READ THE FOLLOWING INSTRUCTION PRIOR TO COMPLETING THIS APPLICATION.

Failure to comply with these instructions will cause delay in your recovery claim.

How to File a REAL ESTATE Recovery Fund Claim:

1. In order to be eligible for the Recovery Fund, a Claimant must first be awarded a judgment in a court of competent jurisdiction in the Commonwealth of Virginia against any licensee of the Board (Regulant) which involved improper or dishonest conduct in connection with a transaction involving the sale, lease, or management of real property by the Regulant acting in the capacity of a real estate broker or real estate salesperson and not in the capacity of a principal, or on his own account. Please note that disciplinary action taken against the Regulant by the Real Estate Board (the Board) does not satisfy any statutory requirements contained in the Recovery Fund Act; Article 2 of Chapter 21 of Title 54.1 of the Code of Virginia. A court judgment with the requirements noted above is still required.

2. Code of Virginia; §54.1-2114(B)(4)(a) and (b): Prior to submitting a verified claim, with the Department of Professional and Occupational Regulation (the Department); the claimant shall: a.) Conduct or make a reasonable attempt to conduct debtor's interrogatories to determine whether the judgment debtor has any assets, including any listings held by the Regulant and any commissions due thereby; and b.) take all legally available actions for the sale or application of disclosed in the debtor's interrogatories.

3. If the Regulant files for bankruptcy; the Claimant must first file a proof of claim with the proper bankruptcy court prior to submitting their claim to the Department. If no distribution is made or the distribution ordered fails to satisfy the bankruptcy claim, the Claimant may then file a Recovery Fund claim with the Real Estate Board. The verified claim shall be received by the Board within 12 months of the date of bankruptcy discharge or dismissal.

4. Code of Virginia; §54.1-2114(B)(3): A verified claim shall be filed with the Department's Director no later than 12 months after the date of entry of the final judgment from which no further right of appeal exists.


"Act" means the Virginia Real Estate Transaction Recovery Act.

"Balance of the fund" means cash, securities that are legal investments for fiduciaries under the provisions of subdivisions A 1, 2, and 4 of § 2.2-4519, and repurchase agreements secured by obligations of the United States government or any agency thereof, and shall not mean accounts receivable, judgments, notes, accrued interest, or other obligations payable to the fund.

"Board" means the Real Estate Board.

"Claimant" means any person with an unsatisfied judgment against a Regulant, who has filed a verified claim under this act.

"Director" means the Director of the Department of Professional and Occupational Regulation.

"Fund" means the Virginia Real Estate Transaction Recovery 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.

"Judgment" includes an order of a United States Bankruptcy Court (i) declaring a claim against a Regulant who is in bankruptcy to be a "Debt Nondischargeable in Bankruptcy," (ii) extinguishing a claim against a Regulant who is in bankruptcy and for which claim no distribution was made from the Regulant's bankruptcy estate but excluding any such claim disallowed by order of the bankruptcy court, or (iii) extinguishing a claim against a Regulant who is in bankruptcy and for which claim only partial distribution was made from the Regulant's bankruptcy estate. An order of dismissal shall not be considered a judgment.

"Regulant" means a person, partnership, association, corporation, agency, firm or any other entity licensed by the Real Estate Board as a real estate broker or real estate salesperson.

"Verified claim" means a completed application, on a form designed by the Board, the truthfulness of which has been attested to by the Claimant before a notary public, along with all required supporting documentation, that has been properly received by the Department in accordance with this chapter.
REAL ESTATE TRANSACTION RECOVERY FUND CLAIM APPLICATION

A verified claim shall be filed with the Department's Director no later than 12 months after the date of entry of the final judgment from which no further right of appeal exists.

Answer all questions completely and accurately. Failure to answer all questions, or provide any additional documentation required by this form, will result in a delay of processing your claim.

1. Name of Claimant(s)

   Mailing Address

   City ___________________________ State ______ Zip Code ______

   Email Address ___________________________

   Contact Numbers

   Primary Telephone __________________ Alternate Telephone ___ Fax ___

2. Is the Claimant being represented by an attorney for this claim?

   No [ ] Yes [ ] If yes, provide the following information:

   Name of Attorney ___________________________

   Mailing Address ___________________________

   City __________________ State ______ Zip Code ______

   Contact Numbers

   Primary Telephone __________________ Alternate Telephone ___ Fax ___

   Email Address ___________________________

3. Name of Licensee (Regulant)

   (Broker/Salesperson for whom you have filed this claim against)

   Virginia License Number: _______ _______ _______ _______ _______ _______ _______

   Search for License number at: http://www.dpor.virginia.gov/LicenseLookup/

4. Does the Claimant or the Claimant's business hold a current or expired Virginia Real Estate license?

   No [ ] Yes [ ] If yes, provide your Virginia License Number: _______ _______ _______ _______ _______ _______ _______

5. Is the Claimant a personal representative of a real estate licensee (Regulant)?

   No [ ] Yes [ ]

6. Is the Claimant currently a spouse or child of the licensee (Regulant) or a personal representative of such spouse or child?

   No [ ] Yes [ ]
7. Does the Claimant operate as a lending or financial institution?
   No ☐
   Yes ☐

8. Does the Claimant's business involve the construction or development of real property?
   No ☐
   Yes ☐

9. What best describes the property involved in this claim?
   ☐ a. Primary Residence ☐ e. Utility Structure
   ☐ b. Secondary Residence ☐ f. Time Share
   ☐ c. Investment/Rental Property ☐ g. Other (please describe)
   ☐ d. Vacation Home

10. To the best of your knowledge, has the licensee (Regulant) filed for bankruptcy?
    No ☐ If no, Skip to question #11
    Yes ☐ If yes, provide the following information:
        A. Provide the name of the district court and the case number for the bankruptcy:
           ____________________________________________________________

        B. Did the licensee (Regulant) file for Chapter 7 or Chapter 13 bankruptcy?
           ☐ Do not know
           ☐ Chapter 7
           ☐ Chapter 13

        C. Did the Claimant ever receive a notice from the bankruptcy court instructing Claimant not to
           file a proof of claim?
           No ☐
           Yes ☐ If yes, provide a copy of the letter from the bankruptcy court.

        D. Did the Claimant file a proof of claim?
           No ☐ If no, explain why:
           Yes ☐ Attach a copy of the proof of claim that was filed with the bankruptcy court.

        E. Did the Claimant ever receive a notice from the bankruptcy court informing the Claimant of possible
           assets and requesting the Claimant to file a proof of claim?
           No ☐
           Yes ☐

        F. Was there a distribution?
           No ☐
           Yes ☐

        G. Has the bankruptcy been discharged (successfully completed)?
           No ☐
           Yes ☐ If yes, date of discharge: _____________________________
H. Provide the following bankruptcy claim information.

1. Total amount of the bankruptcy claim $____________________
2. Total amount of the court costs awarded by the court $____________________
3. Total amount of the attorney fees $____________________
4. Total amount of funds received from the distribution $____________________

TOTAL AMOUNT OF CLAIM* $____________________

* Add items #1 - #3, then subtract item #4 for the total amount of claim.

REQUIRED ATTACHMENTS: Copies of all documentation to support this claim.

11. Provide the following information for the judgment.

   a. Date of the judgment *
   b. Total amount of the judgment awarded by the court $____________________
   c. Total amount of court costs awarded by the court $____________________
   d. Total amount of attorney fees awarded by the court $____________________

TOTAL AMOUNT OF CLAIM $____________________

* A verified claim shall be filed with the Department's Director no later than 12 months after the date of the entry of the final judgment from which no further rights of appeal exist. (See Code of Virginia; §54.1-1120(B)(3))

REQUIRED ATTACHMENTS: Copies of all court orders.

12. A. Has the Claimant conducted or attempted to conduct debtor interrogatories? Yes ☐ No ☐

   If no, provide a detailed written explanation of why not and provide supporting documentation.

   If yes, provide the following information:

   a. Date of the debtor interrogatories
   b. What is the total value of the assets? $____________________
   c. Describe the assets disclosed by such interrogatories below. If none, write "none". (Attach additional sheets if necessary)

13. Has the Claimant taken all legally available action for the sale or application of the disclosed assets of the licensee (Regulant)?

   No ☐ ☐ If no, provide a detailed written explanation of why not and provide supporting documentation.

   Yes ☐ ☐ If yes, describe the legal action taken: (Attach additional sheets if necessary)

14. Has the Claimant received any money from the Licensee/Regulant (judgment debtor) as a result of the sale or application of the disclosed assets?

   No ☐ ☐

   Yes ☐ ☐ If yes, how much has been recovered by the claimant? $____________________
15. Has the Claimant received any other money from the Licensee/Regulant (judgment debtor) towards satisfaction of the unpaid judgment?
   No ☐
   Yes ☐ If yes, how much has been recovered by the Claimant? $ __________________

16. What is the balance remaining due from the Licensee/Regulant (judgment debtor)?
   Amount Remaining: $ __________________

17. STATEMENT OF FACTS:
   In your own words, provide a detailed statement of the facts on which you are basing your claim of improper or dishonest conduct.

   Code of Virginia §54.1-2112 defines improper and dishonest conduct includes only the wrongful and fraudulent taking or conversion of money, property or other things of value or material misrepresentation or deceit.

   (Attach additional sheets if necessary)

18. Has the Claimant filed a complaint with the Department for disciplinary action against this Licensee (Regulant)?
   No ☐
   Yes ☐ If yes, provide the case number and a copy of any documentation that you wish to be considered with your claim.

   Disciplinary action taken against the licensee (Regulant) by the Board does not satisfy any statutory requirements contained in the Recovery Fund Act.

19. ASSIGNMENT OF CERTAIN RIGHTS
   I/We submitted a claim for payment from the Virginia Real Estate Transaction Recovery Fund (the Fund) established under the Department of Professional and Occupational Regulation (DPOR), a Virginia state agency, pursuant to Title 54.1, Chapter 21, Article 2, of the Code of Virginia.

   As a condition of receiving payment from the Fund, I/We assign to DPOR any money, securities or debt instruments, in any form, and any other assets that I/We receive in the future from the Regulant up to the amount that I/We received from the Fund. I/We will not collect or receive that portion paid out of the Fund.

   I/We irrevocably appoint and assign DPOR as lawful attorney in fact, with power of substitution and revocation, for DPOR's own use and DPOR's own cost and charges, to demand and receive from the Regulant that portion paid out of the Fund, and take executions, and to take in DPOR's name all lawful ways and means to recover the money paid out of the Fund. I/We agree not to release or discharge the Regulant from the money owed without DPOR's consent.
20. **NOTARIZED STATEMENT:**

OATH: I/We swear that I/we are the claimant(s); that I/we have read and understand the contents of the claim, the affidavit of facts (item 18) and the assignment of certain rights (item 19) and that the foregoing statements and answers are true and complete to the best of my/our knowledge and belief, and that I/we have not suppressed any information that might affect the Board's decision to approve this claim.

Date ____________________________ Date ____________________________

Print Name ____________________________ Print Name ____________________________

Signature ____________________________ Signature ____________________________

(All Signatures must be witnessed by a Notary)

**Notarization**

In the State of ____________________________, City/County of ____________________________

On this ________, day of _____________, 20 ____. ____________________________

whose name(s) is/are signed to the foregoing instrument, personally appeared before me, acknowledged the foregoing signature to be his/hers, and having been duly sworn by me, made oath that the statements made in the said instrument are true.

My commission expires the ________, day of _____________, 20 ____. ____________________________

Affix official seal here.

Signature of Notary Public ____________________________

Notary No.: ____________________________

**Required Attachments:** (Place a check mark beside the attachment included with this claim form.)

- [ ] One completed copy of this application (along with all attachments) should be kept with the claimant for future reference.
- [ ] Copies of contract and change orders between Claimant and Regulant.
- [ ] If no contract was given or signed between the Claimant and Regulant; an affidavit attesting to the terms of the agreement and other contractual obligations will need to be provided by the Claimant.
- [ ] All pleadings or documents filed with the court from which the judgment was obtained.
- [ ] All orders, opinions of the court and including the final judgment order.
- [ ] All transcripts of the debtor's interrogatories (if applicable).
- [ ] A statement for balance that is remaining. (Reference question #17)
- [ ] Other - any additional information the Claimant would like to include for the Board's consideration.

**Mail Completed package to:**

Department of Professional and Occupational Regulation

VA Real Estate Transaction Recovery Fund

9960 Mayland Drive; Suite 400

Richmond, VA 23233-1485

**How did you hear about the Recovery Fund?**

- [ ] Newspaper
- [ ] Internet
- [ ] TV
- [ ] Department Speaker, contact
- [ ] Radio
- [ ] Other