

**STATE OF UTAH
DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING**

APPLICATION FOR PAYMENT

**RESIDENCE LIEN RECOVERY FUND
LABORER**

APPLICATION INSTRUCTIONS AND INFORMATION

General Statement: This application is for use by laborers seeking payment for unpaid wages. This application is NOT for use by licensed contractors, contractors exempt from licensure, suppliers, or other qualified professional service entities.

The Utah Division of Occupational and Professional Licensing (DOPL) desires to provide courteous and timely service to all applicants for registration. To facilitate the application process, **submit a complete application form, including all applicable supporting documents and fees.** The fees are for processing your application and will not be refunded nor reimbursed. Failure to complete the application and supply all necessary information will delay processing and may result in denial of the claim. Please read all instructions carefully. DOPL cannot and will not act as an agent for the applicant to gather the documents necessary to complete the application.

GENERAL INSTRUCTIONS, SUPPORTING DOCUMENTS, AND FEES:

1. Submit a complete Application for Payment. Do not leave any questions blank. If a question does not apply, please indicate such with "N/A."
2. Submit evidence that the residence at issue is owner-occupied, as shown by **one** of the following:
 - **A complete Owner-Occupied Residence Affidavit** (*pages 11 and 12 of this packet*). An affidavit from the owner must establish that the owner of the residence is an owner as defined in Utah Code Ann. § 38-11-102(17) and that the residence is an owner-occupied residence as defined by Utah Code Ann. § 38-11-102(18).
 - **A copy of a civil judgment** finding that the owner of the residence is an owner as defined in Utah Code Ann. § 38-11-102(17) and that the residence is an owner-occupied residence as defined by Utah Code Ann. § 38-11-102(18).

- **Documentation that the claimant has been prevented from obtaining from the owner**, the affidavit described above along with credible evidence establishing that the owner is an owner as defined by Utah Code Ann. § 38-11-102(17), and that the residence is an owner-occupied residence as defined by Utah Code Ann. § 38-11-102(18).
3. Submit evidence that the claimant has attempted to collect for unpaid wages, as shown by **one** of the following:
- **A copy of a wage claim assignment filed with the Employment Standards Bureau of the Antidiscrimination & Labor Division of the Labor Commission of Utah.** Please include copies of all supporting documentation originally submitted with the claim assignment.
 - **A copy of a civil action filed by the claimant against the claimant's employer to recover the wages owed.**
4. Submit evidence that demonstrates: 1) the claimant was an employee, 2) the claimant is entitled to wages which have not been paid by the employer, and 3) the amount of the of wages actually due to the claimant. Evidence must include **one or more** of the following:
- **A copy of the final administrative order for payment issued by the Employment Standards Bureau of the Antidiscrimination & Labor Division of the Labor Commission of Utah.** The order must contain a finding that the claimant is an employee and that the claimant has not been paid wages due for work performed at the site of construction on an owner-occupied residence.
 - **A copy of a civil judgment entered in favor of the claimant against the employer.** The judgment must include a finding that the employer failed to pay the claimant wages due for work performed at the site of construction on an owner-occupied residence.
5. Submit evidence that you have served this application on the nonpaying party and the homeowner by completing **all** of the following:
- Complete the attached Certificate of Service (page # 13 of this packet).
 - Attach a copy of the Certificate of Service to a copy of this completed claim application and send both by certified mail, return receipt requested, to the nonpaying party.
 - Attach the original Certificate of Service to this original application.

6. If the claimant is requesting **reimbursement for attorney's fees**, the judgment must award a sum-certain amount for attorney's fees. If the nonpaying party's bankruptcy prevented the claimant from obtaining a judgment, the claimant may recover attorney fees only if the claimant can prove its contract with the nonpaying party allowed for collection of attorney fees and if the claimant's attorney submits documentation meeting the provisions of Rule 4-505 of the Utah Code of Judicial Administration.
7. If the claimant is **requesting reimbursement for costs**, submit documentation setting forth the amount and nature of the costs. Note that costs are limited to the amounts awarded in judgment plus those post-judgment costs that would be awardable in district court. If the claimant has not obtained judgment against the nonpaying party, costs are limited to those costs awardable in district court.
8. If applicable, submit a copy of the claimant's **proof of claim** filed with the bankruptcy court as part of the nonpaying party's bankruptcy action.
9. Submit a \$15.00 non-refundable, application-processing fee, payable to "DOPL-LRF."

ADDITIONAL IMPORTANT INFORMATION:

1. The completed application must be filed with DOPL **within one year of the date the claimant completed his/her qualified services on the owner-occupied residence.** If the application is not received within that time, DOPL has no jurisdiction to consider the claim.
2. **Laws and Rules:** You are required to understand all Utah laws and rules pertaining to your membership in the Residence Lien Recovery Fund:
 - Utah Residence Lien Restriction and Lien Recovery Fund Act (*Title 38, Chapter 11 Utah Code Annotated*)
 - Residence Lien Restriction and Lien Recovery Fund Rules (*R156-38a Utah Administrative Code*)

Copies of these laws and rules may be obtained on DOPL's website: www.dopl.utah.gov

You may also purchase them for a fee from DOPL at (801) 530-6104.

3. **Current Documents:** Applications, statutes, rules and forms are occasionally changed. Go to www.dopl.utah.gov to ensure you have the most recent version of these documents.

4. **Definitions:**

Laborer means a person who provides services at the site of the construction on an owner-occupied residence as an employee of an original contractor or other qualified beneficiary performing qualified services on the residence [Utah Code Ann. § 38-11-102(13)]

Owner means a person who contracts with a contractor who is licensed or exempt from licensure under the Utah Construction Trades Licensing Act for construction on a single family or duplex residence, or with a real estate developer for the purchase of a single family or duplex residence. [Utah Code Ann. § 38-11-102(17)] Further, an “owner” is not a person or developer who builds residences which are offered for sale to the public. [Utah Admin. Code R156-38a-102(8)]

Owner-Occupied Residence means an improvement to real property used or occupied, to be used or occupied as, or in conjunction with, a primary or secondary detached single family dwelling or multifamily dwelling up to two units, including factory built housing that is, or after completion of construction, will be occupied within 180 days as a primary or secondary residence by the owner, or his tenant or lessee. [Utah Code Ann. § 38-11-102(18) & (22)]

Qualified Services include any of the following: contractor services; architectural services; engineering services; land surveying services; landscape architectural services; design and specification services of mechanical and other systems; other services relating to the design, drawing, surveying, specification, cost estimation, or other professional services; providing materials, supplies, components or similar products; renting equipment or materials; and providing labor at the site of construction. [Utah Code Ann. § 38-11-102(20)(a)]

Subsequent Owner means a person who purchases a residence from an owner within 180 days from the date of the completion of the construction on the residence. [Utah Code Ann. § 38-11-102(23)]

5. **Limitation on Claim Amount:** Payments from the Fund may not exceed \$75,000 per residence for all claims of all qualified beneficiaries and laborers for that residence. If the total claims on any given residence exceed \$75,000, claims on that residence will be paid on a pro-rata basis.
6. **Separate Claims:** Separate claims must be filed for *each* residence.
7. **Fees:** There are two fees associated with a laborer claim. The fees are as follows:
 - **Claim Application Fee:** The claimant must pay a \$15.00 non-refundable claim application-processing fee at the time the application is submitted. This fee is non-refundable because it helps cover the cost of processing the application.

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APPLICATION FOR PAYMENT

GENERAL INFORMATION:

Claimant

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: (____) _____ Social Security Number: _____ - _____ - _____

Nonpaying Employer

Company Name: _____

Supervisor's Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: (____) _____ Contractor License Number: _____

Claimant's Position: _____

Homeowner

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: (____) _____

Subsequent Homeowner

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: (____) _____

Owner-Occupied Residence

Address: _____

City: _____ State: _____ Zip: _____

RESIDENCE AND QUALIFIED SERVICES:

Residence is a (*select one*):

- Detached, single-family dwelling
- Duplex residence
- Other, describe: _____

Amount nonpaying employer owes claimant for work on this residence: \$ _____
(total amount of wages owed before deductions)

Dates claimant worked on this residence: from ____/____/____ to ____/____/____

Please describe the type of work the claimant performed: _____

Date construction on residence was completed by original contractor: ____ / ____ / ____

Date owner(s) began occupying residence: ____ / ____ / ____

Is the owner or owner's tenant or lessee occupying the residence as a primary or secondary residence?

Yes No, explain: _____

Did the owner purchase the residence from a previous owner within 180 days from the date construction was completed?

No Yes, explain: _____

RESIDENCE LIEN RECOVERY FUND QUALIFYING QUESTIONNAIRE

Please complete the following question:

Yes No

 Has the claimant ever applied for or become a member of the Residence Lien Recovery Fund under the name listed on this application or under any other name?

If you answered "yes" to the above questions, please provide a written explanation. The explanation must specify why the question was answered "yes" and the current status of the situation that led to a "yes" answer.

A "yes" answer does not necessarily mean the application will be denied. However, DOPL may request additional documentation if the information submitted is insufficient.

AFFIDAVIT, CERTIFICATION and RELEASE AUTHORIZATION

I am authorized to sign this affidavit for the claimant described and identified in this Residence Lien Recovery Fund claim application.

To the best of my knowledge, the information contained in this application and the supporting documents are free from fraud, misrepresentation, or omission of material fact.

I will ensure that any information subsequently submitted to the Division of Occupational and Professional Licensing in conjunction with this claim, this application, and/or its supporting documents will meet the same standard set forth above.

I understand that claimants who report false information, withhold information, or present false or misleading documentation pertinent to a claim in order to receive payment from the Lien Recovery Fund to which they are not entitled will be disqualified from receiving payment and may be subject to both criminal prosecution and civil penalties.

I understand that this application will be classified as a public record and will be available for inspection by the public, except with regard to the release of information which is classified as controlled, private, or protected under the Government Records Access and Management Act or restricted by other law.

I certify that the claimant is not entitled to reimbursement from any other person for this claim as of the date of this affidavit. Should the claimant become entitled to reimbursement from any other person for this claim after this date, the claimant will immediately notify the Division of Occupational and Professional Licensing.

I hereby authorize all persons, institutions, governmental agencies, employers, or any others not specifically included in the preceding characterization, which are set forth directly or by reference in this application, to release to the Division of Occupational and Professional Licensing, State of Utah or the Residence Lien Recovery Fund Advisory Board, any files, records or information of any type reasonably required for DOPL or the Board to properly evaluate my claim.

Signature of Applicant: _____

Date of Signature: ____/____/____

Printed Name of Applicant: _____

OWNER-OCCUPIED RESIDENCE AFFIDAVIT

Claimant's Name and Address: _____

If you are the owner of the indicated residence, please complete this affidavit as appropriate, sign and notarize it, and return it to the claimant. If you are not the owner of the residence, do not complete the affidavit, but return it to claimant.

I, _____ being first duly sworn, declare under penalty of perjury as follows:

I am the owner of a detached single family residence, duplex other type of residence located at (*check the appropriate box*):

Street Address City State Zip

Construction on this residence was or will be completed on: ____ / ____ / ____ (*date*).

I am will be am not will not be occupying this property as my primary or secondary residence (*check the appropriate box*).

I began or will begin occupying this property as a primary or secondary residence on: ____ / ____ / ____ (*date*).

I am am not renting or leasing this property as a primary or secondary residence to:

Renter's or Lessee's Name Street Address City State Zip

My tenant or lessee began or will begin occupying this property on ____ / ____ / ____.

Signature of Affiant (*sign here*) Date ____ / ____ / ____

Subscribed and sworn to before me this _____ day of _____, _____

Signature of Notary Public

(SEAL)



State of Utah
Department of Commerce
Division of Occupational and Professional Licensing

JON M. HUNTSMAN, JR.
Governor

RUSSELL C. SKOUSEN
Executive Director

J. CRAIG JACKSON
Division Director

Dear Resident:

The State of Utah has enacted the Residence Lien Restriction and Lien Recovery Fund Act— Title 38, Chapter 11 of the Utah Code. The Act has two primary purposes: (1) the Act provides qualifying homeowners with protection against mechanics' liens and (2) the Act creates a fund of last resort, the Residence Lien Recovery Fund, to pay contractors and suppliers ("*claimants*") who are prevented by the Act from recovering through the mechanics lien process.

To recover from the Fund, a claimant must establish that the residence for which services or materials were provided is an "owner-occupied residence." The Act defines an "owner" as a person who contracts with a contractor for construction on or purchase of a single-family or duplex residence. Such a residence become "owner-occupied" if the owner, the owner's tenant, or the owner's lessee occupies the residence as a primary or secondary residence within 180 days from the date construction is or will be completed.

A claimant is providing you with the attached Affidavit because you appear to be the owner of a property for which the claimant has provided goods and/or services. The claimant is required to obtain this Affidavit as part of making a claim for payment from the Lien Recovery Fund.

If you are the owner of the property, please review and complete the Affidavit found on the opposite side of this letter. Please have the Affidavit notarized and return it to the claimant within 30 days of receiving it. Please complete all blanks and provided all information requested on the Affidavit. If you are not the owner of the property, please immediately return the uncompleted Affidavit to the claimant.

Completing and signing the Affidavit **will not** subject you to liens or obligate you to pay the claimant but may eliminate the need for you to be subpoenaed as a witness at a deposition or hearing regarding this claim.

Thank you for taking the time to complete, sign, and return the Affidavit.

Respectfully yours,

Rich Oborn
Lien Recovery Fund Program Manager
Phone: (801) 530-7632

Claimant's Name

Claimant's Address

Claimant's City, State, & Zip

Claimant's Telephone Number

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
DEPARTMENT OF COMMERCE, STATE OF UTAH

CERTIFICATE OF SERVICE

Claimant's Name

Claimant,

v.

Nonpaying Party/Defendant in Civil Actions' Name

Permissive Party

I hereby certify that on the _____ day of _____, I served
(date) (month) (year)
a QUALIFIED BENEFICIARY CLAIM APPLICATION for _____'s
(claimant's name)
claim for qualified services provided for _____ on property
(nonpaying party's name)
owned by _____, along with this
(property owner's name)
CERTIFICATE OF SERVICE, on the following by depositing a copy in the U.S. mail, return receipt
requested, postage pre-paid, addressed to:

(nonpaying party's name)

(nonpaying party's address, city, state, & zip)

(property owner's name)

(property owner's address, city, state, & zip)

Certified mail return receipt numbers: _____
(number for nonpaying party)

(number for property owner)

DATED this _____ day of _____,
(date) (month) (year)

Signature