



Legal Insurance

Dealing with a Natural Disaster



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If a natural disaster such as an earthquake, tornado, wildfire or flood hits your community, are you prepared?

To reduce the potential for damage when disaster strikes, there are common issues that you can plan for. Review the following so that you can be prepared and know your legal rights no matter what happens.

Housing Issues

After a natural disaster there can be several issues with your home and property, ranging from determining who is responsible for cleaning up to knowing when to keep making rent or mortgage payments. Keep in mind that state laws and individual insurance policies vary. Check with your insurance company or local authorities to know what applies in your situation.

Cleanup and removal

After any natural disaster, there will be some property damage to clean up. Generally, as long as the storm debris did not cause any damage to the property, the homeowner is responsible for clean-up and disposal. If fallen limbs or other debris caused damage to your home or property, your insurance company may be obligated to pay for clean-up and removal. The insurance company may also be obligated to pay for removing a tree that has fallen on your house, deck furniture or fence. Some policies will pay for removal of trees that fall and block your driveway.

If the debris came from your neighbor's yard, you are still obligated to pay for clean-up unless you can prove that your neighbor's negligence led to the damage. In general, your neighbor's policy covers his/her house and property, and your policy covers your house and property.

Mortgage payments

Most home loan documents require the homeowner to make mortgage payments despite the occurrence of a natural disaster — even if your house is damaged and you can't live in it. However, many lenders will allow you to delay mortgage payments for several months after a disaster (although interest may continue to be added). Some lenders may modify the loan and add missed payments to the end, thereby lengthening the term of the mortgage. You should continue to make on-time, regular mortgage payments until you have made arrangements with your lender.

If your mortgage is financed by the Federal Farmers Home Administration (FMHA) or insured by the Federal Housing Administration (FHA), you may have special rights if you fall behind in your payments because of circumstances beyond your control. If the president officially declares a federal disaster, foreclosures on affected properties are put on hold for 90 days.



If you are unable to pay your mortgage, contact your lender: lending companies will nearly always work with you to work out a plan.



If you are unable to pay rent because of job or salary interruptions following a disaster, you may be eligible for temporary government rent assistance from the Federal Emergency Management Agency (FEMA) or other governmental agencies. Even though you may be eligible for assistance, the landlord may file for eviction and may be successful if you don't make payments in a timely manner.

If you lease

While state laws vary, in general the total destruction of leased property results in the possible termination of the lease, with no further liability on the part of you or your landlord. If the property is only partially destroyed, you may choose to either end the lease or reduce the rent owed.

- If you choose to end the lease, you may immediately leave the unit. In most cases, you must notify your landlord in writing within 14 days that you will terminate the rental agreement, but check your state laws for the exact time frame.

When the lease is terminated, you may be entitled to a refund of any security deposit (less lawful deductions), plus a prorated refund of any prepaid rent from the date of the casualty. Your landlord will have one month from when you move out to refund the security deposit and/or provide a statement of deductions. Once the lease is lawfully terminated, the landlord cannot prevent you from retrieving your personal property.

- Check your lease to see what your rights and obligations are in the event the leased property is damaged or destroyed. A "damage or destruction" clause in the agreement should set forth the following: the tenant's obligation to notify the landlord of a casualty and the landlord's timeframe to repair the damage; the landlord's obligation to repair the property and when one or both parties may choose to terminate the lease; and the tenant's entitlement to an abatement of rent during the period the landlord is making repairs to the property.
- The repair must be part of the landlord's responsibility according to the lease agreement. Whether the landlord can make repairs in a timely way will depend on the availability of materials, labor and utilities and, in some cases, on when the landlord receives insurance proceeds.
- When you have a personal injury or property damage resulting from a natural disaster and not from the landlord's negligence, the landlord is not liable. Generally, your landlord has an obligation to make all repairs and do whatever is necessary to keep and restore the premises in a habitable condition. In order to recover damages from your landlord, you would need to demonstrate that the landlord's negligence caused or contributed to injuries or damage from the disaster.

Employment Issues

Another hazard of a natural disaster may be that your place of employment may be destroyed or your employer may go out of business. If you lose employment because of a disaster, you may be eligible for some type of unemployment insurance.

Unemployment insurance is a government program designed to provide temporary financial assistance to workers who are unemployed through no fault of their own and who meet the requirements of the law. Benefits are paid based on past employment and legal entitlement, not based on need. The law sets qualifying requirements in three main areas:



Your past wages



Your job separation



Ongoing availability and work search requirements

You must meet all qualifying requirements in order to receive benefits.

Disaster unemployment assistance provides financial assistance to individuals whose employment or self-employment has been lost or interrupted as a direct result of a major disaster declared by the president of the United States. Before an individual can be determined eligible for disaster unemployment assistance, it must be established that the individual is not eligible for regular unemployment insurance benefits (under any state or federal law). The program is administered by states as agents of the federal government.



Insurance Issues

People often assume they will be protected from financial losses by federal disaster aid. However, federal assistance generally does not protect the individual homeowner from loss. The most common federal aid after a disaster is temporary assistance and low-interest loans, but those loans will need to be repaid.

Because federal disaster aid will not be a viable replacement option, it's important to have proper amounts of insurance if you live in a disaster-prone area. Standard homeowner and renters insurance policies pay varying amounts based on the type and extent of damage covered. Consider the type of risks you are exposed to in your area and consult with your insurance agent on the types of coverage available to you.

Note that many casualty losses aren't typically covered by basic homeowners insurance. For instance, coverage for wind damage (e.g., tornadoes or hurricanes) requires specific coverage choices, deductibles and loss replacement ratios. Also, water damage from flooding is usually not covered by homeowners insurance. Consequently, people living in flood zones need to consider flood insurance.



Regardless of what happens, in general you need to continue to pay your insurance premiums when due; however, some insurers may grant extensions on payment deadlines.



Some tips for insuring your dwelling from loss include:

- Be able to demonstrate the value of your dwelling and its contents. Take pictures and/or videotape of your home and possessions and store in a safe location.
- If you live in an older building, find out if local ordinances will require you to meet current building code if you rebuild. Some insurance policies help cover extra costs so ask your agent about your policy.
- Review your property value and insurance coverage every few years to make sure your coverage amount is appropriate for changing values.



Filing claims

If you have any insurance policy which you think may cover your damage, whether it is a homeowner's, renter's or car insurance policy, call your agent, broker or insurance company as soon as possible and report your loss. Do this even if you are not sure that there is coverage or if you do not know if the claim will exceed the deductible.

Make sure you write down the name of the person you speak to and the claim number they will give you. If the disaster is extensive, many companies will establish websites and local emergency claims offices as part of the disaster response. Some companies also may provide additional contact points through newspaper or radio advertisements. If you cannot get through to your insurance company by telephone, write them a letter telling them of your loss and keep a copy of the letter.

Health care insurance

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) established strict privacy and disclosure requirements for health care providers. There are exceptions to these requirements, however, in the event of a disaster. Health care providers can share patient information as necessary to provide treatment, such as sharing information with other providers, referring patients to other available providers and coordinating care with emergency relief workers or others. Information can also be shared as needed in order to seek payment for services or to identify, locate or notify family members or others responsible for an individual's condition.

Financial Issues

Credit ratings

If you are no longer working because of the disaster and don't have the income to make payments, talk to your creditors and to your lender as soon as possible. You may be able to skip some loan payments without it counting against your credit history. You may also be able to extend the terms of your loan and/or restructure loans.

Asset Protection

If your bank is destroyed by the disaster, your money is still insured by the Federal Deposit Insurance Corporation (FDIC). Deposits with an FDIC insured bank or savings institution will continue to be protected up to \$100,000; however, you should keep any financial records that you have in order to help reconstruct your accounts.

Deposit insurance does not cover safe deposit box contents. Contact your bank branch where your box was located to determine the condition of what you had stored. Also see page 9 for tips on keeping your important documents safe.



Keep Your Documents Safe

Although the most important disaster preparation is what you do to safeguard your home and business, your legal documents are also important parts of your property and they deserve attention when preparing for the worst.

How to store documents

In general, there are two viable options for where to store documents:

1. At your house in a lockable box that is both fireproof and waterproof. This should be a box you can quickly access in an emergency. Depending on the risks in your area, you may want to store your documents and a safe deposit key in waterproof bags before storing them in the box.
2. In a secure location outside of your home, such as in a safe deposit box or attorney's office. The one drawback to this option is that if a disaster hits you, it will most likely hit your bank or attorney's office as well. If you have the capability, you may want to scan documents into computer files and store them with a reliable out-of-area storage or email them to a friend or family member outside the disaster zone. In most situations, courts will treat electronic copies of lost documents as evidentiary equivalents of originals.

Tips to Protect Electronic Files

Take these additional steps to protect documents you store electronically.

- Make sure computers are above flood levels and moved away from windows.
- Back up files routinely.
- Store your back-up copies in a secure location away from your home.
- Check into subscription services that allow you to back up information online for a fee.

You should store the following documents in a secure location so that you are always prepared:



Family

- Birth certificate or adoption certificate
- Passport
- Social Security card
- Marriage certificate
- Divorce decree
- Military discharge or military ID



Financial

- Loan documents
- Insurance contracts: life, health, home, auto (Include pictures or videos for insurance claims)
- Deeds
- Titles to property and abstracts
- Financial statements (retirement, investments, savings)



Legal

- Will
- Living will
- Power of attorney
- HIPAA documents
- Trust
- Name change (if applicable)
- Letter of instruction
- Naturalization papers

Consumer Protection

While many communities will work together to rebuild after a disaster, there are unfortunately some risks to the individual consumer.

Price gouging is the practice of taking advantage of disaster victims by substantially raising the prices for needed goods or services without justification. If you believe price gouging is occurring, contact your state's attorney general's office.

Home repair and contract scams occur more frequently when many homeowners need major repairs after serious damage. Unscrupulous contractors or salespeople will take advantage of the fears of the homeowner and agree to make the repairs at unrealistic prices or using financing schemes with high repayment amounts. The salesperson or contractor may have the homeowner sign something called a lien-contract, which usually states that if the homeowner doesn't pay for the work the home could be foreclosed on.

Refinancing schemes take advantage of consumers falling behind in their credit payments because of increased emergency costs. Finance companies promise to consolidate a homeowner's debt for existing mortgage, credit card debt, car loans and repair loans. They then pressure the homeowner to sign multiple agreements without allowing sufficient time to review them or consult with anyone. The negative outcomes of such refinancing schemes include high processing fees, payments to bogus or phantom creditors and default on the loan. The homeowner often cannot pay both the refinancing costs and basic living expenses, resulting in a situation far worse than before the refinancing

Predatory lenders often target lower income and minority borrowers, as well as elderly homeowners. They encourage borrowers to lie about their income in order to get a loan; knowingly lend the borrower more money than he/she can repay; charge unnecessary fees; pressure borrowers into high-risk loans and use high pressure tactics to sell home improvements and then finance them at higher interest rates. These predators pounce on people in these desperate situations to empty their pockets



Checklist to Avoid Contractor Scams

Beware of lenders who claim that they are the only hope for a loan or ask borrowers to sign a contract/loan agreement with missing information.

- Beware when lenders say refinancing your home can solve credit or money problems.
- Always interview several contractors and lenders. Check with friends or family for recommendations.
- Research lenders, contractors, appraisers, etc. with the Attorney General's Office or the Better Business Bureau®.
- Never make false statements on a loan application. Any lender who allows this is fraudulent.
- Do not let anyone convince you to borrow more money than you know you can afford.

Identity theft can happen if your belongings are misplaced after a storm or other disaster. Place a fraud alert on your credit report by calling any one of the three main nationwide reporting companies at the numbers listed below. The alert tells creditors to follow certain procedures before they open new accounts in your name or make changes to your existing accounts.



- Equifax: 1-800-525-6285
- Experian: 1-888-EXPERIAN (397-3742)
- TransUnion: 1-800-680-7289

Take Control with ARAG



If you encounter issues when dealing with a disaster or don't have an attorney to turn to for guidance, ARAG can help. Visit [ARAGlegal.com](https://www.araglegal.com) to learn more about how ARAG legal coverage gives you an affordable way to manage legal matters and the freedom to live the life you dream of.

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