

THE ARIZONA REAL ESTATE RECOVERY FUND Questions & Answers



*This is general information only. This is NOT legal advice.
Consult an attorney for any legal advice or interpretation.*

ARIZONA
DEPARTMENT
OF
REAL ESTATE

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Phoenix, AZ 85018

Please Visit
www.azre.gov
For more
information

What is the Real Estate Recovery Fund?

- A last resort for recovery of losses, in an attempt to make a claimant whole, caused by the conduct of a licensed salesperson / broker in a real estate transaction (*See Arizona Revised Statutes (ARS) §32-2186 through §32-2193.02*)
- Administered under the direction of the Arizona Real Estate Commissioner
- The Recovery Fund is funded from a surcharge on license fees. Tax dollars are not used.

How does one become eligible to apply to the Recovery Fund?

Eligibility applies when:

- A court judgment (civil or criminal) or an arbitration award has been obtained against the salesperson and broker (not just the brokerage company) involving a real estate (or cemetery plot) transaction (bought, sold, leased property or a property management company hired to manage property) and the conduct of the salesperson and broker were in violation of the law under Title 32, Chapter 20, A.R.S. or ADRE Rules
- The collection of a judgment or the award (documented attempts required) has been unsuccessful

What can the Recovery Fund pay for?

- Actual money lost in a real estate or cemetery plot transaction as caused by the actions of a salesperson/broker as stipulated in the judgment
- Reasonable attorney fees and other costs as stipulated in the judgment

EXAMPLES OF ELIGIBLE LOSSES:

- Misappropriated earnest money deposit or the down payment of a house
- Misappropriated security deposit, rental income, or money withheld that was intended for mortgage payments or other expenses managed by the licensee
- Repair costs required for defects when a real estate licensee materially misrepresented the condition of the property
- Loss caused in a transaction when the real estate licensee has actively misrepresented the financial condition of the property and parties involved

EXAMPLES OF INELIGIBLE LOSSES:

- Speculation including lost profits or unrealized losses
- Transactions for property outside of Arizona
- Loans, notes, limited partnerships or other securities, regardless of whether the loss was caused by an investment in, or was secured by real property
- Repair costs for defects that the purchaser was aware of or made aware of
- A tenant's conduct or neglect
- Vandalism
- Natural causes
- Punitive damages
- Post judgment interest
- Undocumented transactions or losses

How does one apply for payment from the Recovery Fund?

- Obtain and record (and provide the Department an original certified recorded copy) a judgment obtained against all parties involved in the transaction, including but not limited to the licensed salesperson and his/her employing broker (not a corporation, partnership or fictitious entity)
- Exhaust all efforts to collect the money (pursuant to ARS § 32-2188(F)(8)) from all involved parties, document the efforts, and provide them to the Department
- Download and complete the Recovery Fund Application (Form RF-107) from www.azre.gov
- Notify the licensee of the filing of a claim against them with the Recovery Fund (Form RF-109)
 - Proof of Service to the licensee is *required* in one of the following forms:
 - Personal Service (Form RF-110)
 - Certified Mail (Form RF-111)
 - Publication (Form RF-112)
- Provide all requested documentation and/or any additional documentation to support the application
- Hand deliver or mail (via certified mail) the application to the Department