

PROPOSED CHANGES TO TITLE 10, CHAPTER 6  
IMPLEMENTATION OF SB 887 – SECTIONS 3100, 3100.1 AND 3101

§ 3100. Definitions.

As used in this Article, the following definitions will apply:

(a) "Recovery Account" means the separate account in the Real Estate Fund established pursuant to Section 10450.6 of the Code for purposes of carrying out the provisions of Chapter 6.5 of the Real Estate Law.

(b) "Application" means an application for payment from the Recovery Account filed with the ~~Bureau~~ Department pursuant to Section 10471(a) of the Code.

(c) "Party" means either the claimant, the judgment debtor, or the ~~Bureau~~ Department.

(d) "Claimant" means an aggrieved person who filed an application pursuant to Section 10471(a) of the Code.

(e) "Person" includes corporation, partnership, company or firm.

(f) "Final Judgment" means a judgment, arbitration award, or criminal restitution order for which the period for appeal has expired, enforcement of which is not barred by the order of any court or by any statutory provision, and which has not been nullified or rendered void by any court order or statutory provision.

(g) "Court of Competent Jurisdiction" means a small claims, municipal or superior court of the State of California, or a United States district court or United States bankruptcy court sitting to conduct its affairs within the boundaries of the State of California.

(h) "County in Which a Judgment Was Rendered" means the county within California in which the court issuing the judgment or restitution order sits or, if the claim is based on an arbitration award, the county in which the arbitration was conducted, or in which the claimant resides.

(i) Where appropriate to the context the singular number includes the plural and the plural number includes the singular.

(j) "Electronic Filer" means a claimant or claimant's attorney who electronically uploads or transmits to the Department an application or document in electronic form at or through the Department's website.

(k) "Electronic Signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record, as defined by Civil Code Section 1633.2 subdivision (h). For purposes of this title, a "digital signature" is a type of electronic signature as defined in subdivision (d) of Section 16.5 of the Government Code and is 1) unique to the person using it, 2)

capable of verification, 3) under the sole control of the person using it, and 4) is linked to data in such a manner that if the data is changed, the digital signature is invalidated. The use of an electronic signature or a digital signature shall have the same force or effect as a wet-ink signature.

(l) "Electronic Submission" means the upload or transmission of an application or document by electronic means at or through the Department's website.

NOTE: Authority cited: Section 10080, Business and Professions Code. Reference: Sections 10450.6, 10470, 10470.1, 10471, 10471.1, 10471.2, 10471.3, 10471.4, 10471.5, 10471.6, 10472, 10472.1, 10473, 10473.1, 10474, 10474.5, 10475, 10476, 10477, 10478, 10479, 10480 and 10481, Business and Professions Code. Section 1633.2 subd. (h), Civil Code. Section 16.5 of the Government Code, subd. (a) and (d).

#### § 3100.1. Electronic Submission of Application

(a) For all applications and documents submitted electronically to the Department, claimant or claimant's attorney must submit the application and supporting documentation as a single, noneditable but printable PDF (portable document format). Total file size cannot exceed 100 megabytes (MB).

(b) Any electronically submitted application received by the Department shall be considered filed on the date received by the Department.

NOTE: Authority cited: Section 10080, Business and Professions Code. Reference: Section 10471, 10471.1, Business and Professions Code.

#### § 3101. Application for Payment from Recovery Account.

(a) An application for payment from the Recovery Account shall be made on a form prescribed by the ~~Bureau~~ Department, shall contain the items specified by Section 10471(c) of the Code, and shall contain all of the information specified in Section 3102, except as provided in subdivision (b) of this section. The application shall be verified by the claimant in the manner specified in Section 446 of the Code of Civil Procedure for the verification of a pleading. If executed outside of California, the information in the application and accompanying documents shall be verified before a person qualified to administer oaths within the jurisdiction where executed or certified under penalty of perjury in accordance with the provisions of subdivision (b) of Section 2015.5 of the Code of Civil Procedure.

(b) The application is deemed verified by claimant if electronically submitted to the Department, provided that one of the following conditions is satisfied:

(1) When claimant is the electronic filer, claimant has signed the application using an electronic signature and declares under penalty of perjury under the laws of the state of California that the information submitted is true and correct.

(2) When claimant's attorney is the electronic filer, claimant has signed the application using a digital signature.

(3) A wet-ink signature on the printed application prior to electronically submitting application to the Department. By electronically submitting the application, claimant or claimant's attorney certifies that the original signed application is available for inspection and will be mailed to the Department, upon the Department's written request.

~~(b)~~(c) The claimant may submit with the application less than all of the information defined by Section 3102 of these regulations as constituting a substantially complete application if the claimant believes that the information submitted with the application is sufficient for the Bureau Department to determine whether the application qualifies under Sections 10470 through 10481 of the Code for payment from the Recovery Account. However, an application will not be deemed substantially complete within the meaning of Section 3102 of these regulations unless:

(1) The Bureau Department determines that what has been submitted is sufficient for it to make a determination whether the application qualifies for payment from the Recovery Account and so notifies the claimant as provided in Section 3105 of these regulations; or

(2) The application and supporting information meet all of the requirements specified in Section 3102 of these regulations.

~~(c)~~(d) If any documents or other attachments are submitted with the application, the application shall contain a verification by the claimant that the documents are true and correct copies of the originals, and if such documents purport to be copies of documents filed in court that they are true and correct copies of the originals filed with the court.

~~(d)~~(e) The application shall contain the name and address of the claimant, and if the claimant is not being represented by an attorney in the filing of the application, a telephone number where the claimant can be reached during regular business hours. If the claimant is represented by an attorney in filing of the application, the application shall contain the name, business address, and telephone number of the attorney.

NOTE: Authority cited: Section 10080, Business and Professions Code. Reference: Sections 10471 and 10471.2, Business and Professions Code.