

COMMONWEALTH OF MASSACHUSETTS
HOME IMPROVEMENT CONTRACTOR PROGRAM
GUARANTY FUND APPLICATION
Page 1 of 8

Section 1: Applicant Information

Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Daytime Phone: _____ Evening Phone: _____

Mailing address, if different from above:

Street Address: _____

City: _____ State: _____ Zip: _____

Section 2: Agent/Attorney Information

If an agent or attorney will represent you in this action, complete this section.

Name of Agent/Attorney: _____

Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone _____

Section 3: Qualification Information

Circle yes or no to each question.

- A. Is there a written contract for the job? yes no
- B. Will this *Guaranty Fund Claim* be filed within 6 months of your obtaining an initial court judgment or arbitration decision found against the registered contractor? yes no
- C. Was the contractor registered with the state as a Home Improvement Contractor on the date the contract was signed? yes no
- D. Was the contract for improvements, repairs, renovations, alterations, or additions to a pre-existing, owner-occupied residence with no more than 4 units? yes no
- E. Is the property or residence located in Massachusetts? yes no
- F. Is the property your primary residence? yes no

If you answered no to any of the above questions, you do not meet the basic qualifications for payment from the Guaranty Fund.

Mail the original, notarized Claim Application together with a copy of supporting documentation listed in Section 8 to: Guaranty Fund Administrator, Office of Consumer Affairs and Business Regulation, 10 Park Plaza, Room 5170, Boston, MA 02116

COMMONWEALTH OF MASSACHUSETTS
HOME IMPROVEMENT CONTRACTOR PROGRAM
GUARANTY FUND APPLICATION
Page 2 of 8

Section 4: Contractor Information

Name of contractor on contract: _____

Name of contractor representative you dealt with: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Phone: _____

Contact the Board of Building Regulations and Standards (617-727-3200 Or 1-800-223-0933) to obtain the following information about the Registrant:

Home Improvement Contractor Registration Number: _ _ _ _ _

Effective Dates of Registration: ___/___/___ to ___/___/___

Address on file with the Board of Building Regulations and Standards (if different from above):

Street Address: _____

City: _____ State: _____ Zip: _____

Section 5: Contract Information

A. Date contract was signed: ___/___/___

B. Total contract amount: \$ _____ C. Amount paid to contractor: \$ _____

D. Address for residence for which contract was obtained:

Street Address: _____

City: _____ State: _____ Zip: _____

Check **all** that apply:

Homeowner's Primary Residence Single Family Multi-Family: Number of Units _____

E. Building Permit: Please circle whether you or the contractor secured the building permit for the contracted work in dispute. If a building permit was not required or issued, circle not applicable:

Homeowner Secured Permit OR Contractor Secured Permit OR Not Applicable

You must attach a copy of the building permit application or a letter from the building inspector verifying that none was issued.

Did the contract contain a notice that homeowners who secure their own building permits will be excluded from the Guaranty Fund?

Yes OR No

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COMMONWEALTH OF MASSACHUSETTS
HOME IMPROVEMENT CONTRACTOR PROGRAM
GUARANTY FUND APPLICATION
Page 3 of 8

Section 6: Judgment/Award Information

A. Nature of claim against the contractor (check all that apply)

- work was not begun after contract was signed
- work was not completed
- work was performed in poor or unworkmanlike manner
- other: _____

You must attach a written explanation of your complaint against the contractor. If you filed for state-approved arbitration, the description you submitted with your application satisfies this requirement.

B. Source of award: (check one) Court proceeding Arbitration hearing

C. Date of decision in your favor: _____/_____/_____

Did you win by default, after a hearing, or by agreement?

- By default After a hearing By agreement

D. Amount of award: \$ _____

Do not include attorney's fees, multiple or punitive damages, court costs or arbitration fees.

E. How much has been paid to you by the contractor since the date of the decision? \$ _____

F. Payments from the Guaranty Fund may only be made if reasonable legal efforts to collect the court judgment or arbitration award have been met. Indicate the reasonable legal efforts you have taken to collect payment from the contractor:

- Collection efforts have not yet been met; supplemental materials will be filed at a later date.
- Served a Writ of Execution for a monetary court judgment upon the contractor by a constable or sheriff at the contractor's last known business address.
- Contractor filed for bankruptcy protection **after** court judgment or arbitration decision was issued.
- Contractor filed for bankruptcy protection, the bankruptcy court issued Relief from the Automatic Stay, and a court judgment or arbitration decision was found against the contractor.
- Service of a court order or arbitration decision was attempted at all known or suspected addresses of the contractor by a constable or agent of the state, and the contractor was found to have fled the jurisdiction.
- Claim was properly made in small claims court, a Notice to Show Cause was served upon the contractor by a constable or sheriff at the contractor's last known business address, and the contractor has failed to pay the claim and failed to defend the claim.

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COMMONWEALTH OF MASSACHUSETTS
HOME IMPROVEMENT CONTRACTOR PROGRAM
GUARANTY FUND APPLICATION
Page 4 of 8

Section 7: Actual Loss

A homeowner's actual loss may be less than the monetary award issued by an arbitrator or court. The Guaranty Fund Administrator will calculate your actual loss based upon the formulas outlined in the Guaranty Fund regulations. (201 CMR 14.14) Actual loss is based on the contract price, the amount you paid the contractor, the value of the work and materials you received, and the cost to correct work improperly done by the contractor. To make this calculation, the Guaranty Fund Administrator requires the itemization of these values. Please itemize the following values. If you submitted a similar itemization in your application for state-approved arbitration, you may submit a copy of that section. You also must submit documentation that verifies these values.

Amount of actual loss you are requesting from the Guaranty Fund, up to \$10,000: \$ _____

B. List the work that requires completion as well as the work that must be repaired. Circle whether the item is defective or incomplete. For each defective or incomplete item, list an estimated dollar value of how much it will cost to repair or complete that item. If an **extraordinary** circumstance prevents you from listing a dollar value for each item, submit a total estimate for the items.

Check here if you are submitting this itemization from your *Request for Arbitration*.

List of Defective or Incomplete Items	Estimated Dollar Value
Defective/Incomplete _____	\$ _____
Total Estimate	\$ _____

C. List any additional expenses that you are claiming that were not included in the above list.

Description of expense	Dollar Value of Expense
_____	\$ _____
_____	\$ _____
_____	\$ _____

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Section 8: Subrogation Agreement

Please read and then sign below:

In order for the Home Improvement Contractor Guaranty Fund to pay a claim, you must agree to the following terms, which govern your right to *receive* and *retain* fund payments:

- Once payment is made from the Home Improvement Guaranty Fund, the Fund Administrator (Office of Consumer Affairs and Business Regulation) gains the right to pursue the contractor for the amount of the payment and you give up that right. (If your claim against the contractor exceeds the amount you receive from the Fund, you may still pursue the contractor for the excess amount.)
- If you receive payment for this claim from another source, you are required to repay the Fund.
- The Fund has the right of reimbursement, with interest, of any money paid on the account of the registered contractor or subcontractor found by the Fund Administrator to be responsible for this claim.
- The Fund is deemed a creditor with respect to any amount paid from the Fund for the purpose of excepting to any discharge of the registered contractor or subcontractor under federal bankruptcy law. By signing this agreement, you assign your rights against the contractor in bankruptcy court to the Fund, up to the amount you receive from the Fund, plus any interest that accrues after you receive your payment from the Fund.
- You agree to comply with requests from the Fund Administrator related to the recovery of the amounts paid from the Fund. This may involve participation in disciplinary actions or proceedings taken against the contractor in the effort to revoke or suspend his/her registration, or obtain reimbursement of payments from the Fund.

I agree to the above terms of payment:

Name: _____

Signature: _____

Date: _____

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COMMONWEALTH OF MASSACHUSETTS
HOME IMPROVEMENT CONTRACTOR PROGRAM
GUARANTY FUND APPLICATION
Page 7 of 8

Section 9: Checklist

YOU ARE REQUIRED TO SUBMIT THE ITEMS LISTED BELOW.

Indicate that each item is included by checking the appropriate boxes.

- 1. Completed, notarized Guaranty Fund Claim Application.
- 2. Copy of Contract
- 3. Copy of original claim filed with court or application for arbitration.
- 4. Copy of court judgment or arbitration award.
- 5. Documentation of Attempts to Collect the Judgment. or Arbitration Award
 - Evidence from U.S. Bankruptcy Court Contractor filed for bankruptcy protection **after** court judgment or arbitration decision was issued, and evidence that you have filed a proof of claim form.
 - Evidence that the contractor filed for bankruptcy protection, the bankruptcy court issued a Relief from the Automatic Stay, and a court judgment or arbitration decision was found against the contractor.
 - Evidence that contractor has filed jurisdiction attached.
 - Copy of court order enforcing judgment or award attached:
 - Writ of Execution on the money judgment served upon the contractor by sheriff or constable.
 - Notice to Show Cause was served upon the contractor by a constable or sheriff at the contractor's last known business address, and the contractor has failed to pay the claim and failed to defend the claim.
 - Other _____
- 6. Written explanation of your complaint against the contractor (If you filed for arbitration, the description you submitted with your application satisfies this requirement.)
- 7. Building Permit - Attach a copy of the building permit application or a letter from the building inspector verifying that none was issued.
- 8. Verification of Actual Loss
 - a. proof of payment
 - canceled checks
 - signed receipts from contractor
 - b. estimate of cost to complete and/or repair work completed attached

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Section 10: Notarized Affidavit

ATTENTION: DO NOT SIGN THIS AFFIDAVIT UNTIL YOU ARE IN THE PRESENCE OF A NOTARY PUBLIC WITH AN ACTIVE COMMISSION.

- I hereby acknowledge that with the submission of this application for relief from the Home Improvement Guaranty Fund, I have fully complied with all provisions of the Home Improvement Contractor Law (MGL c.142A) and regulations promulgated pursuant thereto (201 CMR 14.00) to the best of my knowledge.
- I attest that I am the rightful owner of, or an authorized tenant residing in the building for which a judgment for relief under MGL c.142A has been issued.
- I also attest that I did not secure any building permits for the contracted work.
- I also attest that the amount, which I have applied for correctly, reflects only the “actual losses” that I sustained, as defined in the referenced regulations.
- I agree to assign to the fund administrator all right, title and interest in the claim up to the amount paid to me by the fund.
- I certify that all statements made in connection with this application are true to the best of my knowledge.
- I agree to comply with the requests of the Fund Administrator related to my claim in a timely manner.
- I am aware that this application must be received by the Guaranty Fund Administrator no later than six months after the date of the initial arbitration or court order which awarded me relief under MGL c. 142A.
- Signed under pains and penalties of perjury in the presence of a notary public,

Applicant’s signature: _____ Date: ____/____/____

Applicant’s name printed: _____

Notary Public use only:

COMMONWEALTH OF MASSACHUSETTS

Then personally appeared before me the aforementioned named applicant

and acknowledged the foregoing instrument to be complete and his/her free act and deed, before me,

Notary Public Signature: _____

Notary Public Name Printed: _____

Commission Expiration Date: _____

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