

HCD OL MHRF 4 INSTRUCTIONS AND INFORMATION
FOR COMPLETING THE MANUFACTURED HOME RECOVERY FUND CLAIM FORM

CLAIM FORM HCD OL MHRF 4 INSTRUCTIONS:

1. Before ordering payment from the Manufactured Home Recovery Fund (MHRF), the Department of Housing and Community Development (HCD) must independently verify that the claim is factual, accurate and meets all the prerequisites established by law (Health and Safety Code Section 18070 et seq.). It is the claimant's responsibility to provide HCD with sufficient information to make a determination on their claim.
2. Attached is a Manufactured Housing Recovery Fund (MHRF) Claim Form, **HCD OL MHRF 4** (Rev. 11/10), which has been developed to assist in providing all required information to HCD. Use of the form will also expedite processing by HCD. The claim form does not need to be prepared by an attorney, nor is legal representation necessary or required to file a MHRF claim.
3. The claim form consists of three parts: **Part A** (General Information); **Part B** (Collection Efforts); and **Part C** (Certification).
4. **Part A** of the claim form must be completed before HCD will accept the claim for filing for purposes of meeting the statute of limitations.
 - If the claim is based on a final court judgment, the law requires that the claim be filed within two (2) years of receiving a final court judgment.
 - If the claim is not based on a final court judgment, the law requires that the claimant file their claim within two (2) years from the termination of the judgment debtor's bankruptcy proceedings or two (2) years from the date of sale, whichever event occurs later.
 - If the claim is not based on a final court judgment, the law requires that the claimant file their claim within two (2) years from the date of discovery of the violation(s) causing actual and direct losses, but no longer than five (5) years from the date of sale.
5. **Part B** of the claim form requests information on the claimant's judgment collection efforts. The claimant need not attempt to collect on the judgment before they are eligible to file a claim. However, before HCD will process a claim for potential payment, the claimant must make a diligent effort to collect on the judgment. The judgment collection information may be provided now, if possible, or may be provided later by supplementing the claim application.

REMEMBER: HCD may accept a claim for filing without this information, but it will not process the claim for potential payment until the information requested in Part B is received.
6. **Part C** of the claim form requires the claimant to declare UNDER PENALTY OF PERJURY that the information in the claim form is true and correct to the best of their knowledge. This declaration must be completed before HCD will accept a claim for filing. Part C also requires the claimant agreement that, in the event the claimant recovers from the MHRF, the claimant will assign to HCD their rights to collect on their judgment or in bankruptcy court. In the event that the claimant recovers some or all of their losses from the MHRF, the claimant will be required to enter into formal, legally-binding assignment of these rights, up to the amount the claimant recovers from the MHRF.
7. When completing **Part A**, the claimant will need to attach the following information as applicable:
 - a. Exhibit A: A court endorsed copy of the complaint filed in the claimant's civil suit or charges in a criminal prosecution.
 - b. Exhibit B: A court endorsed copy of the claimant's final judgment, any Statement of Decision, findings and any opinion of the court.
 - c. Exhibit C: Copies of all other pertinent information in the court's file of the claimant's case.
 - d. Exhibit D: Copies of all documents relating to the purchase or sale of the manufactured home or mobilehome, e.g., sales contract, bill of sale, purchase order, escrow instructions, deposit receipts, etc.
 - e. Exhibit E: Copies of any written notice of substantial defects in the manufactured home and at least two (2) itemized written estimates by licensed contractors to repair the substantial defects, receipts, etc.
 - f. Exhibit F: Statement of facts describing in the claimant's own words how the failure to honor warranties, fraud, misrepresentation, conversion, and/or willful violations occurred and how all losses were calculated.
 - g. Exhibit G: Memorandum of court costs filed with the court, to show legal expenses (court costs, attorney fees, etc).
 - h. Exhibit H: Copies of attorney's bills, if any.
 - i. Exhibit I: Copy of the bankruptcy documents; e.g., bankruptcy filing; Proof of Claim; Schedule of Creditors; Notice and Hearing of Motion for Relief of Automatic Stay; discharge from bankruptcy, etc.

j. Exhibit J: Judgment asset searches and collection information.

Photocopies of all requested court documents are acceptable if clearly legible. Each document being photocopied must bear a stamp (e.g., "endorsed filed") or other evidence indicating that the document has been filed with the court. HCD may require the claimant to provide certified copies of the court documents.

8. The statement of underlying facts should include a detailed statement of facts underlying the purchase or sale to assist HCD in determining whether the judgment was based on failure to honor warranties or guarantees, fraud, willful misrepresentation of the kind and quality of the product sold, or conversion arising directly out of any transaction which occurs on or after January 1, 1985.
9. When completing **Part B**, the claimant should describe all efforts made to collect on the judgment. The claimant should tell about any and all searches and inquiries made by the claimant or their attorney to ascertain whether the seller owns any real or personal property or any other assets which could be sold or applied to satisfy the judgment. Include in **Exhibit J** copies of all correspondence and documentation received relating to any judgment collection efforts.

INFORMATION

ACCEPTANCE FOR FILING: Upon receipt of a claim, HCD will conduct an initial review to determine whether the claim sufficiently contains the information requested in **Parts A and C** of the claim form. HCD will also review the claim to determine its completeness and acceptability for further processing. The claimant will be notified in writing of HCD's determination, and specifically what additional information, if any, is needed to make the claim acceptable for filing.

ACCEPTANCE FOR PROCESSING: Once HCD determines that the claimant has sufficiently provided the information requested in **Part B** of the claim form, the claimant will be notified in writing that their application has been accepted for processing. However, the claimant may be contacted to provide additional details or information regarding their claim.

The claimant must provide a copy of their completed claim application to the manufactured home seller or purchaser (judgment debtor/respondent). This is because any payment from the MHRF on a claim becomes a debt owed by the seller or purchaser to the state. Therefore, the seller or purchaser must be allowed to contest the claim.

LEGAL REVIEW OF APPLICATIONS: Once the application is accepted for processing, it will be forwarded to HCD's Legal Affairs Division (LAD) for review. After the legal analysis, if additional information is needed to process the claim, the LAD may contact the claimant or the claimant's legal representation.

DEPARTMENTAL DECISION: After the legal analysis, HCD will issue a proposed decision on the claim. The decision will be in writing, clearly explaining how HCD reached its decision. The decision will be mailed to the claimant and the judgment debtor(s). If the claimant is dissatisfied with the proposed decision, a request for reconsideration must be made within 30 days of receiving HCD's decision and the claimant must provide supplemental information before the decision becomes final.

HOW LONG WILL IT TAKE TO RECEIVE PAYMENT: Each claim will be processed on a first-come first-served basis with claims for primary residences being given priority over claims submitted for investment purposes. Please be patient and allow HCD time to fully evaluate the claim. Unless the claimant has additional information that HCD should consider, please do not call the department. HCD will notify the claimant in writing as their claim passes through each step in the review process. HCD will make every effort to process each claim as soon as possible.

PAYMENT: If HCD determines that a claim meets all the requirements of Health and Safety Code Section 18070 et seq., it may issue an order to the State Controller directing that payment be made to the claimant from the MHRF.

If the claimant needs further assistance or has further questions, please write to, e-mail or telephone HCD at:

State of California
Department of Housing and Community Development
Division of Codes and Standards
Manufactured Home Recovery Fund
P. O. Box 31
Sacramento, CA 95812-0031

E-MAIL: OL@hcd.ca.gov

TELEPHONE: (916) 323-9801 or TOLL-FREE TELEPHONE: 1-800-952-5275