Mayland Drive
Richmond, VA 23233

Phone: (804) 367-1559
E-mail: recoveryfund@dpor.virginia.gov
Website: www.dpor.virginia.gov

The information contained within is not binding on the Department; for the actual provisions refer to §§ 54.1-2112 to 54.1-2120 of the *Code of Virginia*.

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Virginia Real Estate Transaction Recovery Fund

COMMONWEALTH OF VIRGINIA

Department of Professional and
Occupational Regulation