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FLORIDA HOMEOWNER'S CONSTRUCTION RECOVERY FUND A HOMEOWNER'S LAST RESORT

By: Will W. Sunter
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Many homeowners in Charlotte County who have built a home or had one repaired have faced the unpleasant reality that not all contractors are honest and trustworthy. Some homeowners have lost thousands of dollars due to contractors' poor workmanship, negligence, or even fraud. A homeowner may then be faced with another harsh reality that when he or she receives a judgment against the contractor, there may be no assets from which to collect. Fortunately, the Florida Legislature has provided a possible vehicle for recovery to these homeowners under Chapter 489, Florida Statutes, entitled the "Florida Homeowner's Construction Recovery Fund" (the "Recovery Fund").

It was the intention of the Legislature in creating this Florida Statute that this fund provide relief to homeowners who received a judgment against a contractor, but could not collect on it due to a lack of assets on the part of the contractor. There are many conditions that need to be satisfied prior to filing an application with the Recovery Fund, but the main conditions are as follows:

- A homeowner must have received a judgment award or restitution order for the actual damages suffered as a consequence of the contractor's violations. The actions of a contractor that qualify for recovery from the fund are the following: contractor mismanagement; contractor misconduct that has caused financial harm to the homeowner; contractor abandonment of a construction project; the contractor has signed a statement that he has bonded the job that has caused harm; or the contractor has made payments to sub-contractors for materials that have resulted in a financial loss for the owner.
- The homeowner has made a diligent attempt to collect the judgment from the contractor, including performing an asset search on the contractor, attempting to levy and execute on the assets of the contractor, or garnish sums due to the contractor.
- Application to the Recovery Fund Board must be made within one year of any judgment, award, or restitution order.



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The maximum amount a homeowner can receive from the Recovery Fund shall be \$50,000. Claims against any one contractor cannot exceed, in the aggregate, \$100,000 annually, and up to a total aggregate of \$250,000. This means that if the contractor has wronged many homeowners, it is in the applicant's best interest to get a judgment and apply as soon as possible, as the amount of funds is limited per contractor.

In those situations where a homeowner has a judgment and no other way to collect against the contractor, the Recovery Fund may be a viable option to satisfy some, if not all, the judgment. If you wish to learn more about the Florida Homeowner's Construction Recovery Fund, it is advisable to consult an attorney to assist you in this process.

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