

ARTICLE 4.
REAL ESTATE RECOVERY FUND.
Sec. 08.88.460. Claim for payment.

(a) Subject to (e) of this section, a person seeking an award from the recovery fund for a loss suffered in a real estate transaction as a result of fraud, an intentional tort, deceit, or the conversion of trust funds or the conversion of community association accounts under the control of a community association manager on the part of a person licensed under this chapter shall

- (1) obtain a final judgment from a court of competent jurisdiction, a final arbitration award, or a settlement agreement with a licensee that involves a person committing fraud, an intentional tort, deceit, the conversion of trust funds, or the conversion of community association accounts;
 - (2) submit an affidavit describing the efforts made to collect the final judgment, final arbitration award, or settlement agreement stating that the person has used due diligence to collect the amount due, stating that the judgment, arbitration award, or settlement agreement is uncollectable using reasonable efforts, and that the conduct that is the subject of the judgment, arbitration award, or settlement agreement involved an activity for which a person must obtain a license under AS 08.88.161;
 - (3) make a claim to the commission for an award from the recovery fund on a form furnished by the commission; in order to be eligible for an award by the commission, the claim form must be filed within two years after the date a judgment, arbitration award, or settlement agreement that is the basis for the award from the recovery fund is no longer subject to appeal; the form must be executed under penalty of unsworn falsification in the second degree and must include
 - (A) the name and address of each real estate licensee involved;
 - (B) a copy of the final judgment, final arbitration award, or settlement agreement;
 - (C) a copy of the affidavit asserting due diligence but lack of success in collecting the entire amount due;
 - (D) the amount of the final judgment, final arbitration award, or settlement agreement that remains unpaid;
 - (E) the name and address of the claimant; and
 - (F) a general statement of facts relative to the claim.
- (b) The commission shall send a copy of a claim filed under (a) of this section to each real estate licensee named in (a)(3) of this section.
- (c) *[Repealed, Sec. 24 ch 113 SLA 2008.]*
- (d) A claimant under this section shall pay a filing fee of \$250 to the commission at the time the claim is filed. The filing fee shall be refunded if the
 - (1) commission makes an award to the claimant from the real estate recovery fund; or
 - (2) claimant withdraws the claim.
- (e) If the claim is for a loss incurred as a result of acts or omissions occurring in the course of the licensee's practice of community association management, only the owners' association for which the real estate licensee practices community association management may file a claim under this section.