

# Questions

## ? Where does the Recovery Fund money come from?

When a licensed general contractor files for and secures a building permit for the construction or alteration of a single-family dwelling unit, the local building inspection departments in North Carolina charge an additional fee of the applicant/contractor. At the end of each quarterly period, inspection departments send the North Carolina Licensing Board for General Contractors a portion of the fees collected. North Carolina's general statutes require that monies forwarded to the Board and specified as Recovery Fund fees are to be deposited into the Homeowners Recovery Fund, which is administered by the North Carolina Licensing Board for General Contractors. The Board also receives donations to the Recovery Fund from various sources. In addition, the Board may require a contractor to make a monetary donation to the Recovery Fund as part of terms contained in a Consent Order which would settle a disciplinary case.

## ? When will my claim be heard?

Since the facts surrounding each claim are different, it is difficult to state a general time frame for a claim's investigation, review and formal hearing. If the general contractor is still in bankruptcy when the claim is filed, the process is dependent on when the bankruptcy is terminated. Other factors include whether all required documentation or information is included in the claim form at filing or if the civil action has been completed. The Review Committee meets when necessary to consider Recovery Fund claims; the Board normally reserves two or three days each year to schedule and conduct hearings. Claimants should be aware that in most cases obtaining assistance from the Recovery Fund is not a swift process.

## ? Do I need an attorney?

This decision is entirely up to the claimant. Some claimants choose to be represented or assisted by an attorney, but it is not necessary in order to file a claim. If the claimant is represented by an attorney, the Board staff will contact that attorney directly in matters concerning the claim. Attorney fees are not recoverable from the Recovery Fund.

[www.nclbgc.org/recoveryfund](http://www.nclbgc.org/recoveryfund)

North Carolina's Homeowners Recovery Fund is designed to be a last resort for homeowners seeking to recover losses incurred as a result of the actions of dishonest or incompetent general contractors. Claimants must have pursued every other avenue for recovery prior to seeking assistance from the Homeowners Recovery Fund. When considering offers of settlement by or on behalf of the general contractor, claimants should understand that recovery of their entire loss from the Recovery Fund is not guaranteed.



For more information, please visit the Licensing Board for General Contractors website at [www.nclbgc.org/recoveryfund](http://www.nclbgc.org/recoveryfund)



North Carolina Licensing Board For General Contractors  
5400 Creedmoor Road  
Raleigh, NC 27612  
919-571-4183  
[www.nclbgc.org](http://www.nclbgc.org)

## A CONSUMER'S GUIDE TO NORTH CAROLINA'S



*What to know if you have suffered loss  
at the hands of a dishonest contractor*



## AFTER FILING A CLAIM...

After a claim has been received, the staff will open a file on the claim. The claim form, all attachments and materials will be copied and served on the general contractor alleged to be the cause of the reimbursable loss. The general contractor will have 30 days to respond to the allegations contained in the claim.

The staff will conduct an investigation to determine if the claimant has met the requirements for reimbursement set forth in the Homeowners Recovery Fund statutes and rules (§87-15.5 and 21 NCAC 12.0900). Once the investigation and assessment has been completed, staff presents the facts of the claim to the Review Committee where an initial or threshold decision will be made as to whether the claimant has successfully met the requirements for assistance from the Fund. If the Review Committee determines that the claimant meets the requirements, a formal hearing will be scheduled before the Board. The Review Committee will not consider a claim involving the bankruptcy of the general contractor until the bankruptcy proceeding is terminated and final.

At the hearing, the claimant will appear before a panel of Board members and present information concerning their claim. The purpose and focus of this hearing is to determine the actual loss the claimant has incurred as a result of the actions of the general contractor. Only the actual loss will be considered by the Board. Attorney fees, court costs, special damages, or consequential and punitive damages will not be considered for any award. Awards or payments from the Recovery Fund for an approved application shall not exceed an amount equal to 10 percent of the total amount in the Recovery Fund at the time the application is approved by the Board.

In presenting their case to the Board, claimants are to include specific information concerning an accounting of their actual loss. Board members and counsel may ask questions about the claim and the information provided. Following the presentation of the information, the Board makes a determination as to the amount of assistance, if any, it will award for the claim. The Board's decision is final and all awards are a matter of privilege and not of right.

[www.ncibgc.org/recoveryfund](http://www.ncibgc.org/recoveryfund)

## WHO IS ELIGIBLE TO FILE A CLAIM?

- In order to be eligible for assistance from the Recovery Fund, claimants must be the owner or former owner of the single-family dwelling unit in question. The term "owner" or "former owner" includes the person who contracted with a general contractor for the construction or purchase of a single-family dwelling unit.
- Claimants must be able to prove to the Board that he/she has suffered a reimbursable loss which resulted from the dishonest or incompetent conduct of a licensed general contractor, or an unlicensed contractor who fraudulently represented himself or herself as being licensed. The loss must not have been paid in any amount by or on behalf of the general contractor, or be covered by a bond, surety agreement, or an insurance contract.
- Claimants must exhaust all other remedies for recovery prior to being eligible for assistance from the Recovery Fund. Prior to the filing of a claim, the claimant must have sued the general contractor in civil court and obtained a judgment that has not been paid by the general contractor and remains unsatisfied.
- If the contractor filed bankruptcy during construction or during the civil action, the claimant must exhaust all remedies in the bankruptcy proceeding. This includes filing of a Proof of Claim and/or following any procedures necessary to obtain consideration in the bankruptcy proceeding.
- The dishonest or incompetent conduct of a general contractor must have occurred on or after October 1, 1991, the effective date of the Recovery Fund Statutes (Chapter 87, Article 1A). The Recovery Fund only applies to dishonest or incompetent conduct that occurred on or after the effective date.
- The application or claim must be made within one year of the conclusion of all civil proceedings, including appeals in connection with an unsatisfied judgment against the general contractor. Claims based upon the bankruptcy or dissolution of the general contractor shall be forever barred unless application is made to the Recovery Fund within three years from the date of discovery by the applicant of the facts constituting dishonest or incompetent conduct, or within six years of substantial completion of the construction, whichever comes first.
- Any homeowner meeting these requirements may visit [www.ncibgc.org](http://www.ncibgc.org) and print the Homeowners Recovery Fund claim package.

Claimants must complete the application, sign and notarize the claim form, and return the completed package with copies of all requested documents to the Board office. When the claim is received, a file will be opened and the claim process initiated.

Please send the *completed, notarized* claim form and attachments to:

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Raleigh, NC 27612  
919-571-4183

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