

§ 93A-21. Limitations; pro rata distribution; attorney fees.

(a) Payments from the Real Estate Education and Recovery Fund shall be subject to the following limitations:

- (1) The right to recovery under this Article shall be forever barred unless application is made within one year after termination of all proceedings including appeals, in connection with the judgment.
- (2) The fund shall not be liable for more than fifty thousand dollars (\$50,000) per transaction regardless of the number of persons aggrieved or parcels of real estate involved in such transaction.
- (3) Payment from the fund shall not exceed in the aggregate twenty-five thousand dollars (\$25,000) for any one licensee within a single calendar year, and in no event shall it exceed in the aggregate seventy-five thousand dollars (\$75,000) for any one licensee.
- (4) The fund shall not be liable for payment of any judgment awards of consequential damages, multiple or punitive damages, civil penalties, incidental damages, special damages, interest, costs of court or action or other similar awards.

(b) If the maximum liability of the fund is insufficient to pay in full the valid claims of all aggrieved persons whose claims relate to the same transaction or to the same licensee, the amount for which the fund is liable shall be distributed among the claimants in a ratio that their respective claims bear to the total of such valid claims or in such manner as the Commission, in its discretion, deems equitable. Upon petition of counsel for the Commission, the Commission may require all claimants and prospective claimants to be joined in one proceeding to the end that the respective rights of all such claimants to the Real Estate Education and Recovery Fund may be equitably resolved. A person who files an application for payment after the maximum liability of the fund for the licensee or transaction has been exhausted shall not be entitled to payment and may not seek judicial review of the Commission's award of payment to any party except upon a showing that the Commission abused its discretion.

(c) In the event an aggrieved person is entitled to payment from the fund in an amount which is equal to or less than the maximum amount of money which may be awarded in small claims court under G.S. 7A-210, the Commission may allow such person to recover from the fund reasonable attorney's fees incurred in effecting such recovery. Reimbursement for attorney's fees shall be limited to those fees incurred in effecting recovery from the fund and shall not include any fee incurred in obtaining judgment against the licensee. (1979, c. 614, s. 1; 1983, c. 81, ss. 2, 15; 1987, c. 516, ss. 10-13; 1999-229, s. 11; 2011-217, s. 14.)