

ATTORNEY DISASTER TOOLKIT

Thank you for assisting Floridians affected by disasters. This toolkit is designed to give you an overview of the common legal problems experienced by disaster survivors. Please note that by clicking on a question in the Table of Contents you will be directed to that question and its answer in the document. If you have additional questions or need more assistance, please feel free to contact Legal Services of North Florida by telephone at 850-701-9007 and ask for Kathy Grunewald. You can also contact Kathy Grunewald by email at kgrunewald@lsnf.org.

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DISASTER DECLARATIONS

What is a disaster?

A disaster is “any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States. Disasters shall be identified by the severity of resulting damage, as follows: (a) ‘catastrophic disaster’ means a disaster that will require massive state and federal assistance, including immediate military involvement[;] (b) ‘major disaster’ means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance[;] (c) ‘minor disaster’ means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance.” [Fla. Stat. § 252.34 \(2019\)](#). “Emergency” means “any occurrence, or threat thereof, whether natural, technological, or manmade, [...] which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.” *Id.* .

How does Government respond when a disaster occurs?

In Florida, the director of a county’s emergency management agency has authority to declare a “state of local emergency” pursuant to [§ 252.38\(3\)\(a\)\(5\), Fla. Stat.](#) The county’s emergency management agency will investigate the situation, conduct damage assessments, and determine what resources the county has available to handle the situation. (This does not happen in individual disasters such as a house or apartment fire). If the county determines that it does not have enough resources, it will request state assistance. If the Governor finds that an event of emergency is beyond local control, the Governor may declare a state of emergency through executive order or proclamation. [Fla. Stat. § 252.36\(a\)\(a\) \(2019\)](#). The Governor will then determine if the state has sufficient resources to handle the situation. If the Governor determines that the state does not have enough resources, the Governor will ask the President to authorize federal resources to assist. If the President approves the request, the President will issue a presidentially declared federal disaster for that county. [44 C.F.R. § 206.35 \(2019\)](#).

Do all Presidentially Declared Federal Disaster Declarations mean that there is government assistance available for individuals affected by the disaster?

No. Individual assistance is only available if the President activates the Federal Emergency Management Agency's (FEMA) Individuals and Households Program (IHP). The President may activate assistance that is only available to states, counties, or cities to repair public works. This assistance is called Public Assistance. 44 C.F.R. §§ [206.62-63](#) and [42 U.S.C. § 5174 \(2018\)](#).

Many people believe when Public Assistance is activated that help is available for the general public, i.e. individual members of the public. This is not true. Public Assistance is only available to public entities, not the individuals who make up the general public.

FEDERAL DECLARED DISASTER DECLARATIONS WITH INDIVIDUAL ASSISTANCE

What is a Presidentially Declared Federal Disaster Declaration?

There are two types of federal disaster declarations:

1. Emergency Declarations: Federal help goes to state and local emergency services. No FEMA benefits go to individuals. [44 C.F.R. § 206.35](#).
2. Major Disaster Declaration:
 - a. Individual Assistance: This is assistance available to individuals and households affected by the disaster. FEMA and most disaster responders refer to this as an “IA or IHP Declaration.” [44 C.F.R. §§ 206.101-130](#); and [§§ 206.141-199](#).
 - b. Public Assistance: This assistance is available to state, tribal, and local governments and certain private nonprofit organizations for emergency work and the repair or replacement of disaster-damaged facilities. No individual assistance is available. [44 C.F.R. §§ 206.200-249](#).
 - c. Hazard Mitigation: This assistance is available to state, tribal, and local governments and certain private nonprofit organizations for actions taken to prevent or reduce long-term risk to life and property from natural hazards. No individual assistance is available. [44 C.F.R. §§ 206.430-440](#).

A presidentially declared federal disaster declaration activates FEMA.

What are some of the FEMA Benefits available for individuals and households affected by the disaster?

1. Individuals and Households Program: (see p.4 for a brief description of these)
 - a. Temporary Housing Assistance - [44 C.F.R. § 206.110](#); [§ 206.117\(b\)\(1\)](#).
 - b. Repair Assistance - [44 C.F.R. § 206.117\(b\)\(2\)](#).
 - c. Replacement Assistance - [44 C.F.R. § 206.117\(b\)\(3\)](#).
 - d. Other Needs and Assistance - [44 C.F.R. § 206.119](#).
2. Disaster Unemployment Assistance - [44 C.F.R. § 206.141](#).
3. Disaster Supplemental Nutrition Assistance Program (Disaster Food Stamps) - [44 C.F.R. § 206.151](#); [7 C.F.R. § 280.1](#).

4. Small Business Administration (SBA) Disaster Loan Program - [13 C.F.R. § 123](#).

What are the eligibility requirements for FEMA’s individuals and households program?

In order to be eligible for FEMA benefits, the applicant or a member of the household must be a US citizen, a non-citizen national, or a qualified alien¹. If the adults are undocumented, but a household child is a U.S. citizen, a non-citizen national, or a qualified alien, an application can be made in the child’s name.

The damaged property must be the applicant’s permanent residence or the place where the applicant resides for the majority of the year. [44 C.F.R. § 206.113](#).

It is important to remember that FEMA only covers expenses not covered by insurance. FEMA does not provide for a “duplication of benefits.” [44 C.F.R. § 206.110\(b\) & \(h\)](#). Applicants will need to file a claim with their insurance companies and will need to show FEMA if they were denied insurance coverage. [44 C.F.R. § 206.110\(h\)](#). Because of the need for immediate assistance after a disaster, it is common for FEMA to award benefits while the applicant’s insurance claim is pending. In this scenario, the applicant will need to repay FEMA for any FEMA benefits that they received which were later covered by insurance. [44 C.F.R. § 206.116](#).

Only one application will be allowed per household. FEMA considers everyone residing together at the time of the disaster as one household. [44 C.F.R. §111](#). For example, two roommates shared an apartment at the time of the disaster. The roommate who first applies will be treated by FEMA as the applicant and the second roommate will be treated as a household member. Only one FEMA application will be accepted and only one award of assistance. It will be up to the roommates to share and allocate the money between the two. FEMA expects a pre-disaster household to remain the same household composition after a disaster. [44 C.F.R. §](#)

¹ Per [8 U.S.C. § 1641\(b\) \(2018\)](#) A Qualified Alien is a:

1. Legal permanent resident (“green card” holder)
2. An asylee, refugee, or an alien whose deportation is being withheld
3. Alien paroled into the U.S. for at least one year
4. Alien granted conditional entry (per law in effect prior to April 1, 1980)
5. Cuban/Haitian entrant
6. Aliens in the U.S. who have been abused, subject to battery or extreme cruelty by a spouse or other family/ household member, or have been a victim of a severe form of human trafficking
7. Aliens whose children have been abused and alien children whose parent has been abused who fit certain criteria

[206.117\(b\)\(1\)\(i\)\(a\).](#)

The following link provides a comprehensive guide:

For Disasters Declared after September 30, 2016 through February 28, 2019: (IHPUG)

https://www.fema.gov/media-library-data/1483567080828-1201b6eebf9fbbd7c8a070fddb308971/FEMAIHPUG_CoverEdit_December2016.pdf.

The following link provides a comprehensive guide:

For Disasters Declared After March 1, 2019: (IAPPG)

<https://www.fema.gov/media-library-data/1551713430046-1abf12182d2d5e622d16accb37c4d163/IAPPG.pdf>

The following link provides a basic guide:

<https://www.fema.gov/individual-disaster-assistance>.

Do FEMA benefits under the individuals and households program need to be paid back?

FEMA assistance is a grant and does not need to be paid back. An applicant can only use their FEMA benefits for the purposes stated in the FEMA award letter. Applicants need to keep receipts for how they spent their FEMA money for three years from the date of the disaster declaration. FEMA may audit individual cases and will ask to review the receipts. If the FEMA assistance was not used for the stated purpose, the applicant may have to repay FEMA for the assistance that they received.

For more information see the [recoupment](#) section of this guide.

Does the receipt of FEMA Benefits under the individuals and households program count as income or an asset for eligibility for other government programs?

FEMA assistance is not considered taxable income. It is not counted as income or as a resource for eligibility for any needs-based federal governmental assistance such as Supplemental Security Income, food stamps, etc. [44 C.F.R. § 206.110\(f\)](#). It is also exempt from garnishment or levy by creditors. [44 C.F.R. § 206.110\(g\)](#).

What is temporary housing assistance?

Temporary housing assistance is available to applicants whose primary residence cannot be safely lived in after the disaster. The money can be used to rent another place to live while repairs are being made on the damaged property. It can also be government-provided housing, such as FEMA trailers. This assistance can be available for up to 18 months from the date of the disaster declaration if the applicant can show a continuing need. The money cannot be used to pay to stay with friends or family. 44 C.F.R. §§ [206.110](#), [206.114](#), and [206.117](#).

What is Repair Assistance?

This is money provided to a homeowner to repair disaster-related damage to their home. It includes both labor and the cost of materials. The goal is to make the home safe, sanitary, and functional, not to restore the home to the condition that it was in before the disaster. The money cannot be used to repair the house to a better condition than it was before the disaster unless it is required by current housing and building codes. [44 C.F.R. § 206.117\(2\)](#).

What is Replacement Assistance?

This is money provided to a homeowner to replace their home destroyed in the disaster that is not covered by insurance. [44 C.F.R. § 206.117\(3\)](#).

What is Other Needs Assistance?

This is assistance paid for other necessary and serious needs caused by the disaster. It can be for medical or dental expenses, funeral costs, replacement of personal property, storage, etc. [44 C.F.R. § 206.119](#).

What are Small Business Administration Loans?

Sometimes insurance proceeds and FEMA assistance are not sufficient to repair a damaged home to a safe condition or to buy a new home. The Small Business Administration (SBA) makes low-interest loans available to disaster survivors to repair or replace their homes. Because the disaster survivor needs to repay their loans, they are often not practical for low- or moderate-income applicants. [13 C.F.R. § 123](#).

What are Disaster Unemployment Assistance Benefits?

The President can also authorize disaster unemployment assistance benefits as part of the relief available in the disaster declaration. Disaster unemployment assistance benefits are unemployment benefits available to those who are not able to return to work due to the disaster. This program covers more people (such as self-employed persons, farmers, etc.) than traditional unemployment benefits.

To be eligible for disaster unemployment assistance benefits, the applicant must have lost their job as a direct result of the disaster and be ineligible for traditional unemployment assistance benefits. Applicants must not be able to return to work for one of the following reasons: there is no job available for them, they can no longer get to the job, their place of employment is closed because of the disaster, they are the new head of the household looking for work after the former head of the household died in the disaster, or they have a disaster-related injury. The disaster must be the direct cause of why the applicant cannot return to work. Aliens may receive disaster unemployment assistance benefits if they meet the “able and available” criteria under state law, meaning they must be “able and available” for work and authorized by United States Customs and Immigration Services (USCIS) to work in the United States.

Florida’s Department of Economic Opportunity administers the disaster unemployment assistance program. Applications for disaster unemployment assistance benefits can be submitted online. This factsheet contains information about how to apply:

<http://www.floridajobs.org/docs/default-source/reemployment-assistance-center/unemployment/flyers/applying-for-dua-10-15-184bd71aa4cbbb61cbb02aff02004f56df.pdf?sfvrsn=2>.

Applicants for disaster unemployment benefits have the same appeal rights as applicants for traditional unemployment benefits. The applicant will have 60 days to appeal a determination. Appeals are decided within 30 days of receipt. The applicant will have 15 days to appeal the referee’s decision to the Regional Administrator, who has 45 days to issue a decision. For more information about appeals regarding unemployment decisions please see the Department of Economic Opportunity’s website here: <https://floridajobs.org/Reemployment-Assistance-Service-Center/reemployment-assistance/claimants/file-an-appeal>

What are Disaster Food Stamps (Disaster SNAP Benefits)?

The President can also authorize disaster food stamps as part of the relief available in the disaster declaration. Disaster food stamps are also called the Disaster Supplemental Nutritional Assistance Program (D-SNAP). When this program is activated, it allows disaster survivors who were eligible for food stamps at the time of the disaster to replace the food that was lost during the disaster by reissuing that month's food assistance allotment. If the household needs additional food assistance because of a loss of income or due to damage expenses, the household can apply for supplemental food assistance. The amount that they receive in assistance will be capped at the maximum amount allowed for a household of their size. Supplemental food assistance is for one month of food assistance. After that month, the applicant will receive the amount of food stamps they qualify for under the traditional food stamp program. [7 C.F.R. § 280](#).

Disaster survivors not traditionally eligible for food assistance may be eligible for disaster food stamps. They are eligible if they had disaster-related expenses, had to repair their home, had to move to a new place, or lost their job due to the disaster. They will be eligible for one month of disaster food stamps.

People can apply for disaster food stamps through the Florida Department of Children and Families. Applications may also be taken at Disaster Recovery Centers. The Florida Department of Children and Families has a special application for disaster food stamps. This website contains information about how to apply: <https://www.myflfamilies.com/service-programs/access/dsnap/learn.shtml>.

Disaster food stamps come on an Electronic Benefits Transfer (EBT) card and can be used like a debit or credit card to buy groceries. It can be used to buy food products such as bread, fruits, vegetables, meats, and dairy products. It cannot be used to purchase alcohol, drugs, and other nonfood items (such as soap and personal hygiene products). Also, if the recipient already received SNAP benefits and lost more than 40% of the food that was purchased with this food assistance, he or she can request replacement food assistance.

If an applicant is denied disaster food stamps, they have the right to request an appeal. This website provides the request form: <https://www.myflfamilies.com/about-us/office-inspector-general/appeal-hearings/fair-hearing-request-form.shtml>.

How do you appeal a FEMA decision?

FEMA will issue a written decision telling the applicant if they are eligible for assistance, for what programs (except disaster food stamps and unemployment assistance which require a separate application with a state agency), and for how much money. If the applicant disagrees with the decision, they have the right to file a written appeal. The appeal needs to be postmarked or faxed within 60 days of the date of the decision.

The appeal should be sent by certified mail to:

FEMA Individuals and Households Program National Processing Center
P.O. Box 10055
Hyattsville, MD 20782-8055

The appeal can also be faxed to 1-800-827-8112 (Attn: FEMA Individuals and Households Program), or uploaded on to the survivor's account on www.disasterassistance.gov.

The first page of the appeal letter needs to contain the following information:

- The applicant's full name;
- current address;
- address of damaged property;
- date of birth;
- place of birth;
- the last four digits of their Social Security number;
- the FEMA disaster number; and
- the FEMA application number.

The appeal letter needs to include the following information:

- A written explanation of why the applicant does not agree with the decision;
- Any new or additional information the applicant has to support their case (photos of the damage, repair estimates, damage assessments, length of time to complete repairs, receipts for repairs already completed); and
- The letter must be signed by the applicant and their attorney if one is representing them. If utilizing an attorney the applicant must also submit letter authorizing the attorney to

work with FEMA on their behalf.

- The phrase “I hereby declare under the penalty of perjury that the foregoing is true and correct” must appear under the survivor’s signature. See FEMA’s brief explanatory image for more information: <https://www.fema.gov/media-library/assets/images/180184>

FEMA appeals are governed by [44 C.F.R. § 206.115](#).

National Disaster Legal Aid provides an interactive tool which creates a FEMA Appeal Letter, available at <https://www.disasterlegalaid.org/femaappeals/>.

What is FEMA Recoupment?

During the three-year period after the disaster, FEMA will conduct audits of cases looking for FEMA overpayment, FEMA assistance given erroneously, inappropriate spending by the applicant, or fraud. FEMA may determine that the applicant was overpaid benefits. The most likely scenario that triggers this audit is if the applicant receives an insurance settlement after they received their FEMA award. FEMA considers this a duplication of benefits and requires that the FEMA assistance be paid back. It can also happen if FEMA changes the way it interprets its rules and policies. In a recoupment case, FEMA is not alleging that the applicant did anything wrong or fraudulent in the application process, but that FEMA made an error in processing the application. [44 C.F.R. § 206.116](#). FEMA does not usually initiate recoupment of debts valued at less than \$250.00.

The recoupment process starts when an applicant receives a Notice of Potential Debt Letter, also known as a NPDL. An example of a [NPDL](#). The letter states that the applicant was overpaid FEMA benefits and needs to repay these benefits. One major problem that arises is that FEMA often only has the temporary address that the applicant provided them when they applied immediately after the disaster. This address may no longer be valid for the applicant when FEMA sends out the recoupment letter years later.

Therefore, it is important to remind applicants to keep FEMA advised of their current address. If the applicant disagrees with FEMA’s decision, the applicant can file an appeal. FEMA recoupment is governed by [44 C.F.R. § 206.116](#), [6 C.F.R. §11](#), and [31 C.F.R. §§900-904](#).

How do you challenge a FEMA Recoupment?

If the applicant disagrees with the NPDL, the applicant can appeal in writing. The applicant has sixty days from the date of the letter to file their appeal. The appeal should be sent by certified mail to:

FEMA Individuals and Households Program National Processing Center
P.O. Box 10055
Hyattsville, MD 20782-8055

The recoupment appeal can also be faxed to 1-800-827-8112 (Attn: FEMA-Individuals and Households Program); or uploaded on www.disasterassistance.gov.

The appeal letter should include the following information:

1. A written explanation of why there was not a duplication of benefits if the applicant also received an insurance settlement. It is helpful to include the total cost of the repairs and how the insurance and FEMA proceeds were used. For example, it may cost \$50,000 to repair the home. The insurance company paid \$5,000 for sewer backup coverage. FEMA provided \$15,000 in repair assistance. The applicant can argue that it was not a duplication of benefits because the FEMA money was not used for the same repairs as the insurance proceeds.
2. The letter needs to be signed by the applicant and their attorney if they are being represented.
3. The phrase “I hereby declare under the penalty of perjury that the foregoing is true and correct” must appear under the survivor’s signature. See FEMA’s brief explanatory image for more information: <https://www.fema.gov/media-library/assets/images/180184>
4. The letter should include a photocopy of a state-issued identification card.
5. The applicant needs to include their full name, the last four digits of their Social Security Number, and their disaster and FEMA application numbers on every page of the submission.

What happens if the applicant was overpaid or the appeal is unsuccessful?

The disaster survivor owes a debt to a federal agency. FEMA will send out a Notice of Debt Letter (NDL) showing the debt owed, and will request that the applicant immediately repay them or FEMA will utilize the resources available to it to collect on a federal debt (wage

garnishment, property liens, seizure of tax refunds, etc.). An example of a [NDL](#). The applicant can enter into a reasonable payment plan with FEMA to stop collection efforts.

Often the applicant is in no position to repay FEMA. The applicant can request in writing that FEMA not collect this debt from them. The applicant will need to complete a FEMA financial form showing their income and expenses. The applicant will need to write a letter explaining why it would be a hardship for them to repay this debt. FEMA can waive collection on all of the debt, some of the debt, or none of the debt. The Disaster Assistance Recoupment Fairness Act governs this procedure. This is a time-limited law that has been continually extended each year. Applicable regulations can also be found at [44 C.F.R. § 206.116\(b\)](#) and [44 C.F.R. § 11](#).

How long should FEMA documents and receipts be kept?

FEMA documents and any receipts showing how the money was used should be kept for three years from the date of the disaster survivor received the last payment from FEMA or the State for disaster relief.

TENANT RIGHTS

Does Florida Landlord-Tenant Law apply in a disaster?

Yes. Florida law protects tenants whose rental property has been damaged or destroyed as a result of a casualty. [Fla. Stat. § 83.63 \(2019\)](#).

Can the landlord terminate the tenancy?

Termination must be by mailed written notice or personal hand delivery. Generally, a week-to-week tenancy requires the delivery of such a notice not less than seven days prior to termination, while a month-to-month tenancy requires not less than fifteen days prior notice and a year-to-year tenancy requires not less than sixty days prior notice. [Fla. Stat. § 83.57 \(2019\)](#).

However, if the landlord seeks to terminate because the tenant is behind in the payment of rent, the law requires only the delivery of a three-day notice. The notice must advise the tenant that they have three working days to pay the rent or their tenancy will terminate. [Fla. Stat. § 83.56\(3\) \(2019\)](#). Florida law provides no exception for a failure to pay rent due to loss of income from a disaster. After the landlord terminates a tenancy, the landlord must then file an action for possession in the county court where the property is located. Self-help eviction methods to regain possession may not be used. *See* [Fla. Stat. § 83.59 \(2019\)](#).

What if the rental unit is uninhabitable and the tenant wants to move out?

The Florida Residential Landlord and Tenant Act sets forth the rights of tenants whose rental premises are damaged or destroyed for reasons not attributable to their own wrongful or negligent acts. The rights set forth apply when the “enjoyment of the premises is substantially impaired.” The Act provides that in cases where the disaster has rendered the property completely uninhabitable, the tenant may immediately terminate the tenancy and vacate the premises. However, either the landlord must agree to this in writing or a court must grant approval of the tenant’s desire to vacate.

When the tenant chooses to terminate the tenancy, the tenant should request the return of any prepaid rent and the security deposit and provide an address where these funds can be mailed to. Prepaid rent is any rent paid from the date that the tenant had to move out until the end of the month. For example, if the tenant paid \$400 rent on June 1, and had to evacuate on June 15, the tenant should receive \$200 from the landlord.

The landlord has 15 days from the date the premises was vacated to return the prepaid rent and security deposit or 30 days to give the tenant notice of the intent to impose a claim on the security deposit. The landlord can deduct any back rent owed or any damages caused by the tenant (not disaster-related damages unless the tenant caused the damage). [Fla. Stat. § 83.43\(3\)\(a\) \(2019\)](#).

What if the tenant evacuated the dwelling for a reason other than damage?

A tenant has “abandoned” the dwelling if the landlord has actual knowledge of the abandonment or abandonment may be presumed if the tenant is absent for a period of time equal to one-half the time for periodic rental payments. However, this assumption does not apply if the rent is current or the tenant has notified the landlord, in writing, of an intended absence. [Fla. Stat. § 83.59 \(2019\)](#). This may be relevant when a tenant evacuated because of a disaster and their dwelling was not destroyed but they are nonetheless not able to return to it. It is recommended that the tenant send written notice to their landlord of their extended absence and to discuss how payment may be made given the circumstances.

If the tenant abandoned the dwelling, then the landlord may:

1. Accept surrender: the landlord may accept the tenant’s breach of the lease as a surrender of the dwelling and retake possession of the premises. This means that the tenant is absolved of liability to the landlord and the landlord must return the security deposit. Unless the lease specifies otherwise, if the landlord retakes possession of the premises after the tenant’s abandonment or eviction, a surrender will likely be presumed.
2. Enforce the lease: the landlord may declare the lease to still be in effect and seek the prospective rental installments from the tenant as they come due. This could result in the landlord accelerating the rent, as an acceleration clause is often contained in leases.
3. Terminate the lease: the landlord may declare the lease to be terminated because of the tenant’s breach and seek damages from the tenant for breach of contract.
4. Charge liquidated damages or a termination fee: if the rental agreement provides for liquidated damages or an early termination fee, the landlord may charge this in

addition to the rent and other charges accrued through the end of the month in which the landlord retakes possession of the premises. [Fla. Stat. § 83.595 \(2019\)](#).

What if the rental unit is only partially habitable and the tenant wants to stay?

If occupancy is lawful, the tenant has the right to stay. [Section 83.63, Florida Statutes](#), sets forth the rights of tenants whose rental premises are damaged or destroyed for reasons not attributable to their own wrongful or negligent acts. In cases where a disaster has rendered only a portion of the premises uninhabitable, the tenant may vacate the part of the premises rendered unusable by the casualty and reduce their rent by the fair rental value of the part of the premises damaged or destroyed. Florida Statutes are not clear as to how the tenant should determine the amount of rent reduction. The tenant should provide written notice to the landlord of their choice to vacate part of the premises and any basis for a decision to reduce a portion of the rent. If the landlord does not agree, the landlord could try to evict the tenant for underpaying the rent. In court, the tenant will need to show that the fair market value of the rental unit was lessened due to the disaster. Pictures of the damage will be very helpful in this situation. A tenant should hold on to the remaining amount of the rent. A court may order that the tenant pay the full rental amount to the Clerk of Court until the court can decide how much rent is actually owed. Paying less than the monthly rent can be a risky proposition for a tenant unless the tenant and the landlord have agreed on the new rental amount.

The following link provides a sample 7-day letter advising a landlord of a tenant's intent to withhold rent: <https://www-media.floridabar.org/uploads/2018/08/form-4.pdf>.

Can the tenant provide his or her own essential services if the landlord does not provide them?

No. Unless the tenant has prior approval from his or her landlord, the tenant is not entitled to make repairs and deduct the costs. [Fla. Stat. § 83.60 \(2019\)](#).

MOBILE HOMES

Does Florida Law provide protections for people who rent mobile homes?

Renters of mobile homes are protected by the Florida Residential Landlord and Tenant Act. FEMA provides mobile home renters funds for loss of personal property, rental assistance, and other expenses deemed necessary. The Florida Mobile Home Act applies specifically to owners of mobile homes who rent a lot in a mobile home park in which ten or more lots are offered for rent. [Fla. Stat. § 723.002 \(2019\)](#). A mobile home is defined as a permanent dwelling, at least 8 feet wide and 35 feet long, and does not include RVs. [Fla. Stat. § 723.003\(8\) \(2019\)](#).

If a mobile home is destroyed, does the owner of the mobile home still have to pay lot rent?

Yes. In order to maintain possession of the lot, the owner of a destroyed mobile home is still obligated to pay lot rent. [Fla. Stat. § 83.43\(6\) \(2019\)](#).

Who is responsible for cleaning up debris following a disaster?

Cleanup of debris may be governed by a written agreement, such as a lease, prospectus, or park rules, between the mobile home owner and the park owner. These documents should be checked to see whether the issue is covered. If there is no written agreement on debris cleanup, the park owner is responsible for cleaning debris in the common areas of the park, and the mobile homeowner must clean up the debris on their lot caused by their own personal property. Because many mobile homeowners are elderly, disabled or simply lack the resources to clean up the debris left after a disaster, it is important to communicate with local authorities regarding the benefits of a “one for one” replacement program with FEMA. See [Fla. Stat. 718.103\(8\) \(2019\)](#); and [Fla. Stat. 718.103\(2\) \(2019\)](#).

What is a “One for One” Replacement Program?

A “one for one” replacement program is administered by FEMA with coordination by local authorities, including Florida Division of Emergency Management. Under the program, FEMA will clean up the debris on a mobile home lot and install a FEMA travel trailer or mobile home on the same lot, allowing disaster victims to remain in their communities. [24 CFR § 42.375](#).

Recipients under the program are required to recertify their eligibility status, as well their long-term housing plans, typically every 30 days during the 18-month period of temporary housing benefits. Advocates should stress the importance of maintaining communication with FEMA housing workers to ensure housing benefits are not subject to termination.

Replacement homes may become available for purchase by recipients after the 18-month period at a reduced price under FEMA's Sales to Occupants program. If so, FEMA will usually contact eligible individuals. Eligibility for the program and the price of the replacement home are determined by income, household size, and the amount of disaster assistance received. The replacement home must be used as a permanent residence and cannot be transferred or sold to a third party for a one-year period following the purchase. Proof of insurance and proof of access to the property must be shown. [42 U.S.C. § 5174\(d\)\(2\)\(A\)](#). For those unable to afford the purchase price, FEMA has created a donation program through which FEMA will donate a replacement home to a local non-profit, provided that the home will be used exclusively to house disaster victims for one year. The non-profit organization may transfer ownership directly to the disaster victims after the one-year period expires. [42 U.S.C. § 5174\(d\)\(2\)\(B\)](#).

What type of aid does FEMA provide to mobile homeowners?

After a mobile homeowner applies for FEMA assistance, a FEMA inspector will arrive to assess damage. Before this, the mobile homeowner should take photos and gather information so that the FEMA inspector has everything needed to determine the value of losses. In most cases, the FEMA inspector will assess the cost of repairs and financial assistance for those repairs will be provided. For many homes, it may be better to advocate for total destruction of the home in order to obtain a cash award from FEMA for "loss of housing unit" or replacement home.

What long-term issues do mobile home residents face after a disaster?

Mobile home park owners may view damage to a park by a disaster as an opportunity for urban renewal and want to evict mobile homeowners from their lots. However, this almost always requires the park owner to file an application for change in zoning with local government authorities. Florida law provides specific requirements for an approval of a change in zoning application, including a finding that comparable housing is available in an area that displaced residents can relocate to. [Fla. Stat. § 723.083 \(2019\)](#). Residents must be given actual notice within

5 days of the filing of an application for a change in zoning. [Fla. Stat. § 723.081 \(2019\)](#).

MORTGAGE FORECLOSURE

Does a homeowner have to continue to pay their mortgage when the property has been damaged or destroyed in a disaster?

Yes. The homeowner has to continue to pay the mortgage. The fact that the house is damaged or destroyed does not end the homeowner's responsibility to pay on the house.

Does the mortgage company have to work with the homeowner?

Generally, the mortgage company does not have to work with the homeowner. However, the homeowner should always reach out to the mortgage company to see if they will work with them. The mortgage company may be willing to do so since the mortgage company does not want to have to make the repairs. The homeowner should make sure to get all the terms of any agreement in writing. It is often difficult to get a written agreement, but even an email with the terms laid out is helpful if there is a disagreement later. In general, the homeowner should save all notices and letters received.

What happens if the homeowner cannot make their mortgage payments?

If the homeowner cannot pay the full amount to cure the default, the homeowner can call the mortgage company or their attorney to see whether they can make a smaller payment and pay the balance over a period of time. The mortgage servicer's phone number is usually located on the monthly loan statement or the mortgage loan coupon book given by the lender. The homeowner should then call the Department of Housing and Urban Development (HUD) to speak with a housing counselor. The counselor will assist in determining whether the homeowner may qualify for any housing assistance programs, explain loss mitigation options, and guide them through the processes. HUD's website provides a list of HUD-approved counseling agencies:

<https://apps.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?&webListAction=search&searchstate=FL>.

Homeowners facing foreclosure should be warned of foreclosure scammers that call saying they can save the home from foreclosure. Signs of a scam include asking for payment upfront, guarantees that the home won't be lost, offers to conduct a forensic audit, or asking for

payment to be sent to someone other than their mortgage company. Suspected foreclosure fraud or abuse should be directed to the Florida Attorney General's Mortgage Fraud Task Force at 1-866-9-NO-SCAM.

Standard mortgages provide that before filing suit to foreclose, the mortgage lender is required to give written notice to the homeowner that the loan is in default, the debt is being accelerated, how to cure the default by paying a specified amount, and other important information. This notice is referred to as a default letter. A standard mortgage gives the homeowner thirty days to cure a default. The notice means that if the homeowner pays the amount stated in the letter within thirty days of receiving the letter, the homeowner can reinstate their loan and continue with payment as if there had been no default.

In situations where the homeowner does not know how much is owed, perhaps because of not receiving a notice of default, the homeowner may send a written request for an "estoppel letter" from the mortgage company. Within 14 days of receipt of a written request for an estoppel letter, the mortgage company must provide a letter describing the balance of the loan including an itemized list of the principal, interest, and any other charges due under or secured by the mortgage. [Fla. Stat. § 701.04 \(2019\)](#).

If the homeowner fails to file an answer or provide any defenses as to why the home should not be sold, the mortgage company may request that the court enter an Order to Show Cause. This essentially expedites the foreclosure process. The hearing may take place as soon as 45 days after service of the initial complaint. If the homeowner does not respond to the order or appear at the hearing, the court may enter a final judgment and a sale date will be scheduled. The sale date will be no less than 20 days later but no more than 35 days later, unless the lender consents to a later date. The court has discretion to lengthen the time for sale depending on the facts and circumstances. [Fla. Stat. § 701.10 \(2019\)](#).

Mortgage companies that retake property through foreclosure sale will usually try to sell the property. If the lender resells at a price less than the amount due in the judgment, the lender may apply for a deficiency judgment. For example, if the judgment was for \$200,000 and the lender sold the property for \$150,000, then the court may enter a deficiency judgment of \$50,000 against the homeowner. It is important that homeowners try to negotiate carefully with lenders to ensure that a full satisfaction of the debt will be reached as a result of the sale.

Are there any options for a homeowner to save their home from foreclosure?

Yes. The following options are described in “Homeowner’s Guide to Success – What to do if you can’t pay your mortgage”, available at <http://www.floridahousing.org/docs/default-source/programs/homeowners/hud-homeowners-guide-to-success.pdf?sfvrsn=2>.

The homeowner can also refinance the mortgage with another lending company. If another mortgage company is willing to enter into a mortgage agreement with the homeowner, the new mortgage company will pay off the existing mortgage to the old mortgage company. The homeowner then has a new mortgage note with the second company. This is often difficult because the homeowner will have poor credit due to the foreclosure action but may be possible if someone is willing to act as a cosigner.

Federal Housing Administration (FHA) loans have specific homeowner assistance programs. [24 C.F.R. part 203, subpart C](#). Contact HUD’s National Servicing Center for information on FHA loans. Call 877-622-8525. The following link provides useful information: <https://www.hud.gov/info/disasterresources>. Veterans Assistance (VA) loans have specific homeowner assistance programs as well. [38 C.F.R. § 36](#). The following link provides useful contact information: <https://www.benefits.va.gov/HOMELOANS/contact.asp>.

Conventional mortgages may receive hardship assistance through programs offered by the mortgage company. Regulations of the Consumer Financial Protection Bureau also provide some protections. [12 C.F.R. § 1024.41](#). Homeowners interested in alternatives to foreclosure can contact Florida Housing Corporation’s Foreclosure Counseling Program. However, they will likely direct the homeowner to contact a counseling agency. The following link provides a list of agencies: https://www.floridahousing.org/docs/default-source/programs/homeowners/foreclosure-counseling-program/fcpagenciesbycountiesserved-5-21-19.pdf?sfvrsn=7ff1ef7b_2. HUD recommends that homeowners call the Hope Hotline for advice by calling 888-995-HOPE.

Bankruptcy is another option a homeowner may consider.

HOME REPAIR CONTRACTS

What should a Repair Contract contain?

A good repair contract should contain a thorough discussion of the scope of the work, what labor and materials will be needed, and an itemization of the cost to complete the work. The contract should identify if any subcontractors will be hired and if so, that lien releases will be obtained from all subcontractors prior to final payment. The contract should contain the beginning and ending dates of the project and what happens if the project is not completed timely. The contract should contain a payment schedule. The contract should require that the contractor and all subcontractors be licensed, have liability insurance, and will pull the appropriate permits. The contract should contain information on how to make modifications or how either party can terminate without penalty.

What rights does a homeowner have if the contractor does not complete the job?

This is governed by basic contract law. First, the court will look to the contract. If the court finds that the contracted performance was not completed, the court will consider available remedies. One remedy is specific performance where the contractor would be required to complete the job. This is a disfavored remedy. The most likely remedy would be ordering the contractor to pay damages to the homeowner. The court will attempt to put the homeowner in the same position that they would be in if the work was completed. The contractor will be given value for the work completed (if any) and will be required to return any unearned payments. If the delay in completion caused harm to the homeowner, the contractor may be required to reimburse the homeowner for these damages. If there are penalty clauses in the contract for the failure to complete work timely, the homeowner can ask the court to enforce these provisions.

What rights does a homeowner have if the repair work is not completed properly?

This is governed by contract law. In this situation, the homeowner should be put in the position that they would be in if the contract had been properly performed. They would generally be entitled to the difference between what they received and what they should have received. The damages are generally the cost of correcting the defects or completing the omissions.

If a repair contract involves a consumer product intended to be attached to or installed in real property, such as an air conditioner, water heater, etc., the contract is subject to the federal

Magnuson-Moss Warranty Act, which provides minimum standards for warranties and consumer remedies for violations. The failure to honor any warranty entitles the homeowner to monetary or equitable relief. [15 U.S.C. § 2301 et seq.](#)

What if the General Contractor does not pay the Subcontractors?

The subcontractors could file a [mechanic's lien](#) against the property.

What if a Contractor solicited the Homeowner to enter into a Home Repair contract?

The Florida Home Solicitation Sales Act applies when a contractor personally offers a home repair contract at a location other than its fixed business location, such as is the case when contractors survey an area damaged by a disaster and go door-to-door offering their repair services. In these situations, a homeowner who enters one of these contracts has the statutory right to cancel the contract until the midnight of the third business day after the contract was signed. Cancellation must be in writing and delivered to the contractor. A homeowner that cancels has the right to a return of any payments made to the contractor within ten days from when the contract was cancelled. Fla. Stat. [§ 501.022](#) and [§ 501.025](#) (2019). A draft Notice of Cancellation, compliant with [16 C.F.R. § 429.1](#), can be found [here](#).

MECHANIC’S LIENS

What is a Mechanic’s Lien (also known as a Construction Lien)?

A mechanic’s lien (also referred to as a “construction lien” in Florida) is a lien placed on property by a contractor/subcontractor who has performed work on property but has not been paid. Mechanic’s liens are governed by [Chapter 713, Florida Statutes](#). Two common ways a mechanic’s lien arises are if: 1) a homeowner hires someone to perform work on their residence and then does not pay for the work that was done, or 2) a homeowner hires a general contractor to work on his/her home and the general contractor does not pay the subcontractors who performed work on the home.

A homeowner will receive notice if a mechanic’s lien is placed on his/her property. The homeowner will be personally served with notice and a record will be made in the office of the clerk of the circuit court of the county in which the property is located. The lien is voidable if notice is not provided to the homeowner within fifteen days of the recording of the lien, the latter which must be done within ninety days of the final furnishing of labor, services or materials. Any action to enforce a mechanic’s lien shall be brought within one year from the expiration of the ninety-day period.

How does a Contractor obtain a Mechanic’s Lien?

In order to preserve the right to a mechanic’s lien, a contractor is required to file a Notice of Commencement in the clerk’s office. The contractor is also required to give a written notice to property owners. The notice must contain the information specified in [Fla. Stat. § 713.13 \(2019\)](#).

How can a Homeowner remove a Mechanic’s Lien?

The first option is to satisfy the lien by paying what is owed. The homeowner should keep a copy of any payment made. The lienor should then file a written satisfaction of the lien with the clerk’s office. If it has been more than twenty days since the written demand to show cause why the lien should not be enforced by action or vacated and canceled was sent to the lienor, and the lienor has not responded, the lien shall be cancelled. [Fla. Stat. § 713.21 \(2019\)](#)v.

If the homeowner does not agree with the lien, the homeowner can challenge it in court. If the homeowner challenges the lien, they can also assert a claim for money damages if they

believe the contractor owes them money.

The contractor that put the lien on the house can also file in court to enforce the lien. If the homeowner does not think that the contractor did a good job or completed the work, they can object to the amount of money that the contractor claims is owed. The court will hear the evidence and decide. The court could decide that the home will be sold to pay off the amount owed. [Fla. Stat. § 713.26 \(2019\)](#).

INSURANCE

Who and what damage is covered under an Insurance Policy?

Solutions to insurance issues will vary depending on the specifics of a particular insurance policy. Insurance coverage is provided in accordance with the terms of a contract between the insurer and the insured. Coverage is determined by the language of the policy and the limits of coverage it identifies. Begin to determine who is insured and what damage is insured against by reading the “Declarations” page of the policy. Typically, a homeowners or renters insurance policy will include as insureds residents of the named insured’s household who are relatives or other persons under the age of twenty-one in the care of the named insured. This may also include a student away at college or similarly someone away performing military service.

Damage covered by an insurance policy may be determined by the policy’s language. Some policies may state that all direct physical loss to property is covered unless specifically excluded, while others may list specific covered perils. Examine the policy provisions carefully to determine what is covered and what is excluded from coverage. Traditionally, homeowners and renters insurance policies specifically exclude coverage for flood-related damages. Flood-related damage is typically covered by specific flood insurance policies.

What must insureds do to make sure they receive payment from their insurance company?

After a disaster, it is important that the homeowner or renter report the damage and/or loss to their insurance company as soon as possible and make a claim for benefits pursuant to their policy. Write a letter and keep a copy of it if the insurance company cannot be reached by telephone. Keep records of all information discussed with the insurance company because it may be important if an appeal of any decision with respect to coverage is necessary.

An insurance adjuster will be sent to inspect the damage and the insurance company will generally pay for reasonable costs to repair the covered damage up to the policy limits. Before an adjuster arrives to assess the extent of loss, homeowners should take pictures of damage, obtain repair estimates, make a detailed and descriptive list of all damaged or destroyed property, and record all expenses associated with the loss of property, which may include the cost of temporary housing.

Most insurance policies include a list of post-loss duties an insured must comply with

in order to avoid the risk of forfeiting coverage. These duties typically include protecting the property from further loss, maintaining an updated and detailed inventory of all damage, and promptly submitting requests for information, including an Examination Under Oath (EUO), by the insurance company.

What if an Insurance Company is taking too long to assess damage and/or issue payment?

Some insurance policies will cover the cost of temporary housing while property is being assessed for damage and may include the cost of renting a car if a car is damaged. Each policy must be looked at closely to see if this is an option. Insurance companies may recommend that a homeowner initiate repairs themselves before an insurance adjuster arrives due to excessive damage and may also provide emergency funds to do so. Homeowners should obtain permission from the insurance company if they intend to begin repairs themselves, in writing if possible, and generally should not start to repair any damage before speaking with their insurance company if they want to receive the greatest possible insurance payment.

What if the Insurance Company offers to settle the claim?

Any decision made by the insurance company regarding the extent of coverage or payment for claims should be in writing, including any settlement offers. An insurance company may offer to settle a claim or claims by paying the insured the actual cash value (ACV) of damaged or destroyed property, replacing or paying the insured to replace the property, or paying the insured the cost to repair the property to the condition it was prior to the loss.

What is an appraisal and when is it appropriate?

If an insured and the insurance company disagree on the amount of loss, appraisal may be an appropriate way to resolve the disagreement. Appraisal is not a method to dispute issues regarding whether or not a particular loss is *covered*. Coverage disputes are for courts to resolve. An insurance company must actually determine the amount of loss and disagree with the insured's determined amount for appraisal to be proper. Neither party can flatly disagree without any documented basis and a meaningful exchange of information regarding the amount of loss must have occurred. As an alternative to appraisal, insurers must also allow insureds the opportunity to

participate in a Florida Department of Insurance-sponsored mediation program. An insurer that does not notify an insured of their statutory right to mediation waives its right to demand appraisal. In addition, active engagement in litigation is an implicit waiver of the contractual right to appraisal. However, appraisal is not waived if an insurer fails to request appraisal prior to the insured filing a lawsuit.

My insurance company isn't working with me, what should I do?

If a consumer is having issues with their insurance company, the State of Florida has an Insurance Consumer Advocate as part of the Chief Financial Officer's department. It is the Insurance Consumer Advocate's job to hear and resolve problems between consumers and insurance companies. For more information please visit the ICA's website: <https://www.myfloridacfo.com/division/ica/>

The ICA can be contacted by:

Mail: Office of the Insurance Consumer Advocate

200 East Gaines Street

Tallahassee, FL 32399

Phone: (850) 413-5923

Email: YourFLVoice@MyFloridaCFO.com

EDUCATION ISSUES

Where can a displaced student attend school?

Children who are displaced by a disaster have the same rights as homeless children under federal law. The McKinney-Vento Act provides for their education. [42 U.S.C. §§ 11431 et seq.](#)

Which children are considered homeless and eligible for McKinney-Vento protection?

Children ages 3-21 are considered homeless if:

1. They lack a fixed, regular, and adequate nighttime residence;
2. They have lost housing and are now staying with friends and family (doubling up);
3. They are living in the following places:
 - a. in an emergency shelter (including Red Cross disaster shelter or FEMA mobile home);
 - b. in a transitional shelter;
 - c. in a motel;
 - d. in a domestic violence shelter;
 - e. abandoned at a hospital;
 - f. in a campground;
 - g. in a car;
 - h. on the street;
 - i. in an abandoned building;
 - j. in a bus or train station (or somewhere similar);
4. Any child who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
5. A migratory child;
6. Children of migratory workers;
7. A child that has run away or been forced to leave his/her home.

What rights to children have under the McKinney-Vento Act?

After the disaster, displaced survivors have the choice to send their children back to the

last school they attended (school of origin), or they can send them to the local school where they are now living. If disaster survivors choose to send their children to a new school, perhaps because the original school was destroyed or because it is far away after relocating, enrollment in the new school constitutes the establishment of a new school of origin. The ability to designate a new school of origin is important if housing in neighboring attendance zones or school districts is later obtained.

Children have the right to immediately enroll in school even if their school records have been destroyed. Children have the right to attend school while the parents and school officials work to find their school records and immunization records. If the children are living with a caretaker (other than their parents), the school cannot require that the caretaker obtain a guardianship over the children. [42 U.S.C. § 11432\(g\)\(3\)\(C\)](#).

Homeless children are entitled to the same right to transportation as other children. This means that they have the right to school transportation to and from their school of origin. They have the same rights to special education and other special services. They have the right to free or reduced meals if they are eligible. The school district cannot have a school or classroom specifically designed for homeless children. Children in preschool have the same rights to attend preschool as other children. [42 U.S.C. § 11432\(g\)\(4\)](#).

What if the school will not enroll the student child?

School districts must presume that keeping the student in the school of origin is in the best interest of the student, except when doing so is contrary to the request of the parent, guardian or unaccompanied youth. [42 U.S.C. § 11432\(g\)\(3\)\(B\)](#). Districts must consider student-centered factors related to the student's best interest, including factors related to impact of mobility on achievement, education, health and safety of homeless children and youth, giving priority to the request of the parent, guardian or unaccompanied youth. *Id.* Should a disagreement arise about the school of attendance, the district must provide the parent, guardian or unaccompanied youth with a written explanation of its determination, including information on the right to appeal. Children have the right to remain in their current school pending any appeal. [42 U.S.C. § 11432\(g\)\(3\)\(E\)](#).

If the school is not acting in compliance with the McKinney-Vento Act, the first step is to complain to the Principal. If that does not work, the next step is to involve the school district's

Homeless Liaison. Under federal law, every school district must have a person designated as the district's Homeless Liaison. Depending on the size of the school district, this person may or may not serve full-time in the position. The Homeless Liaison for a specific district can be identified at <https://web01.fldoe.org/FederalProgramDirectory/Default>. If a complaint to the Homeless Liaison for the district is not successful, a complaint can be filed with the Florida Department of Health's Homeless Education Program. For information, call 850-245-0415.

What grade will the child be placed in?

When educational records are not available, the district will place the student in an age-appropriate grade and monitor their progress. Verification of successful completion of courses for the purpose of their transcripts will vary depending on their grade level. Different criteria apply depending on whether the student is in elementary, middle, or high school. The following link provides general information that was made available following Hurricane Michael: <http://www.fldoe.org/core/fileparse.php/18532/urlt/Hurricane-Michael-Q-A.pdf>

What options exist for students after High School graduation?

Most Florida state colleges and community colleges offer assistance for displaced and homeless students such as assistance with financial aid applications, scholarships, and connections to other resources. Information about homeless assistance and contact information for homeless student advisors can be found on each college and/or university's webpage.

Where can I find additional information?

https://www.nlchp.org/documents/education_disaster_manual_2017

<http://www.fldoe.org/policy/federal-edu-programs/title-x-homeless-edu-program-hep.stml>

<https://studentaid.ed.gov/sa/about/announcements/disaster>

REPLACING LOST DOCUMENTS

How does a disaster survivor receive replacement documents if their home was destroyed?

Government agencies usually mail replacement vital documents. If their home was destroyed in a disaster or they otherwise cannot receive mail, a disaster survivor should contact their local post office to ask if they can pick up their mail there or request to have their mail forwarded to a temporary location.

How does a disaster survivor replace a lost Florida's driver's license?

If it is someone's first time replacing a lost driver's license, the person can apply online for a replacement license. Otherwise, the person can go to any office of the Florida Department of Highway Safety and Motor Vehicles (DHSMV). The following link provides locations of offices: <https://www.flhsmv.gov/locations/>. The following link provides the online application: <https://services.flhsmv.gov/VirtualOffice/>. The cost for a replacement driver's license or identification card is \$25 plus a \$2 convenience fee for online services.

The person will need to provide other identifying documents in order to obtain a new driver's license when applying in person. Acceptable documents include an original or certified copy of a: birth certificate from a county health department or the CDC Bureau of Vital Statistics; passport; passport card; Consular Report of Birth Abroad; Certificate of Naturalization: Form N-550 or Form N-570; or Certificate of Citizenship: Form N-560 or N-561; and any marriage certificate, court order, or divorce decree showing a name change, if applicable. Also required is another document that shows both their full name and Social Security number, and two documents listing their current address. More information can be found at: <https://www.flhsmv.gov/driver-licenses-id-cards/what-to-bring/u-s-citizen/>. If a person has none of these forms of identification, then they should call their local DHSMV office.

If the disaster survivor lost multiple vital documents, they should replace their driver's license first because other documents often rely on state-issued identification cards as evidence of identity.

How does a disaster survivor replace a lost birth certificate?

Florida Birth Certificates are confidential records and may only be issued to:

- Registrant (name on the record) if of legal age (18)
- Parent(s) listed on the Birth Record
- Legal guardian (must provide guardianship papers)
- Legal representative of one of the above persons (must provide documentation)
- By Court Order (must provide copy of court order)
- Upon receipt of registrant's death record, a birth certificate marked "Deceased" may be issued to the spouse, child, grandchild, or sibling, if of legal age.

If a person needs to order a birth certificate for someone else as their parent, guardian, or legal representative, additional documentation is required. Further details are available at: <http://www.floridahealth.gov/certificates/certificates/birth/index.html>.

A person can apply for a new copy of their birth certificate from the Florida Department of Health's Bureau of Vital Statistics. The application is available at: <http://www.floridahealth.gov/certificates/certificates/documents/dh726-birth-app-7-2016.pdf>.

Applications can be completed in person, online, by telephone, or by mail.

In person: applications in person can be made at the office of the Bureau of Vital Statistics, Monday through Friday, between 8:00 AM and 4:30 PM. The office is located at 1217 North Pearl Street, Jacksonville, Florida 32202. The applicant will need to provide a copy of a valid, current photo identification to prove who they are, and pay a \$15 fee paid via check or money order. Requests for birth certificates can also be made in person at the local county health department. Locate the nearest county health department at: <http://www.floridahealth.gov/all-county-locations.html>.

By phone: applications by phone can be made by calling 1-877-550-7330. Phones are answered between 6:00 AM and 7:00 PM, Monday through Friday. A credit card is needed to pay by telephone. There is a \$15 fee plus an additional \$7 fee to process the credit card payment and to determine who the person is over the telephone.

By mail: applications can also be made by mail. A person must mail a completed application, a copy of their photo identification, and a \$15 fee payment. Requests are processed within approximately 3-5 days. Rush service is available for an additional \$10 fee. Normal U.S. postal delivery is included in this additional fee. However, express delivery is

possible if a prepaid express delivery envelope is provided by the applicant.

This needs to be mailed to:
Bureau of Vital Statistics
Attn: Vital Records Section
P.O. Box 210
Jacksonville, FL 32231-0042

Online: applications can be made online through Vital Check at: https://www.vitalcheck.com/order_main.aspx?eventtype=BIRTH#. Delivery can range from a few days to a few weeks depending on what delivery option is selected. The cost will vary depending on the delivery option selected, but it will never be less than \$15.

How does a disaster survivor replace a lost Social Security or Medicare/Medicaid card?

A person can complete an application with the Social Security Administration to request a new card using a “My Social Security” account. New accounts can be created here: <https://secure.ssa.gov/RIL/SiView.action>. The application is available online through your “My Social Security” account. New cards can be requested in person at the local Social Security Administration office or by mailing the application to the local office. All applications must be accompanied by a photo identification card (or a copy if mailing). If applying for a child, evidence of identity for both the child and person applying is required as well as evidence of your relationship to that person. There is no fee for requesting a new card. The Social Security Administration will replace the card up to 3 times a year, with a 10-card lifetime maximum. The local Social Security Administration office can be found at: <https://secure.ssa.gov/ICON/main.jsp>. Applications for a replacement card can be made online if the applicant is 18 years old or older, a U.S. citizen, and has a Florida driver’s license or identification card. The following link provides the application for a replacement card: <https://www.ssa.gov/ssnumber/>.

Medicare cards can be ordered online. To do so, the person needs to use the following link to sign into their “My Social Security” account: <https://secure.ssa.gov/RIL/SiView.do>. Florida’s

Department of Children and Families provides Medicaid cards. For a replacement card, call the toll-free number at 866-762-2237. If a person was just approved for Medicaid, it can take two to three weeks to receive the card. Those enrolled in Medicaid can print a temporary card from their MyACCESS account at: <https://dcf-access.dcf.state.fl.us/access/index.do>.

How does a disaster survivor replace lost immigration documents?

In order to replace their Permanent Resident Card or “Green Card,” the disaster survivor needs to complete an I-90 form. An I-90 form can be found at the following website: <https://www.uscis.gov/i-90>. The instructions for completing an I-90 form are complex and applicants may benefit from the assistance of an attorney in completing the document. Instructions to complete the form can be found at: <https://www.uscis.gov/i-90>. It costs \$455 to file for a replacement plus an \$85 biometric fee. Applicants can request a fee waiver upon a showing of financial hardship.

In order to replace their Declaration of Intention, Naturalization Certificate, Certificate of Citizenship, or Repatriation Certificate, the disaster survivor needs to complete an N-565 form. The form is available at the following link: <https://www.uscis.gov/n-565>. The cost to file for a replacement is \$555 plus a biometric fee. Applicants can request a fee waiver upon a showing of financial hardship. More information on fee waivers is available at: <https://www.uscis.gov/feewaiver>.

TITLE CLEARING

What does it mean to have clear title and why is it important?

A homeowner who has a clear title to their home is able to produce a document or record which demonstrates that the property it describes is not burdened by any claim, interest, lien, judgment, encumbrance or other defect that indicates the homeowner does not have full and complete ownership of the property. A defect in the title is often called a “cloud” and can result from a wide variety of circumstances, including a misspelled street name in a deed transferring ownership, unpaid property taxes, a mortgage lien, and a lack of correct probate administration, to name just a few.

A homeowner must have a clear title in order to sell, repair, or borrow money on their home. These are all important things to be able to do after a disaster. Also, FEMA may deny aid to homeowners who lack a clear title, and insurance companies may attempt to deny coverage for the same reason. FEMA requires that applicants for aid prove both occupancy and ownership of the residence for which they are requesting assistance. Ownership can be proven with a deed, property tax bill, or other records showing the homeowner as the holder of the legal title to the property. [44. C.F.R. § 206.111. Individual Assistance Program and Policy Guide \(IAPPG\), FP 104-009-03, March 2019, Individual and Household Program, pp. 54-57](#)

How does someone clear title to their home?

Different ways to clear title are available depending on the type of defect that exists. For example, if a home is burdened by a tax lien due to unpaid property taxes, then the government employee responsible for enforcing the lien can be contacted to negotiate toward a solution which clears title. If a mortgage lender has a claim to the home because its previous owner did not satisfy the mortgage loan, then the lender may be willing to release its claim under some agreement. Avoid a judicial action if possible and try to reach a solution through formal discussions amongst all interested parties.

What is a Quiet Title Action?

If all the parties that have an interest in a home that lacks a clear title cannot reach an agreement that removes title defects, an action to quiet title may be filed in court. This can be a costly, risky, and lengthy process, but may be a good way to clear title depending on the particular

disaster survivor's situation. A quiet title action is brought pursuant to [Chapter 65, Florida Statutes](#).

What is Partition?

Partition is a court action similar to a quiet title action, but instead of granting ownership of the whole property to a single owner the court will actually divide the property up between the parties so that each will end up with title to just a portion of the whole property. Partition actions brought pursuant to Chapter 64, Florida Statutes, can similarly be complex and may only benefit disaster survivors in specific situations.

APPENDIX

FEMA: Notice of Potential Debt Letter Example (NPDL)

Appendix A: Template for a Notice of Potential Debt Letter

NPDL – Notice of Potential Debt Letter:

{FEMA_LTR_HEAD}

Disaster Number: {DSTR_NR}

FEMA Application Number: {RGSN_ID}

{APPL_NM}

{STRT_ADR}

{CITY_STATE}

Notice of Potential Debt Letter

Potential Debt: \${NOD_RECOUP_AMT}

{SALUTATION}:

You applied for and received FEMA Assistance as a result of a declared disaster. Federal law requires FEMA and other federal agencies to audit disaster assistance payments provided to individuals. If it is determined that you are not eligible for assistance that was provided to you, you may have a debt to the federal government.

FEMA has carefully reviewed the assistance provided to you and determined you may NOT be eligible for \${NOD_RECOUP_AMT}.

The reasons you may have a potential debt are included below:

{CHA_BLK}

You may appeal this decision within **60 days** of the date of this letter and include the following:

- A written and signed explanation of why you believe you are eligible for this assistance;
- Copies of any documents or receipts supporting your need for disaster assistance;

Please write the disaster number and your FEMA application number on all submitted documents. These numbers are printed on Page 1 of this letter, above your name and address. Please keep all original documents for your records.

Please send the requested documents to:

Mail to:
FEMA
P.O. Box 10055
Hyattsville, MD 20782-8055

Fax to:
800-827-8112
Attn: FEMA

Upload to:
www.DisasterAssistance.gov

You may expect a response from FEMA within **90 days** of receipt of your appeal.

You may request an oral hearing as part of your written appeal. However, FEMA only grants oral hearings in limited cases. If FEMA determines your oral testimony is needed to clarify the documents you submitted, your request may be granted. FEMA may request that you participate in an oral hearing via telephone when the case cannot be resolved through a review of the submitted documents. If FEMA believes you could submit additional information demonstrating the potential debt is not valid, a staff member will call you to request the necessary documentation.

If you do not appeal this within 60 days, this potential debt will become final and will be sent to FEMA's Finance Center for further action.

If you have questions about the assistance you received, would like more information about this notice, or would like to request a copy of your FEMA file, please call FEMA's Helpline at 800-621-FEMA (3362). If you are deaf, hard of hearing, or have a speech disability and use a TTY, please call 800-462-7585. If you use 711 or Video Relay Service (VRS), call 800-621-3362.

Sincerely,

Individuals and Households Officer

NPDL

Return to [question](#).

FEMA: Notice of Debt Letter (NDL)

Appendix B: Template for a Notice and Debt Letter Resulting from a Major Disaster or Emergency Declared on or after October 28, 2012

Date

Disaster #XXXXX

FEMA Application #XXXXXXXXXX

Applicant Name
Applicant Street Address
Applicant City, State, Zip

Account # {HA_BFC_NO}

{SALUTATION}:

In a letter dated {NOD_DATE}, FEMA advised you of a potential debt because you were found ineligible for some or all of the disaster assistance FEMA provided to you under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288 as amended), 42 U.S.C. §§ 5121 - 5207. Your right to appeal has ended and the debt is now final.

The purpose of this letter is to notify you that you must return \${NOD_RECOUP_AMT}. To resolve this matter, **you must pay this debt in full within 30 days of the date of this letter.** Enclosed is a FEMA Payment form and payment instructions, or you may contact our office to discuss payment options.

In the event that full payment is not received within 30 days, the debt is considered delinquent and FEMA will begin collection action as required by the Debt Collection Act of 1982, the Debt Collections Improvement Act (DCIA) of 1996, and the Digital Accountability and Transparency Act of 2014 (DATA Act).

Collection actions will occur as described below, beginning from the date of this letter:

- **30 days.** Interest at the rate of 1% per annum may be assessed on the unpaid balance. A one-time administrative charge may also be assessed to the debt.
- **60 days.** FEMA may offset the debt against other federal funds payable and/or submit the debt to the U.S. Department of the Treasury (Treasury).
- **90 days.** Penalty charges will be assessed at a rate not to exceed 6% per annum on the amount of the debt plus any interest and administrative charges that have been assessed.
- **120 days.** FEMA will transfer the debt to Treasury, as required by law.

FEMA may transfer your debt to Treasury immediately following day 60 but no later than day 120, as required by law. Once transferred, you must work with Treasury to resolve the debt. Treasury may take any of the following actions:

- Offset any Federal or State eligible payments by the amount of the debt, including:
 - Income tax refunds
 - Military salary
 - Military retirement
 - Social Security (other than Supplemental Security Income (SSI))
- Charge interest and penalties on the unpaid debt. Significant fees may also be charged and added to debt amount.
- Garnish wages through administrative wage garnishment.
- Refer the debt to the U.S. Department of Justice for judicial enforcement.
- Refer the debt to a private collection agency.
- Report any discharged debt to the Internal Revenue Service (IRS).
- Report the debt to consumer credit reporting agencies.

If you are unable to pay your debt in full at this time, FEMA can work with you to resolve your debt. You may request a payment plan. You may also request a compromise of all or part of your debt based on inability to pay, and/or request a waiver of all or part of your debt if you demonstrate that FEMA distributed the funds in error through no fault of your own and that collection of the debt would be against equity and good conscience.

If you have any questions about this notice, payment options, or current debt balance, please call FEMA's Finance Center 866-804-2469, Monday through Friday, 9:00 a.m. - 4:00 p.m., Eastern Time. If you are deaf, hard of hearing, or have a speech disability and use a TTY, please call 800-462-7585. If you use 711 or Video Relay Service (VRS), call 800-621-3362.

This letter relates only to assistance you received through FEMA's Individuals and Households Program. Please note, even if you pay this debt in full, the United States Government does not waive its rights to pursue any applicable civil or criminal charges. In addition, if you made any false or fraudulent statements in connection with your application for disaster assistance, you may be subject to liability under Federal, State, or local laws.

Please see the enclosed Other Important Information.

Sincerely,

Debt Collection Officer

Return to [question](#).

Home Solicitation: Form of a Notice of Cancellation

Notice of Cancellation

[enter date of transaction]

(Date)

You may CANCEL this transaction, without any Penalty or Obligation, within THREE BUSINESS DAYS from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within TEN BUSINESS DAYS following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your Notice of Cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this Cancellation Notice or any other written notice, or send a telegram, to [Name of seller], at [address of seller's place of business] NOT LATER THAN MIDNIGHT OF [date].

I HEREBY CANCEL THIS TRANSACTION.

(Date)

(Buyer's signature)

Return to [question](#).