

Manufactured Home Recovery Fund

Q. What should I do if I haven't yet obtained a judgment against the buyer or seller of my manufactured home?

A. If the seller/buyer is not the subject of bankruptcy proceedings, you will need to obtain a court judgment against them. If you are an individual or sole proprietor and your out-of-pocket expenses are \$10,000 or less, or you limit your potential collection and claim to \$10,000, you may file a Small Claims Court action. If the buyer/seller is a licensed manufactured home licensee (salesperson, dealer, distributor, or manufacturer) you may sue even if they are no longer in business. Small Claims Court is an easy process and the parties may NOT use an attorney in court. Many counties have clinics to help parties use Small Claims Court or you can visit the following website for help: <http://www.courtinfo.ca.gov/selfhelp/>. If you engage an attorney and show them this MHRF fact sheet that informs them there may be a monetary source to recover from, it may be a deciding factor as to whether it is economically feasible for the attorney to pursue your claim in Civil Court. An attorney can advise you if you have a viable claim, as you must sue someone within the statute of limitations for the particular cause of action, such as fraud, conversion, warranties, etc.

Applicable California laws can be found at: <http://leginfo.legislature.ca.gov/faces/codes.xhtml> then click the "**Health and Safety Code**" link; then click the "**Division 13**" link; and finally click the "**CHAPTER 7.5. Manufactured Home Recovery Fund**" link under Part 2 to view the MHRF laws.

You can also ask your local District Attorney to pursue a Criminal Court case against the wrongdoer. If the District Attorney obtains a final criminal court judgment which needs to include restitution to you based on the wrongful acts listed in the MHRF laws, then you are eligible to file a claim if the District Attorney is unable to obtain the restitution on your behalf.

You may also request that HCD pursue an Administrative Court case against any licensed manufactured home salesperson, dealer, distributor, or manufacturer. If HCD agrees with your request and obtains a final administrative judgment with restitution for you based on the wrongful acts listed in the MHRF law, you will be eligible to file a claim if HCD and you are unable to obtain the restitution.

Note: The information contained on this document does not contain all the provisions or details of the laws affecting the MHRF. The claimant should review the MHRF laws at the website listed above or at a local law library or consult an attorney.

MISSION STATEMENT

To develop, administer, adopt, and enforce uniform statewide housing standards to ensure the health and safety of Californians, to protect buyers from fraud and abuse, and safeguard the affordability of housing.



State of California

Business, Consumer Services, and Housing Agency

Department of Housing and Community Development

Division of Codes and Standards

Occupational Licensing Program

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HCD OL MHRF 20A (Rev. 5/15)

Manufactured Home Recovery Fund



*California Department of Housing
and Community Development*

Manufactured Home Recovery Fund

The Manufactured Home Recovery Fund (MHRF) is a fund established to help reimburse people who have lost money during or after the purchase or sale of their manufactured home as a result of:

1. Fraud or misrepresentation
2. Failure of dealer or manufacturer to honor the warranty
3. Willful violations of state laws or regulations
4. Willful misrepresentation of the kind or quality of the product purchased or sold
5. Actual losses of money held in escrow

The fund is intended to reimburse actual or direct losses up to \$75,000.00, including attorney's fees, after the victim has diligently pursued collection efforts against income or assets of the nonpayer or judgment debtor.

The MHRF is a last chance remedy opportunity for a victim, not the first opportunity.

Specific conditions apply, and a claim should be made on forms provided by the Department of Housing and Community Development (HCD). If you think you have been a victim, you should review the MHRF information and claim form available on our website before contacting an attorney or submitting a claim to the Department for actual financial losses up to \$75,000.00 maximum recovery.

Frequently Asked Questions

Q. Who can file a claim under MHRF?

A. The buyer or seller of a manufactured home to be used as a personal or family residence, or for investment purposes, bought or sold on or after January 1, 1985, **and**

1. Who has sued the alleged wrongdoer and obtained a final civil judgment; **or**
2. Who has an unpaid criminal restitution order from a final criminal judgment; **or**
3. Who has an unpaid administrative law restitution order from a final administrative decision; **or**
4. Whose claim is against an alleged wrongdoer, person or entity, which is or has been subject to bankruptcy proceedings or otherwise is "judgment proof" (a person who lacks the financial resources necessary to satisfy a judgment for damages or

whose wages or property is protected from judicial attachment by law).

Note: The claimant must provide evidence acceptable to HCD to prove a person or entity is judgment proof.

Q. Are there additional requirements for payment of a MHRF claim?

A. Yes, additional requirements apply for the following situations:

1. A claim based on a civil judgment (which may be against any person or business who is a buyer or seller of a manufactured home, not just an HCD licensee) may be filed if the following additional requirements are met:

- a. The claim must be filed within **two years** from the date of the final judgment;
- b. The judgment must be based on **at least one** of the following wrongful acts:
 - 1) Failure to honor warranties or guarantees;
 - 2) Fraud or willful misrepresentation related to any financial provision;
 - 3) Fraud or willful misrepresentation of the kind or quality of the product sold or purchased;
 - 4) Conversion (theft);
 - 5) Any willful violation of the Manufactured Housing Act of 1980 (Health and Safety Code Section 18000, et seq.) and any regulations adopted thereunder;
 - 6) Any violation of Chapter 3, beginning with Section 1797, of the Civil Code (new manufactured home warranties).
- c. The claimant must have executed on the final judgment or present evidence that claimant has diligently pursued collection efforts against all assets of the judgment debtor and found the defendant to be judgment proof.

Note: If you are unable to locate the judgment debtor you may send a certified letter to their last known address and ask the U.S. Postal Service to provide verification of the addressee's last known address.

2. A claim based on a sale or a purchase from a person or entity who has filed for bankruptcy may be filed if the following additional requirements are met:

- a. The claim must be filed with HCD within two years

from whichever of the following occurs later:

- 1) The termination of bankruptcy proceedings;
 - 2) The date of sale (i.e., close of escrow for dealer sales; or payment of the sales price, or execution of a sales contract and delivery). If clarification is needed see Health and Safety Code Section 18070.2;
 - 3) The date of discovery of the violation(s) causing direct and actual loss, but no longer than five years from the date of sale.
- b. The claim must be based on the same wrongful acts as listed in **1.b.**

Q. How much money can I recover from the MHRF?

A. The maximum MHRF payment allowed for a manufactured home sales transaction is \$75,000 or the amount of "actual and direct loss", whichever is less. "Actual and direct loss" means out-of-pocket losses as a result of the transaction and may include court costs and interest at the statutory interest rate (see California Code of Civil Procedure Section 685.010) from the date of loss; and, if the claim is based on a judgment, reasonable attorney fees and court costs. If the claim is not based on an administrative, civil, or criminal judgment, attorney's fees shall not exceed 15% of the amount of the claim and court costs. If the claim is based on a final administrative or civil judgment, attorney's fees and court costs shall not exceed 25% of the judgment amount. Government attorneys may claim up to 35% of the amount of the judgment for civil, criminal with restitution order, or administrative order with restitution order obtained. Attorney fees are included in the maximum MHRF payment allowed, not excluded.

Q. Where can I get a MHRF claim form?

A. MHRF claim forms and instructions are available on HCD's website:
<http://www.hcd.ca.gov/codes/ol/mhrfmenu.htm>

Contact us at:

Department of Housing and Community Development
Division of Codes and Standards
Occupational Licensing Program
Manufactured Home Recovery Fund
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