ARIZONA DEPARTMENT OF REAL ESTATE
100 N. 15th Ave., Suite 201
Phoenix, AZ 85007
602-771-7760
www.azre.gov

FOR DEPARTMENT USE ONLY

RF File No.

APPLICATION FOR PAYMENT FROM THE REAL ESTATE RECOVERY FUND

A.R.S. § 32-2186 *et seq.*

FORM RF-107

GENERAL INFORMATION

A copy of Form RF-109 (Notice to Judgment Debtor) and a copy of this Application must be served on the judgment debtor(s). A.R.S. §32-2188.01. This Application and all supporting information and documentation must be filed with the Department of Real Estate within two years after the termination of all proceedings, reviews and appeals connected with the judgment. The Commissioner may waive the two-year deadline if, in the Commissioner's sole discretion, the public interest would be served. A.R.S. § 32-2188(C). Consideration of your Application will be delayed if the Application is incomplete. A.R.S. § 32-2188.02. To expedite handling, send this Application and all supporting documents by certified mail to:

Arizona Department of Real Estate
Recovery Fund Administrator
100 N. 15th Ave., Suite 201
Phoenix, AZ 85004

• In this application, real estate, and cemetery salespersons and brokers are referred to as "agents."
• A "judgment debtor" is any person or entity against whom the claimant has a judgment for money damages.
• "You" is all claimant individuals and entities. If the responses are different for any claimant, those questions must be answered and explained separately for each claimant.
• Submission of all of the following information is required. Attach extra paper if more space is needed.

PART I—REQUIRED INFORMATION

1. CLAIMANT INFORMATION

Claimant Name(s) _____ Telephone No. _____

Street Address _____ Fax No. _____

Email _____ City _____State, ZIP _____

Complete the following additional information only if represented by an attorney in this Application:

Attorney's Name/Law Firm _____ Telephone No. _____

Street Address _____ Fax No. _____

Email_____ City_____ State, ZIP _____

Notify the Department promptly of any change in address or other contact information.

2. IDENTIFICATION OF ALL PARTIES IN THE LAWSUIT

A. List the name(s) and all addresses and phone numbers of judgment debtor(s), defendants in a Criminal Restitution Order (CRO), and all of their attorneys. Include the address used for service of process and all addresses which can be used for contact. If any address is unknown, provide the names and address of any person(s) who may have that information. Mark the box with a check for any judgment debtor who is an agent. **(Continued on Page 2)**

2. IDENTIFICATION OF ALL PARTIES IN THE LAWSUIT (Continued)

Agent	**Names** (Last, First, Middle)	**Address** (If different street/mailing addresses, include both)	**Telephone Numbers**
☐	_____	_____	_____
☐	_____	_____	_____
☐	_____	_____	_____

B. If any party responsible for your losses was a salesperson or broker employed by another broker, did you sue their employer? A.R.S. § 32-2188(E)(7) ..... ○ Yes ○ No

If not, list here the parties you did not sue, and please explain:

_____

_____

C. If there are any parties other than a defendant who is the subject of a CRO who are potentially liable for your losses, did you include all those parties in your civil lawsuit? ..... ○ Yes ○ No

If not, list here the parties you did not include, and please explain: _____

_____

D. Has any other party liable or potentially liable for your losses been dismissed or omitted from the civil lawsuit?
○ Yes ○ No

If yes, list each party and explain the reason for dismissal or omission A.R.S. § 32-2188(E)(6) and (7) _____

_____

_____

3. THE REAL ESTATE TRANSACTION

A. What was the responsibility of each agent in the transaction? A.R.S. § 32-2186(A)(1) and (2).
EXAMPLES: John Doe - Seller, Dick Smith - Buyer, Jane Jones - Landlord, Sally Brown - Agent for Seller

_____

_____

B. What improper actions by any agent who is a judgment debtor were the reasons for your lawsuit? A.R.S. § 32-2186(A)(1). If the agent was a principal in the transaction (the buyer, seller, landlord or tenant), include any misrepresentations or fraud that occurred. A.R.S. § 32-2186(A)(2).

_____

_____

C. In a chronological narrative, describe all related facts that are the basis for the judgment or CRO. Include dates, dollar amounts, participants, witnesses, description and address of the property involved, and important statements by anyone. Attach an additional sheet if more space is required. A.R.S. § 32-2188(E)(4). **(If more space is needed please attach documents).**

_____

_____

4. JUDGMENT OR CRIMINAL RESTITUTION ORDER (CRO) ON WHICH THIS APPLICATION IS BASED

If there is more than one judgment or CRO, complete this section for each judgment or CRO on a separate sheet.

A. ◯ Civil Judgment ◯ Criminal Restitution Order

B. Date issued: _____ Court and Court Case No. _____

EXAMPLE: Maricopa County Superior Court, No. CV2002-01234

C. County Recorder's Office Information A.R.S. § 32-2188(E)(8)(e):

Recording Date	County & State	Docket or Other ID No.
_____	_____	_____
_____	_____	_____

D. Damages Awarded in the Judgment or CRO

Amount Describe the Source of Each Item **EXAMPLES: Security Deposit, Down Payment, Rent, Repairs**

1. $ _____ _____

2. $ _____ _____

3. $ _____ _____

4. $ _____ _____

5. $ _____ _____

6. $ _____ Attorney's fees, if any

7. $ _____ Court-awarded costs

8. $ _____ Interest at _____ %. Explain below from what date and on what amounts you calculated interest.**(NOTE: Only prejudgment interest is recoverable from the Fund.)**

9. $ _____ Punitive damages, **(NOTE: Punitive damages are not recoverable from the Fund.)**

$ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ TOTAL JUDGMENT

Explain interest computations here:

_____

E. Collection of Judgment:

NOTE: By law, you must exhaust all collection efforts against all parties before filing this Application. A.R.S. § 32-2188(E).

1) Have you exhausted all collections efforts against all judgment debtors? ..... ◯ Yes ◯ No

2) Have you diligently pursued collection efforts against all other persons liable to you in the transaction that is the basis for the judgment or CRO?..... ◯ Yes ◯ No

If your answer to 1 or 2 is No, please explain below:

3) List all attempts to collect the judgment from all judgment debtors. Include amounts recovered from garnishments, attachments, executions and sale of debtors' property.

_____

_____

_____

_____

5. CLAIM AGAINST RECOVERY FUND

NOTE: By law, only a claimant's "actual and direct loss," reasonable attorney's fees, prejudgment interest (at the legal rate from the date of loss) and court costs, are payable from the Recovery Fund. Therefore, the amount covered by the Fund may differ from the amounts awarded in the Judgment. "Actual and direct loss" includes out-of-pocket losses and excludes loss of anticipated profits, speculative and punitive damages. See A.R.S. § 32-2186(G) for a more detailed list of losses that are not recoverable from the Fund.

A. Amount of claim against the Arizona Real Estate Recovery Fund: $_____

B. Itemize each amount claimed and how it was computed:
EXAMPLE: $1,500 misappropriated rent for 123 S. State Street - rent collected by agent for June - August 1999 @ $500/month

_____

_____

_____

_____

_____

_____

C. Itemize any amount being claimed above and beyond the actual and direct out-of-pocket losses, prejudgment interest, attorney's fees and court costs. If you claim any amount that is not normally recoverable from the Fund, explain why you believe it is recoverable in this case. Refer to applicable statutes and case law that support this position:

_____

_____

_____

D. Offsets and Deductions From the Claimed Amount:

List any amounts recovered or anticipated from any judgment debtors or other source, including settlements, bonding or insurance companies and tax benefits taken or anticipated on state and federal income tax returns. If tax benefit/ loss was not claimed or is not anticipated, please explain. A.R.S. § 32-2188(E)(8)(h).

_____

_____

6. ADDITIONAL INFORMATION

Answer the following questions and provide the following information:
A. Have you ever been licensed as a real estate or cemetery salesperson or broker? A.R.S. § 32-2186(D)……
☐ Yes ☐ No
If yes, please state:
State(s) where licensed:

_____

Name:

_____

6. ADDITIONAL INFORMATION (Continued)

Dates licensed: _____

Type of license(s) **EXAMPLES: Salesperson, self-employed broker, designated broker for an entity, etc.**

_____

B. Has your spouse, or an officer, director, owner, stockholder, partner or owner of 10 percent interest in any claimant ever held a real estate or cemetery salesperson's or broker's license? ..... ◯ Yes ◯ No
If yes, please state for each such person:
State(s) where licensed:

_____

Dates licensed:

_____

Type of license(s)

_____

C. Are you a spouse of the judgment debtor or a personal representative of the spouse? A.R.S. § 32-2188(E)(8)(a)…….. ◯ Yes ◯ No

D. Have you assigned or transferred all or any part of your interest in the judgment or CRO? ..... Yes ◯ No ◯
E. Have you signed a partial or full satisfaction of the judgment or CRO? A.R.S. § 32-2192(C) ..... Yes ◯ No ◯
If yes, please state the terms, dates and amounts satisfied or paid: _____

_____

F. Was the civil lawsuit on which the judgment is based prosecuted conscientiously and in good faith?
NOTE: "Conscientiously and in good faith" means that no party potentially liable to you in the underlying transaction was intentionally and without good cause omitted from the complaint, that no party named in the complaint who otherwise reasonably appeared capable of responding in damages was dismissed from the complaint intentionally and without good cause, and that you employed no other procedural tactics contrary to the diligent prosecution of the complaint in order to provide access to the Recovery Fund. A.R.S. §32-2188(E)(8)..... ◯ Yes ◯ No
G. Are you aware of anyone else who incurred monetary losses or damages in a real estate or cemetery transaction due to the actions of any agent who is a judgment debtor? ..... ◯ Yes ◯ No
If so, who?

_____

H. Was this Application mailed or delivered to the Department within two years after the judgment became final or the CRO was issued?..... ◯ Yes ◯ No
If Yes, please state the date the Application was mailed to the Department: _____
If No, are you requesting a waiver? ..... ◯ Yes ◯ No
If you are requesting a waiver, please explain why you think you are entitled to a waiver. A.R.S. § 32-2188(C)

7. BANKRUPTCY BY PERSONS LIABLE FOR YOUR LOSSES

A. Do you have any knowledge or information that any judgment debtor has filed or intends to file for bankruptcy protection?..... ◯ Yes ◯ No
If no, skip to Section 7-B. If yes, please answer the following:
1) What is the complete bankruptcy case number?

_____

2) Did you receive a Notice to Creditors ..... ◯ Yes ◯ No
3) Is your judgment based upon a determination of nondischargeability in a bankruptcy proceeding filed by the judgment debtor?.. ◯ Yes ◯ No If yes, skip to Section 7-B. If no, please answer the following:
a. Did the judgment debtor file for bankruptcy protection? ..... ◯ Yes ◯ No

7. BANKRUPTCY BY PERSONS LIABLE FOR YOUR LOSSES (Continued)

If no, skip to Section 7-B. If yes, when did the judgment debtor file for bankruptcy protection?

_____

b. Did you file a claim in the bankruptcy? ..... ◯ Yes ◯ No

If not, please explain why not: _____

_____

c. Was any attempt made to have the debt owed to you determined nondischargeable?..... ◯ Yes ◯ No

If no, please explain why not. If yes, what was the result?

_____

_____

d. Was the debt underlying the judgment, and/or the judgment, discharged in the bankruptcy proceeding?.....

◯ Yes ◯ No

If no, explain why. If yes, give the date it was discharged and state why:

_____

_____

_____

B. Do you have any knowledge or information that any other person or persons liable to you in the transaction filed or intends to file bankruptcy? ..... ◯ Yes ◯ No

If no, skip to Box 8. If yes, please answer the following:

1) What is the name of the person or persons?

_____

2) On what date did the person file bankruptcy?

_____

3) Did you file a claim in the bankruptcy? ..... ◯ Yes ◯ No

If no, please explain why not. _____

_____

4) Was any attempt made to have the debt owed to you determined nondischargeable? ..... ◯ Yes ◯ No

If not, please explain why not. If yes, what was the result? _____

_____

_____

PART II—DOCUMENTATION

I HAVE ATTACHED THE FOLLOWING DOCUMENTATION:

As to each document/group of documents you attach, identify them with a cover sheet that has the number assigned below and lists or describes each document.

EXAMPLE: Part II,Item 1:Purchase contract dated 3/2/01;Addendums to purchase contract dated 3/5/01 and 5/4/01; Escrow instructions dated 5/31/02; Settlement statement, warranty deed, deed of trust and promissory note, all dated 5/31/02.

1. Purchase contract, escrow instructions, settlement statements, property management agreement(s), leases, checks, other documents pertinent to the transaction ..... ◯ Yes ◯ No

2. Letters, memos, faxes, emails, checks, invoices, ledgers, accountings, bank statements and other writings to prove your out-of-pocket losses that resulted from the real estate transaction ..... ◯ Yes ◯ No

3. Original civil complaint and the amended version of those documents upon which the civil judgment is based, including answers, third-party complaints and motions for summary judgment ..... ◯ Yes ◯ No

4. Original criminal information, complaint and/or indictment and the amended versions of those documents explaining the basis for the judgment or CRO..... ◯ Yes ◯ No

5. All orders dismissing any party from the civil lawsuit or criminal case, together with the motions, stipulations, minute entries and other court documents upon which the dismissal is based ..... ◯ Yes ◯ No

6. All minute entry orders, statements of decision or other statements by a judge or jury on determination of guilt and/or monetary awards in the criminal or civil case ..... ◯ Yes ◯ No
7. All criminal conviction documents, including plea agreements, sentencing documents, jury or court verdicts, etc. ..... ◯Yes ◯No
8. All CROs and civil judgments entered. (Must be certified copies issued by the court bearing the court's filing stamp and county recorder's office information. If it is an amended judgment, only the last amended version must be certified and recorded ..... ◯Yes ◯ No
9. All notices of appeal, appellate court decisions, court orders on mandate, etc. ..... ◯Yes ◯ No
10. Abstracts of judgment bearing evidence of having been recorded in the county or counties in which the judgment debtor may possibly reside or have assets..... ◯Yes ◯No

Documentation (Continued)

11.Documentation of collection efforts conducted by me or on my behalf, including searches and inquiries with respect to the assets of the judgment debtor(s) liable to be sold or applied to satisfaction of the judgment, an itemized valuation of any assets discovered including a description of the results of my actions to have the assets applied to satisfaction of the judgment (include judgment debtor exams and other examinations under oath, writs of execution, attachment and garnishment, and all returns thereon) ..... ◯Yes ◯No
12. Bankruptcy filings including notice to creditors and orders of discharge or dismissal in any bankruptcy for judgment debtor or any other liable party, together with any orders and their associated applications, motions or stipulations, which relate specifically to the debt owed to me ..... ◯Yes ◯No
13. All settlement agreements, insurance claim awards, tax returns or tax benefit calculations, or other documents concerning tax benefits or payment of a portion of the losses from the transaction..... ◯Yes ◯No
14. Notice of your Application as served on the judgment debtor (Form RF-109) ..... ◯Yes ◯No
15. Proof of service of the Notice and Application to the judgment debtor(s). Forms RF-110, 111 and 112 ◯Yes ◯No
16. Itemized affidavit of attorney's fees and statement of court costs ..... ◯Yes ◯No

LIST ADDITIONAL DOCUMENTATION HERE:

17. _____
18. _____
19. _____
20. _____
21. _____
22. _____
23. _____
24. _____

PART III—APPLICANT'S CONTINUING RESPONSIBILITIES

While this Application is pending, I expressly agree to: **CLAIMANT'S INITIALS**

1. Notify the Recovery Fund Administrator in writing of any information of which he or she becomes aware that any judgment debtor has filed for bankruptcy protection. ☐
2. Notify the Recovery Fund Administrator in writing of any assignment of the judgment to a third party. ☐
3. Notify the Recovery Fund Administrator in writing if I receive or anticipate receiving any amounts from any source in reimbursement or payment of the losses or the judgment, including insurance proceeds and tax benefits either accrued or claimed. ☐
4. Provide all additional information required by this Application as it becomes available. ☐

PART IV—SIGNATURE AND VERIFICATION

1. VERIFICATION BY CLAIMANT *(Claimant must sign this verification even if represented by an attorney.)*

STATE OF _____

} ss

COUNTY OF _____

I am the Claimant in this Application. I declare under penalty of perjury that all parts of the Application are true and correct. I have read the Application and all attachments and know the contents, and I certify that they are true of my own knowledge, except as to those matters that are stated upon my information or belief, and as to those matters I believe them to be true. I further certify that all documents attached to the Application are true and correct copies of the originals, and if such documents purport to be copies of documents filed in court, they are true and correct copies of the originals filed with the court.

Signatures of Claimant(s)

X _____ **X** _____

SUBSCRIBED AND SWORN to before me by _____ on this date: _____

X _____

Notary Public

MY COMMISSION EXPIRES:

2. VERIFICATION BY OFFICER OR MEMBER OF A CORPORATION, PARTNERSHIP OR OTHER ENTITY *(Officer, director, shareholder, managing partner, member, etc.)*

STATE OF _____

} ss.

COUNTY OF _____

I am the _____ of the Claimant in this Application and as such am authorized to make this affidavit on behalf of the Claimant. I have read the Application and all attachments thereto and know the contents thereof, and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, as to which matters I believe them to be true; and I further certify that all documents attached to the Application are true and correct copies of the originals, and if such documents purport to be copies of documents filed in court, they are true and correct copies of the originals filed with the court.

Company Name: _____ Signature:
Title of Person
Signing: _____ X _____

SUBSCRIBED AND SWORN to before me by _____ on this date: _____

X _____ Notary Public

MY COMMISSION EXPIRES:

3. ATTORNEY'S STATEMENT *(Complete only if represented by an attorney in the filing of this Application.)*

I, _____, state that I am the attorney for the claimant(s) herein. I have read, prepared and/or assisted in the preparation of this Application, and believe the information provided to be true. I obtained or have reviewed all documents attached to this Application and believe them to be true and correct copies of the originals, and if such documents purport to be copies of documents filed in court, they are true and correct copies of the originals filed with the court.

NAME OF ATTORNEY'S FIRM: _____

EXECUTED on **_____ Signature:**

at _____, Arizona **X** _____

Attorneys

Name:_____

Address:_____

City, State, Zip:_____

PART V—SUMMARY

Your claim will be reviewed by the Recovery Fund Administrator. For this Application to be treated as substantially complete, you must submit all required documentation with the completed Application, a copy of the Notice to Judgment
Debtor (Form RF-109), and Proof of Service (Forms RF-110, 111 and 112) for each judgment debtor.

- If you supply insufficient information for the Department to determine whether the Application qualifies for payment, the Department will mail an itemized list of deficiencies to you or your attorney within 30 days. A.R.S. § 32-2188.02(A).
- You must cure any deficiencies within 60 days or the Department will close the Application. A.R.S. § 32-2188.02.
- If the Application is complete, the Department will issue a decision within 90 days. A.R.S. § 32-2188.04.