NOTICE TO ATTORNEYS

The preparation of these materials is a collaborative project of the State Bar of Texas, the Houston Bar Association, Texas RioGrande Legal Aid and Lone Star Legal Aid and the result of the efforts of many dedicated and committed attorneys in the State of Texas.

This document is a work in progress. We may be revising chapters and adding chapters as we identify additional needs of those we are assisting. In that regard, we would like to hear from you regarding questions that you are fielding and thoughts on how this document can be improved. If you have comments or questions, please contact Saundra Brown at sbrown@lonestarlegal.org or 713-982-1980. Please check frequently the websites of the State Bar of Texas (www.texasbar.com), and TexasLawHelp (www.TexasLawHelp.org) to make sure that you are using the latest version of this document.

If you have an interest in providing legal assistance to the victims of disasters, whether in person or by phone, please fill out the on-line form at http://texasbar.informz.net/survistapro/s.asp?id=780. Alternatively, you can contact the Legal Access Division, a department of the State Bar of Texas, at (800) 204-2222 (ext 1855) (www.texasbar.com). For additional volunteer opportunities in the Greater Houston area, please contact the Houston Bar Association (www.hba.org) or the Houston Volunteer Lawyers (HVL) (www.makejusticehappen.org).

Special thanks goes to Jared Bonine, Alfonso Cabanas, Jim Cannon, Lance Cassock, David Chaumette, Rob Fowler, Pat Hajovsky, Jeff Hodges, Patrick Hughes, Jennifer Keane, Bill Kroger, Alyssa Long, Walter Lynch, Mike Massengale, Amy Mohan, Vince Morgan, Shannon Powers, Jack Reynolds, Rachel Saldana, Travis Sales, Katrin Schatz, Margo Scholin, Allie Smith, Jeffrey Stonerock, Andrew Strong, Alison Sulentic, Connie Taylor, and Jessica Warren for their contributions to this document.
HELPFUL DISASTER RELIEF WEBSITES
(2017)

The following is a list of helpful websites that provide useful information to attorneys interested in volunteering or in providing legal assistance to those affected by disasters.

Houston Bar Association  www.hba.org
Houston Volunteer Lawyers Program  www.makejusticeliehappen.org
Insurance Information Institute  http://www.iii.org
Legal Aid of NorthWest Texas  www.lanwt.org
Lone Star Legal Aid  www.lonestarlegal.org/
National Disaster Legal Aid  www.disasterlegalaid.org
Probono.net  www.probono.net
Social Security Administration  www.ssa.gov/emergency
State Bar of Texas  www.texasbar.com
Texas Governor’s Office  www.governor.state.tx.us/
Texas Legal Services Center  www.tlsc.org
Texas RioGrande Legal Aid  www.trla.org
U.S. Health & Human Services  www.hhs.gov
U.S. Internal Revenue Service  www.irs.gov/newsroom/article/0,,id=108362,00.html
U.S. Postal Service  www.usps.com
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1.0 INTRODUCTION

1.1 Overview of This Document

This document is provided as a resource to attorney volunteers who are fielding questions from those affected by disasters. This document is a starting point and is not intended to be the sole resource for you to rely on in providing legal assistance to those affected by natural disasters. If a matter appears to be a true *pro bono* matter that would qualify for submission to the legal aid services organizations or clinics (all of which are based on whether or not the applicant satisfies the intake criteria), you should gather pertinent information regarding the claim or matter and contact a member of these organizations for further processing. See Table 1 below for information regarding the legal services organizations that are available.

**NOTE:** If you have cause to believe that a child’s physical or mental health or welfare has been or may be adversely affected by abuse or neglect, Texas law imposes a duty on you to report that within forty-eight hours to local law enforcement or the Texas Child Abuse Hotline (1.800.252.5400). For more information, visit [www.oag.state.tx.us/victims/childabuse.shtml](http://www.oag.state.tx.us/victims/childabuse.shtml).

You may also have a duty to report certain criminal activity.
<table>
<thead>
<tr>
<th>LSC Programs (Texas)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Lone Star Legal Aid</td>
<td>East Texas (from Galveston to Texarkana,</td>
</tr>
<tr>
<td>(800) 733-8394</td>
<td>including Houston and the greater Houston</td>
</tr>
<tr>
<td><a href="http://www.lonestarlegal.org/">www.lonestarlegal.org/</a></td>
<td>area)</td>
</tr>
<tr>
<td>Legal Aid of NorthWest Texas</td>
<td>Northern Texas</td>
</tr>
<tr>
<td>(888) 529-5277</td>
<td></td>
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<tr>
<td><a href="http://www.lanwt.org/">www.lanwt.org/</a></td>
<td></td>
</tr>
<tr>
<td>Texas RioGrande Legal Aid</td>
<td>South, Central and West Texas</td>
</tr>
<tr>
<td>(888) 988-9996</td>
<td></td>
</tr>
<tr>
<td><a href="http://www.trla.org/">www.trla.org/</a></td>
<td></td>
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<tr>
<th>Legal Aid and Bar Associations</th>
<th></th>
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<tbody>
<tr>
<td>Houston Volunteer Lawyers</td>
<td>A program of the Houston Bar Association.</td>
</tr>
<tr>
<td>712 Main, Suite 2700</td>
<td></td>
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<tr>
<td>Houston Texas 77002</td>
<td></td>
</tr>
<tr>
<td>(713) 228-0735</td>
<td></td>
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<tr>
<td><a href="http://www.makjusticelhappen.org/">www.makjusticelhappen.org/</a></td>
<td></td>
</tr>
<tr>
<td>Texas Access to Justice Commission</td>
<td>Statewide umbrella organization for all</td>
</tr>
<tr>
<td>1414 Colorado Street</td>
<td>efforts to expand access and reduce</td>
</tr>
<tr>
<td>Austin, TX 78701-1627</td>
<td>barriers to justice in civil</td>
</tr>
<tr>
<td>(512) 427-1855, ext. 1855</td>
<td>legal matters.</td>
</tr>
<tr>
<td>(800) 204-2222, ext. 1855</td>
<td></td>
</tr>
<tr>
<td><a href="http://www.texasbar.com">www.texasbar.com</a></td>
<td></td>
</tr>
<tr>
<td>email:<a href="mailto:atjmail@texasbar.com">mailto:atjmail@texasbar.com</a></td>
<td></td>
</tr>
<tr>
<td>Disability Rights Texas</td>
<td>Advocates legal rights of those with</td>
</tr>
<tr>
<td>7800 Shoal Creek Blvd. #171-E</td>
<td>disabilities.</td>
</tr>
<tr>
<td>Austin, TX 78757-1024</td>
<td></td>
</tr>
<tr>
<td>512-454-4816 (V/TDD)</td>
<td></td>
</tr>
<tr>
<td>512-323-0902 (Fax)</td>
<td></td>
</tr>
<tr>
<td>1-800-252-9108 (V/TDD)</td>
<td></td>
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<tr>
<td><a href="http://www.disabilityrightstx.org/">http://www.disabilityrightstx.org/</a></td>
<td></td>
</tr>
<tr>
<td>Volunteer Legal Services of Central Texas</td>
<td></td>
</tr>
<tr>
<td>1033 La Posada Drive, Suite 374</td>
<td></td>
</tr>
<tr>
<td>Austin, Texas 78752</td>
<td></td>
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<tr>
<td>(512) 476-5550</td>
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<tr>
<td><a href="http://www.vlsoct.org">www.vlsoct.org</a></td>
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<tr>
<td>Fort Bend Lawyers Care</td>
<td></td>
</tr>
<tr>
<td>1405 A Main Street</td>
<td></td>
</tr>
<tr>
<td>Richmond, TX 77469</td>
<td></td>
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<tr>
<td>(281) 239-0015</td>
<td></td>
</tr>
<tr>
<td><a href="http://www.FortBendLawyersCARE.org">www.FortBendLawyersCARE.org</a></td>
<td></td>
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</tbody>
</table>
1.2 **The Role of the Volunteer Lawyer**

**Type of Legal Services Rendered** – Based on past experiences with disasters and other natural disasters, volunteer attorneys may be asked to provide advice on a wide range of issues, including—

1. assistance with filing for emergency assistance,
2. assistance with insurance claims (life, property, medical, etc.),
3. counseling on lessor-lessee, homeowner, and other housing problems,
4. assistance with home repair contracts,
5. assisting in consumer protection matters, remedies, and procedures,
6. counseling on mortgage foreclosure problems,
7. replacement of important legal documents destroyed in the natural disaster, such as wills and green cards,
8. drafting of powers of attorney,
9. estate administration (insolvent estates),
10. tax questions,
11. preparation for guardianships and conservatorships, and
12. referring individuals to local or state agencies which might be of further assistance (e.g. consumer affairs).

1.3 **Information You May Need in Helping the Victims**

Obtain the following information from the individual you are assisting:

- Full name and names and ages of family members living with the individual at the time of the disaster;
- Whether they are a plaintiff or defendant in any existing cases (if so, you should assist them in locating their counsel),
- Present address and disaster area address, as well as telephone number(s) where the individual may be contacted,
- Description of losses and disaster-related problems,
- Insurance information, and
- If necessary for the type of legal assistance you are to provide, citizenship status.

Note: Only U.S. citizens and qualified aliens are entitled to FEMA benefits; however, children born in the U.S. to undocumented aliens qualify for FEMA benefits, while undocumented aliens are entitled to noncash assistance through FEMA, including disaster legal services, emergency food and shelter, and crisis counseling.
1.4 **Locating Missing Family and Friends**

Persons affected by a disaster may notify loved ones of their well-being by registering on the Safe and Well feature of [www.redcross.org](http://www.redcross.org). Click the “Get Assistance” tab, and then click “Register or Search the Safe and Well Listings.” Concerned family and friends can search the list of those who have registered themselves as “safe and well.” Another source for information on how to locate a family member or friend affected by a disaster is: [https://www.usa.gov/after-disaster](https://www.usa.gov/after-disaster) (then go to steps 4 & 5 below) or [www.usa.gov](http://www.usa.gov), and follow steps 1–5 below.

1. Go to “+ More Services” in the top menu.
2. Click the “Disasters and Emergencies” tab.
3. Then click the “After a Disaster” tab.
4. Next, scroll down to the “Find Family After a Disaster” section.
5. Finally, access the “National Emergency Family Registry and Locator System” and “American Red Cross Safe and Well” links.
2.0 FEMA AND RELATED FORMS OF ASSISTANCE

When the President of the United States declares a “major disaster” anywhere in the United States or its territories, federal assistance is made available to supplement the efforts and resources of state and local governments and voluntary relief organizations pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended 42 U.S.C. § 5121, et seq.

Individuals, families and businesses may be eligible for federal assistance if they live, own a business, or work in a county declared a Major Disaster Area. Help may also be available to those who have incurred sufficient property damage or loss and do not have insurance or other resources to meet their needs. The most important thing a disaster victim must do to obtain FEMA assistance is to register with FEMA. To apply for Assistance for Individuals and Households, individuals should register with FEMA toll-free at 1-800-621-FEMA (TTY: 1-800-462-7585) within sixty days of the declaration of the disaster. The FEMA publication entitled “Individuals and Households Program Unified Guidance,” which includes information about what type of assistance is available, who is eligible, the process for obtaining assistance, and frequently asked questions, is available online at https://www.fema.gov/media-library/assets/documents/124228.

However, not everyone who has suffered in a disaster is entitled to FEMA assistance. FEMA has established a policy for preventing duplication of benefits under 44 C.F.R. § 206.191. FEMA’s duplication of benefits policy establishes the order in which the major forms of assistance should be provided, in other words, the sequence of delivery. The agency that has the primary responsibility for delivering a certain type of assistance should provide that assistance first, and may do so without regard to other agencies with similar assistance that is lower in the sequence. Agencies are not prohibited from disrupting the sequence of delivery when it serves to expedite the recovery of an applicant. However, the agency that disrupts the sequence of delivery must take corrective action.

The sequence of delivery for major forms of assistance is as follows:

Delivery Sequence Charts can be found at:
Chinese - https://www.fema.gov/media-library/assets/documents/32290

1. Volunteer Agencies’ Emergency Assistance (except expendable items such as clothes, linens, and basic kitchenware); Private insurance benefits (including flood insurance) – Insured applicants must file a claim with their insurance company before receiving federal assistance. They may be eligible to receive disaster assistance if they have insufficient coverage or have items not covered by their insurance policy.

2. Private insurance benefits – Insured applicants must file a claim with their insurance company before receiving federal assistance. They may be eligible to receive disaster assistance if they have insufficient coverage or have items not covered by their insurance policy.
3. **Temporary Housing Assistance** – FEMA funds and administers the Temporary Housing program, which is designed to provide disaster applicants with a grant for their housing needs. There are five forms of housing assistance, including:

   a. Lodging expense reimbursement for the cost of short-term lodging such as hotel rooms (food, transportation, telephone, separately billed utilities and other services not eligible for reimbursement). Rental assistance – eligible applications will receive financial assistance to rent a dwelling for the pre-disaster household to live for up to eighteen months based on need (FEMA may provide a list of available rental properties as well);

   b. Repair: Minimal repairs assistance to help those immediate emergency repairs to live in the residence while permanent repairs are being made (not intended to address all of damages or restore home to predisaster condition). Owners can receive up to the IHP cap for repairs;

   c. Replace assistance: Owners with destroyed homes can received up to the IHP cap towards the purchase of a new home.

   d. Manufactured Housing: When rental properties are unavailable, FEMA may provide in-kind assistance in form of trailers, manufactured homes or other readily fabricated dwellings for use as temporary housing for up to 18 months subject to recertification of continuing eligibility (applicants receiving in-kind assistance are not eligible for financial assistance); and

   e. The application period is generally within sixty days of the disaster, unless extended by FEMA.

   f. Small Business Administration (SBA) and Farmers Home Administration disaster loans: SBA provides low interest, long-term disaster loans for individuals to repair/replace real and personal property for non-farm businesses. If SBA determines that an applicant is ineligible for an SBA loan or if the loan amount is insufficient, SBA refers the applicant to FEMA for additional consideration. Borrowers are required to maintain appropriate hazard and flood insurance, where required. SBA can only approve a loan to an applicant with a reasonable ability to repay the loan.

4. **Other Needs Assistance (ONA)** – The State of Texas HHSC Emergency Services program also provides other needs assistance. Before other needs assistance can be provided, several conditions must be met:

   - The county where you live must be declared a major federal disaster area. See list of disaster declarations for Texas at https://www.fema.gov/disasters/grid/state-tribal-government/24.
   - If you are referred to do so, you must apply for a Small Business Administration (SBA) loan, even if you do not own a business. SBA provides disaster loans to
individuals and businesses that are able to repay the loans. If your only expenses are disaster-related medical, dental or funeral bills, you do not need to apply for an SBA loan. If you chose not to do so, you might find yourself barred from future recovery programs. If you are denied, you will be referred back to FEMA for consideration for further funding. If you are approved, you do not have to take the money then, it keeps your options open.

- If you have home, health, flood or car insurance, you must file a claim with your insurance for your losses and keep records of the settlements.
- You must first use all insurance benefits and any other help available from federal, state and/or local agencies (for example, insurance settlements, disaster loans, and assistance form the Red Cross and Salvation Army);
- You cannot get other needs assistance if you refuse other assistance.
- You must be a U.S. citizen or a “qualified alien” to receive assistance. See Q. 11 below. If you or your spouse are not a U.S. citizen or qualified legal immigrant, but your child is, then you can apply on his or her behalf.
- Other needs assistance includes financial assistance to address:
  a. Disaster-related medical and dental costs;
  b. Disaster-related funeral and burial costs;
  c. Disaster-related child care costs/clothing; household items (room furnishings, appliances); tools (specialized or protective clothing and equipment) required for your job; necessary educational materials (computers, school books, supplies)/
  d. Fuels for primary heat source (heating oil, gas);
  e. Clean-up items (wet/dry vacuum, dehumidifier);
  f. Disaster damaged vehicle;
  g. Moving and storage expenses related to the disaster (moving and storing property to avoid additional disaster damage while disaster-related repairs are being made to the home); and
  h. Other necessary expenses or serious needs as determined by FEMA (such as Critical Needs Assistance available following Hurricane Harvey. This consists of a $500 lump sum payment for applicants with immediate critical needs for “life-saving” and “life-sustaining” items. See www.fema.gov/news-release/2017/08/29/critical-needs-assistance).
  i. Other expenses that are authorized by law, http://www.dads.state.tx.us/handbooks/lhp-ona/
5. **Volunteer Organizations** - Those that provide assistance during recovery as well as during immediate emergency response. This includes national and local groups.

6. **Cora C. Brown Fund** – This fund, named after Cora Brown who died in 1977 and bequeathed part of her estate to the federal government to be used solely for human suffering caused by natural disasters, is used for disaster victims who have exhausted all avenues of assistance, but who still have unmet needs. Disaster victims need not apply for this assistance. By applying for disaster assistance, FEMA identifies potential recipients. FEMA uses these funds under the authority of 42 U.S.C. § 5201(b) of the Stafford Act and 44 C.F.R. § 206.181.

Other forms of individual assistance programs include:

- **Disaster Unemployment Assistance (DUA)** – DUA provides unemployment benefits and re-employment services to people who are otherwise ineligible for regular state unemployment compensation and who have become unemployed because of major disasters. Benefits begin with the date the individual was unemployed due to the disaster incident and can extend up to twenty-six weeks after the Presidential declaration date. These benefits are made available to individuals not covered by other unemployment compensation programs, such as the self-employed, farmers, migrant and seasonal workers, and those who have insufficient quarters to qualify for other unemployment compensation. DUA is funded 100 percent by FEMA and administered by the Department of Labor through the Texas Workforce Commission (TWC). **All unemployed individuals must register with the State's employment services office (TWC) before they can receive DUA benefits.**
  
  For program requirements and instructions on how to apply for DUA, see [http://www.twc.state.tx.us/jobseekers/disaster-unemployment-assistance](http://www.twc.state.tx.us/jobseekers/disaster-unemployment-assistance) and [http://www.disasterassistance.gov/disaster-assistance/forms-of-assistance/4466/0/D05](http://www.disasterassistance.gov/disaster-assistance/forms-of-assistance/4466/0/D05).

- **Crisis Counseling** – Funds are provided by FEMA as a grant to state and local mental health agencies to provide crisis counseling to help relieve grieving, stress, or mental health problems resulting from the disaster or its aftermath.


### 2.1 Applying for FEMA Assistance

#### Q. 1 How do I apply for disaster help?

If you live in a disaster area declared by the President and need disaster help, call 1-800-621-FEMA (3362) (hearing/speech impaired ONLY—call TTY: 1-800-462-7585) or apply online at [www.disasterassistance.gov](http://www.disasterassistance.gov). Click on “Apply Online” and the screens will prompt you through the process. If you get a busy signal when you call the 800 number, try calling in the evening.
after 10:00 p.m. or on the weekends when fewer people are trying to call. You may now also apply to www.m.fema.gov on your smart phone/mobile device.

When you apply, you should have a pen and paper available to write down important phone contacts. You will need your Social Security number, current and predisaster address, phone numbers, type of insurance coverage, total household annual income, a routing and account number from your bank if you want to have disaster assistance funds transferred directly into your bank account, and a description of your losses caused by the disaster.

Q. 2 What happens after I apply for disaster assistance?

FEMA will mail you a copy of your application.

- If your home or its contents are damaged and you do not have insurance, an inspector should contact you within ten to fourteen days after you apply to schedule a time to meet you at your damaged home.

- If your home or its contents were damaged and you have insurance, you need to work through your insurance claim first and provide FEMA with a decision letter (statement or denial) from your insurance company before FEMA issues an inspection. There is an exception for damages caused by flooding; if you have flood insurance, FEMA will issue an inspection before receiving a copy of your flood insurance decision letter to evaluate your eligibility for temporary living expenses because temporary living expenses are not covered by flood insurance.

- About ten days after the inspection, FEMA will decide if you qualify for assistance. If you qualify for a grant, FEMA will send you a check by mail or deposit it into your bank account. FEMA will also send you a letter describing how you are to use the money (for example: repairs to your home or to rent another house while you make repairs).

- If FEMA decides that you do not qualify for a grant, FEMA will send you a letter explaining why you were turned down and give you a chance to appeal the decision. Appeals must be in writing and mailed within sixty days of FEMA’s decision.

- If you get a SBA Disaster Loan application in the mail, you must complete and return the application to be considered for a loan as well as certain types of grant assistance. SBA representatives are available at Disaster Recovery Centers to help you with the application. If the SBA finds that you cannot afford a loan, they will automatically refer you back to FEMA’s Individuals and Households grant program for help.

- If the SBA approves you for a loan, they will contact you.

- If the SBA finds that you cannot afford a loan, FEMA will contact you.
Q. 3 Two weeks ago, I mailed in the documents FEMA had asked for. When I called the helpline, the service representative said the documents were not in my file. What should I do?

Please be sure to keep your phone number and mailing address current in FEMA’s records. FEMA has implemented new technology to help inform you that FEMA has received your documents. You will be contacted via a recorded message informing you that FEMA has received your documents. You can also check the status of your application by creating an account at DisasterAssistance.gov, and clicking Check Your Status.

Please remember that, when you mail or fax documents to FEMA, it is very important to include your name, your Social Security number, the disaster number, and your registration ID number on all paperwork. This will speed handling and assure that the documents are placed in the correct file. The numbers can be found on the cover page that is included with all FEMA correspondence in the upper left hand corner of any letter FEMA sends you.

Q. 4 The letter from FEMA said I had no damages or insufficient damages, but my home was damaged and some of my personal property was damaged too. What do I do?

You may appeal most decisions within sixty days of the decision letter. When you appeal a decision, you are asking FEMA to review your case again. Appeals may relate to your eligibility, the amount or type of help you received, late applications or requests to return money. You will not automatically get another inspection just because you appeal. FEMA has up to 90 days to issue a decision on the appeal.

For additional information on the appeal process, refer to pages IHPUG at pages 26 through 29.

See https://www.lawhelpinteractive.org/login_form?template_id=template.2013-01-01.0389547927&set_language=en to do a FEMA appeal with the probono.net template. This is good for all states. See also resources available at disasterlegalaid.org.

Q. 5 How long does it take to get help from FEMA?

If you have damage to your home or its contents and you are uninsured or you have suffered damage due to a flood, a FEMA inspector will contact you within ten to fourteen days of applying to set up an appointment to assess your disaster damages. Typically, within about ten days after the inspection, if FEMA determines that you qualify for help, you will receive a direct deposit into your bank account or a check in the mail.
Q. 6  
I applied for disaster assistance two weeks ago and haven’t heard from anyone. I keep calling the 1-800-621-3362 number, but I get a busy signal. Is there another way to follow up on my claim?

If you have access to the Internet, you may want to consider checking the status of your case online. You can also check the status of your case by creating an account to track your progress at DisasterAssistance.gov. Another option is to visit a Disaster Recovery Center in your area if there is one.

Q. 7  
I received my check for rental assistance or hotel assistance, but there are no places to rent.

If you are eligible for housing assistance from FEMA, but are unable to find a rental house or apartment within a reasonable commuting distance of your damaged home, please contact FEMA at 1-800-621-FEMA (3362) or visit a nearby Disaster Recovery Center. FEMA will evaluate your situation and, if appropriate, may authorize a travel trailer or mobile home. You can also access this FEMA Housing Portal link to search for available rental properties in your area: http://asd.fema.gov/inter/hportal/home.htm. To check for available hotels that will accept Temporary Sheltering Assistance related to Hurricane Harvey, check www.femaevachotels.com/.

Q. 8  
I didn’t receive enough money from FEMA to meet all my needs. What do I do now?

Most disaster aid programs are intended to meet only essential needs and are not intended to cover all your losses. Also, some people qualify for assistance from more than one program, and may receive additional help from another agency. For example, the Small Business Administration is a very important source of funding for repair and replacement of real and personal property. If you received a loan application packet from the SBA, please complete and return the application as soon as possible. No work can begin on the loan until you submit your application. If you do not agree with FEMA’s decision, you may appeal the decision. To file an appeal, follow the appeals process that is explained in your letter from FEMA.

Q. 9  
I know of others in my neighborhood, city, or state who received help from FEMA, however I was told I have insufficient damages. Does FEMA use the same criteria when considering damages for everyone?

FEMA reviews each applicant’s case individually and applies the same eligibility criteria. If you were determined to be ineligible because of insufficient damages and you feel this finding is incorrect, you have a right to file an appeal.

Q. 10  
I have a new telephone number. How do I update my application?

Some information, such as current phone number, mailing address, or insurance policy number, can be updated online at the link below. To update other file information you will need to call the FEMA Disaster Helpline at 1-800-621-FEMA (3362) (hearing/speech impaired ONLY—call
TTY: 1-800-462-7585), visit a Disaster Recovery Center, or write to FEMA at the address provided on any correspondence you have received.

- To update your information online, go to: Disaster Assistance.gov.
- Then, click “Check Status,” and log into your online account or create an account.

**Q. 11 What are FEMA’s citizenship/immigration requirements?**

You must be a U.S. citizen or a “qualified alien” to receive FEMA financial assistance, including the Individuals and Households Program and Disaster Unemployment Assistance. If you or your spouse are not U.S. citizens or considered “qualified aliens,” but your child is, then your household can apply on his or her behalf.

FEMA can provide information on how to obtain a Social Security number for a minor child. The minor child must live with the parent/guardian applying on his/her behalf.

One does not have to be a U.S. citizen or a qualified alien for crisis counseling, disaster legal services, or other short-term, non-cash emergency assistance. Voluntary agencies provide help regardless of immigration status.

**Q. 12 What immigrants are considered “Qualified Aliens”?**

As noted above, to be eligible for cash assistance from FEMA you must be a qualified alien.

For FEMA IHP, the “qualified alien” standard includes the following categories of immigrants: anyone who has been granted legal permanent residence (green card), refugee or asylee status, withholding of deportation, conditional entry, parole into the US for at least one year, is a Cuban-Haitian entrant, is a battered spouse or child(ren) with a pending or approved spousal petition if there is a substantial connection between such battery or cruelty and the need for the benefits (does not apply if person responsible for battery or extreme cruelty resides in the household), or is a victim of trafficking who has been granted a “T- visa” or can demonstrate that s/he has a pending application that sets forth a prima facie case for T- visa eligibility. See 8 U.S.C. § 1641.

If applicants are uncertain about whether their immigration status falls within the qualified alien category, they should consult an immigration expert.

Noncitizens must meet the following requirements (in addition to other DUA requirements) to be eligible for Disaster Unemployment Assistance (DUA):

1. A noncitizen must be authorized to work for the weeks for which she is claiming DUA. See 56 Fed. Reg. 22800-01.
2. In addition, a noncitizen must have had one of the following statuses during the time she was earning the wages that are used to calculate her weekly benefit amount:
See 20 C.F.R. § 625.6(a)(1). With some exceptions, an individual’s weekly benefit amount is normally calculated using the wage credits earned during her “base period” (which, for Hurricane Harvey, is the 2016 calendar year). See Tex. Lab. Code §§ 201.011, 207.004. Therefore, this second requirement usually will mean that the noncitizen must have had one of the three statuses above during her “base period” or a portion of her “base period.” Otherwise, the individual may qualify for benefits when she applies, but her benefits will be zero because she did not have a qualifying status when she was earning her “base period” wages. For an explanation of the “base period,” see http://www.twc.state.tx.us/jobseekers/disaster-unemployment-assistance#weeklyBenefitAmount and http://www.twc.state.tx.us/jobseekers/eligibility-benefit-amounts.

2.2 Disaster Recovery Centers

Q. 13 What is a Disaster Recovery Center and what services do they provide?

A Disaster Recovery Center (DRC) is a readily accessible facility or mobile office where applicants may go for information about FEMA or other disaster assistance programs, or for questions related to their case. NOTE: You can register for assistance at a DRC, or use the “Apply for Assistance” tab at http://www.fema.gov/apply-assistance, or call 1-800-621 FEMA (3362) (hearing/speech impaired ONLY—Call TTY: 1-800-462-7585).

Q. 14 What are some of the services that a DRC can provide?

A DRC may provide

- Guidance regarding disaster recovery
- Clarification of any written correspondence received
- Housing Assistance and Rental Resource information
- Answers to questions, resolutions to problems and referrals to agencies that may provide further assistance
- Status of applications being processed by FEMA
• SBA program information if there is a SBA representative at the Disaster Recovery Center site
• Access to Disaster Legal Services.

2.3 Employment Issues

Q. 15 I lost my job because of the disaster and am unable to make my mortgage (or rent) payments. Will FEMA make payments until I can return to work?

No. FEMA is not authorized to make such payments. If you lost work because of the disaster, you may qualify for Disaster Unemployment Assistance (DUA). See the DUA section above or contact the local office of your State’s Employment Commission for information about DUA. The DUA program covers most people affected by a disaster, including many who do not normally qualify for regular unemployment aid. Also, be sure to speak to your lender or landlord and explain your circumstances. Special arrangements can often be made.

Q. 16 I have not been able to work since the disaster hit. My employer says that I still have a job, but I am not drawing a paycheck. Does FEMA pay for lost wages?

If you lost work because of the disaster you may qualify for Disaster Unemployment Assistance (DUA). See the DUA section above or contact the local office of your State’s Employment Commission for information about DUA.

The Texas Workforce Commission (TWC) may accept applications for Disaster Unemployment (DUA) as a result of a Presidential Disaster Declaration for workers who lost their jobs and self-employment individuals who have been unable to work due to a disaster.

Applicants must mail in or fax all required documentation within twenty-one days from the date of the DUA application. Send mailed documentation to: TWC, UI Support Service Department, Attn: DUA, 101 E. 15th St., Room 354, Austin, TX, 78778-001, or fax it to (512) 936-3250.

2.4 Farm/Agricultural Damages

Q. 17 I had damages to my farm or ranch. Can FEMA help me?

If you sustained damages to your home or personal property, you should apply with FEMA for assistance. If you had damages to your crops, livestock, farm equipment, barns, dairy, or something similar, you should contact your local Farm Services Agency office to inquire about the USDA’s disaster assistance program. The Texas Farm Service Agency is available at: http://www.fsa.usda.gov/FSA/stateoffapp?mystate=tx&area=home&subject=landing&topic=landing.

FEMA does not offer grant assistance to businesses and farmers, but does act as a referral agency. FEMA may also maintain a list of additional referral resources for business owners and farmers that can be access at FEMA.gov/disasters and selecting your state, or by calling the
FEMA Helpline (1-800-621-3362). Additional information is available at: https://www.fema.gov/what-do-if-your-business-or-farm-was-damaged.

2.5 Inspections

**Q. 18** The inspector told me I was going to get money from FEMA. However, I got a letter from FEMA stating that I was not eligible. Which is correct?

The letter is correct. The inspectors are FEMA contractors and are not authorized to comment on eligibility matters. Inspectors record their determinations about what damage the disaster caused to your home and other property, and provide that information to FEMA in the form of an inspection report. FEMA then relies on that information and its own standards to determine your eligibility.

**Q. 19** What will FEMA accept as proof that I occupied my home?

There are several documents that may be used to prove occupancy. They include, but are not limited to: a mortgage statement or a lease for the damaged dwelling; a utility bill for the damaged dwelling you are occupying; a merchant’s statement sent to the damaged dwelling; an employer’s pay statement sent to the damaged dwelling; or a current driver’s license showing the address of the damaged dwelling.

**Q. 20** What will FEMA accept as proof that I own my home?

There are several documents that may be used to prove ownership. They include, but are not limited to: the deed; deed of trust; mortgage payment book or other mortgage documents; real property insurance policy; tax receipts; or property tax bill; or documentation showing that the applicant was responsible for maintenance of the home. There are three ways to be treated as an owner-occupant for FEMA benefits. Option one is to actually demonstrate legal ownership. Option two allows people who do NOT hold legal title, pay no rent, but who are responsible for the payment of taxes or maintenance of the residence, to prove ownership. Option three is for people with a life estate. See 44 C.F.R. § 206.111. (http://www.ecfr.gov/cgi-bin/text-idx?SID=56b83570b5dde2206384e617abdf9a34&node=44:1.0.1.4.57.4.18.4&rgn=div8)

**Q. 21** My inspector called me, and I missed the call. How do I contact the inspector?

The FEMA inspectors are out on inspections most days and cannot be reached while they are inspecting a home. You should wait for the FEMA inspector to call you again. The FEMA inspectors will try to call you three times to arrange an appointment to inspect your property. Inspectors will call your current phone contact number and the alternate if you provided one. If any of your contact information has changed, call the Helpline to update the information. The inspector may leave a notice at your damaged home with contact information if they cannot reach you by phone.

2.6 Insurance
Q. 22 I have insurance and filed a claim with my insurance agent, but I don’t have a place to live. Is there any help for me?

FEMA cannot duplicate assistance from your insurance company. If you still have serious unmet needs after receiving your insurance settlement, FEMA may be able to provide assistance. If you are unable to locate a place to rent, you can visit a local Disaster Recovery Center (DRC) or call FEMA’s helpline at 1-800-621-FEMA (3362) to get the list of rental resources in your area. You can also access this FEMA housing portal link to search for available rental properties in your area: http://asd.fema.gov/inter/hportal/home.htm.

Q. 23 I have received a settlement from my insurance company and it is not enough to cover my losses. What should I do now?

FEMA recommends the following: Read over your settlement documents carefully and be sure you understand your policy. If you believe a mistake has been made, contact your insurance agent. If you are still not satisfied, your agent can tell you how to contest the settlement. Next, call FEMA at 1-800-621-FEMA. FEMA, SBA, and other agencies may be able to help cover those losses that are uninsured or underinsured, and otherwise eligible.

Q. 24 Are insurance deductibles covered under FEMA’s programs?

FEMA does not cover insurance deductibles. If your insurance settlement does not meet your disaster-related needs you may be eligible for assistance from FEMA or the SBA. There can be no duplication of these programs.

Q. 25 What documents does FEMA want from my insurance company?

If you apply for help from FEMA because your insurance does not cover all of your disaster-related needs, you need to write a letter to FEMA explaining your situation and include a copy of a settlement or denial letter from your insurance company. FEMA cannot duplicate any insurance coverage. It is important that you get a denial of displaced housing immediately, so that you can ask FEMA to cover your temporary housing. This is not income qualified.

Q. 26 Do I have to file a claim with my insurance company since I have to pay a deductible? Why can’t FEMA just help me?

By law, FEMA cannot give you money for items that your insurance covers, (this would be considered a duplication of benefits), but FEMA may be able to help with uncompensated losses or unmet needs not covered by your insurance company. If you have not already contacted your insurance agent to file a claim, please do this as soon as possible. If you do not file a claim with your insurance company, FEMA help may be limited. If your insurance company tells you that
your deductible is greater than the amount of damage found, please request a letter from the insurance company, on company letterhead, and send it to FEMA, along with your application for assistance.

**Q. 27** My insurance company told me it would be weeks before they come to see my damages. Can FEMA help?

If a decision on your insurance settlement has been delayed for more than thirty days after you filed the insurance claim, you may be eligible for an insurance advancement from FEMA. These funds are considered a loan and must be repaid to FEMA once you receive your settlement from your insurance company. You need to write a letter to FEMA, explaining the circumstances of the delay in settlement. Include documentation from the insurance company as proof of filing, or the claim number, the date filed, and an estimate of how long the settlement will take, if you filed by phone. FEMA will send you a Request for Advancement and Signature letter. You must complete and return this letter before FEMA can evaluate your request for assistance.

### 2.7 Late Registration

**Q. 28** I had extenuating circumstances that prevented me from applying for assistance before the registration filing deadline. I have damages from the disaster, what can I do?

Apply anyway. You may make a late registration within sixty days after the filing deadline. A letter will be sent stating you are not eligible for consideration for disaster assistance under the Individuals and Households program. The letter will contain information on how you can appeal this decision if you had extenuating circumstances that kept you from filing during the open registration period. ([https://www.fema.gov/news-release/2003/01/31/fema-procedures-allow-individuals-extenuating-circumstances-opportunity](https://www.fema.gov/news-release/2003/01/31/fema-procedures-allow-individuals-extenuating-circumstances-opportunity))

### 2.8 Returning Funds

**Q. 29** I need to return a check or pay money back to FEMA. Where do I send it?

**Treasury Checks:** If you have not cashed the treasury check and wish to return it, or if you have been advised in an official letter from FEMA to return the check, mail it to: Department of the Treasury, P.O. Box 51320, Philadelphia, PA 19115-6320. Include your name, Social Security number, and FEMA application number. ([https://www.fema.gov/how-make-payment-fema](https://www.fema.gov/how-make-payment-fema))

**Personal Checks/Cashiers Checks/Money Orders:** If you have already cashed the treasury check and wish to return the funds, or you have been advised in an official letter from FEMA to return the payment, send your personal check (or money order/cashier’s check), by regular mail to: FEMA, P.O. Box 530217, Atlanta, GA 30353-0217. If you send your payment by courier (i.e., UPS, DHL, or FedEx), send it to: FEMA, Bank of America, Lockbox Number 530217, 1075 Loop Rd., Atlanta, GA 30337-6002. DO NOT send cash. Include a brief statement
explaining why you are sending funds to FEMA. Include your name, social security number, and FEMA application number. (https://www.fema.gov/how-make-payment-fema)

**State Checks:** If you have received a check from your state for your damaged personal property and wish to return the check or have been advised in a letter to return the funds, you will need to mail the check/payment back to the state. The address will be listed on the letter that accompanied your check.

### 2.9 Road and Bridge Damages

**Q. 30** My home is not damaged, however a public road or bridge has been damaged and is preventing access to my home. Can FEMA help me?

Yes. If damages to a public road or bridge prevents or restricts you from accessing your home, FEMA may be able to provide assistance. (http://www.fema.gov/faq-details/Road-and-Bridge-Damages/)

**Q. 31** If I own the bridge and/or road that is damaged, should I apply for assistance?

Yes, if the private road or bridge damage prevents or restricts access to your home, FEMA may be able to provide assistance. FEMA’s Individual Assistance program could cover the expenses of repairing privately owned access roads if the following criteria are met:

- It is the applicant’s primary residence;
- It is the only access to the property;
- It is impossible to access the home with the damaged infrastructure; or
- The safety of the occupants could be adversely affected.

Private property owners, established homeowners associations, and properties governed by covenant may apply for a low-interest disaster loan directly through the Small Business Administration (SBA). (http://www.fema.gov/faq-details/Road-and-Bridge-Damages/)

**Q. 32** What if I share ownership and responsibility for the road bridge with other families, do they all need to register?

All households who share in the responsibility of maintaining the private road and/or bridge should each register individually, particularly if the damages prevent or restrict access to their homes. (http://www.fema.gov/faq-details/Road-and-Bridge-Damages/)

### 2.10 Small Business Administration (SBA)

**Q. 33** Why am I being referred to the SBA?

The Small Business Administration (SBA) is the primary source of federal funds for long-term recovery assistance for disaster victims. SBA loans are not only for businesses. The SBA has low-interest disaster loans for homeowners, renters and non-farm businesses to cover disaster damage to real and personal property. Filling out the application is necessary for most homeowners and renters to be considered for all forms of disaster assistance.
Q. 34 Does the SBA make loans to individuals or just businesses?

The SBA can loan money to homeowners, renters, and business owners. Homeowners may borrow up to $200,000 for disaster-related home repairs. Homeowners and renters may borrow up to $40,000 to replace disaster-damaged personal property including vehicles. The SBA may not duplicate benefits from your insurance or FEMA. You may receive an SBA referral when you apply with FEMA. If the applicant does not qualify for a low-interest SBA loan, FEMA may be able to offer them additional disaster grants that help reimburse for lost personal property, vehicle repair or replacement, and moving and storage expenses.

Q. 35 How do I reach the SBA hotline?

The SBA has loan officers in the Disaster Recovery Centers to provide face-to-face service to disaster victims. You may visit the SBA at any of these locations without an appointment. An SBA representative will be glad to answer questions and help complete your application. To find out where the SBA disaster offices are located, an applicant can call the SBA toll-free at 1-800-659-2955 or email the SBA disaster customer service at disastercustomerservice@sba.gov.

2.11 Travel Trailer/Mobile Home

Q. 36 How long can I use the travel trailer/mobile home?

If FEMA provides you with a travel trailer or mobile home you may be able to use it for up to eighteen months from the date of declaration if you continue to have a disaster-related housing need.

Q. 37 My family is too large for a travel trailer/mobile home. What do we do?

FEMA can provide more than one travel trailer for a family if necessary.

Q. 38 Can I have a ramp built for a travel trailer/mobile home?

When FEMA makes its initial assessment of your site to decide if it is possible to place a travel trailer/mobile home at your home, FEMA includes any requirements for ramps. If you did not receive a ramp and require one, call the FEMA Helpline at 1-800-621-FEMA (3362). A helpline representative will ensure that someone will get back in contact with you.

Q. 39 One of the storms damaged the travel trailer that FEMA provided me. What should I do?

Contact the maintenance number provided when you were leased into your unit. If you do not have the number, call the FEMA Helpline at 1-800-621-FEMA (3362). A helpline representative will ensure that someone will get back in contact with you.
2.12 General Questions

Q. 40 After the storm, the gas station up the street was charging $10 a gallon for gas. Isn’t that price gouging?

In most cases, the current price at the pump is not due to price gouging. However, the Texas attorney general is prepared to act quickly if gas prices in a governor-declared disaster area spike beyond what the normal market forces set. If you find price gouging, contact the attorney general’s office. (https://www.texasattorneygeneral.gov/cpd/price-gouging)

Q. 41 When funds are provided for disaster assistance in other countries, does this affect the amount of money that is available for my state?

No. If federal disaster assistance is designated for your area, the disaster relief funds for your state will not be affected by any funds provided for international relief efforts.

Q. 42 My vacation/secondary home was damaged. Can I get any help?

Damages to a secondary or vacation home are not eligible under FEMA’s disaster assistance program. However, if you own a secondary home that is rented out or occupied by a family member, you may be eligible for assistance from the Small Business Administration.

Q. 43 Will FEMA help me pay my utility bills?

No, FEMA cannot pay utility bills. However, local charitable organizations may be able to help for a short time. We suggest you contact the Red Cross (www.redcross.org) or your local United Way office by calling 2-1-1 for a referral to a local agency that may be able to help.

Q. 44 I lost my food because of the power outage; will I be reimbursed for it?

FEMA’s disaster assistance program does not cover food losses. Voluntary organizations in the disaster area may be able to help you with a hot meal or other immediate needs for food. You may also qualify for assistance through the Disaster Supplemental Nutrition Assistance Program (SNAP). Call 2-1-1 to find out more information on how to apply. (http://www.hhsc.state.tx.us/index.shtml and http://www.dads.state.tx.us/forms/H1855/)

Q. 45 I have trees down all over my yard. Is there any help for debris removal?

Many homeowners’ insurance policies cover debris removal. FEMA does not typically pay for cleaning up debris on private property or in gated communities, but if the debris is keeping you or emergency workers from safely getting to your home, FEMA may be able to provide help. Your local officials can also tell you if there is a pickup schedule for debris in your area.

FEMA may provide assistance for debris removal from private property if it will:
- Eliminate immediate threats to life, public health, and safety; or
• Eliminate immediate threats of significant damage to improved public or private property; or
• Ensure economic recovery of the affected community to the benefit of the community-at-large.

**Q. 46 I purchased a generator. Will I be reimbursed?**

FEMA reviews requests for reimbursement of the cost of a generator on a case-by-case basis and determines if a generator was purchased to overcome a disaster-related hardship, injury, or adverse condition. You should register and submit your receipts to see if the cost is covered. In addition to the eligibility requirements for IHP:

- The applicant must provide proof that the piece of equipment is required for medical purposes (e.g., letter from physician stating that the applicant/occupant has a medical need for the equipment).
- For more information on generator reimbursement, click the link below: [Generator Reimbursement](http://www.fema.gov/media-library-data/1392312125767-5abc12060e4e243ae5b90bb2/Generator%20Reimbursement%20RP1002%201.pdf).

**Q. 47 Does disaster help have to be repaid?**

A grant from the FEMA Individual and Households Program does not have to be repaid. Loans from the Small Business Administration must be repaid.

**Q. 48 FEMA told me to send in my receipts. What is the mailing address?**

Please mail all correspondences to the following address:

FEMA – Individual and Households Program  
National Processing Service Center  
P.O. Box 10055  
Hyattsville, MD 20782-8055; or

Fax it to 1-800-827-8112; or

Upload from your personal computer to your online account at:  

Please write your name, last four digits of your Social Security number, disaster number, and registration number on all pages of your documents and keep a copy for your own records.

**Q. 49 I got a check from FEMA. What can I use the money for?**

FEMA sends you money to meet your housing and personal property needs related to the disaster. You will receive a letter from FEMA telling you what the money covers.
Q. 50  Can I get more information about disaster assistance on the Internet?

Yes. The best place to start is http://www.fema.gov and disasterlegalaid.org.

Q. 51  I have a lot of damage but I received a letter from FEMA stating I am getting “$0.” Why?

Please read the entire letter. The most common reasons for denial letters are because you have insurance to cover the loss or because your property is a secondary or vacation home. If you have received your insurance settlement and it does not cover all of your necessary expenses and serious needs, please contact FEMA at 1-800-621-FEMA (3362). If you do not qualify for assistance, the letter will also explain your rights to file an appeal if you disagree with the reason provided by FEMA. If you wish to appeal, you must do so within sixty days of the denial date. Source: This question and answer section utilizes information provided by FEMA at https://www.fema.gov/faq. Please see that site for a complete list of currently published FEMA FAQs.
3.0 FALLING TREES, FLYING LIMBS & LOUD NEIGHBORS

3.1 Overview

Disaster damage from heavy rains, ferociously high winds, and flooding manifests in a number of ways. Not uncommonly, objects such as furniture or heavy tree limbs go flying, or trees are uprooted by the storm. This chapter addresses questions regarding those situations in which high winds, heavy rains, or flooding cause damage to persons or property.

3.2 Most Common Issues/Questions

- My neighbor’s tree fell into my yard during the disaster. It smashed my fence and took out my landscaping. Can I make my neighbor pay for the fence repairs and landscaping?
- What if my neighbor’s tree hits my house?
- No trees came down during the disaster, but I’m sick of picking up limbs out of my yard from my neighbor’s tree. I’m worried about the next storm; that tree looks awful. What can I do?
- Can I make my neighbor trim the tree branches that hang onto my property?
- My neighbor is freaking out after the disaster and wants to cut down all trees on his property. They provide the only shade in my yard. Can I stop my neighbor?
- My neighbor had a lot of trees fall on his property. He keeps running a chainsaw long after I’ve put my kids to bed. Can I stop him?
- The fence between my property and my neighbor’s property is down. Who has to pay to replace it?

3.3 Summary of the Law

As a general rule, compensation may not be obtained for damage, losses, or harm suffered as a result of an act of God, which means that it is due directly and exclusively to natural causes without human intervention, and no amount of foresight, pain, or care, reasonably exercised, could have prevented the damage. This definition includes natural disasters. As one court put it, “[D]amages resulting from an act of God are not ordinarily chargeable to anyone.” Hutchings v. Anderson, 452 S.W.2d 10, 15 (Tex. Civ. App. 1970). There are however, at least two situations in which that general rule may not come into play.

First, damages suffered by a homeowner or tenant due to high winds or rain may be covered by an insurance policy. (Damage caused by flooding is covered by a separate flood insurance policy sold by your insurance agent and overseen by FEMA as part of the National Flood Insurance Program.) The first question, then, is whether the homeowner or tenant has an insurance policy.
If so, the critical inquiry is whether the policy covers losses due to high winds and rain. A policy may exclude coverage for any losses from disasters altogether or may cover only some types of losses and not others. In one litigated case, the policy did not mention disasters specifically, but excluded from coverage losses caused by floods and high water, “whether driven by wind or not.” That language prompted arguments about which damages were caused by rising waters and which were caused by wind-driven rain. *National Union Fire Insurance Company v. Cox*, 393 S.W.2d 939 (Tex. Civ. App. 1965).

Second, the “act of God” doctrine applies only if the natural disaster or similar act of God is the sole or exclusive cause of the damages. *See Macedonia Baptist Church v. Gibson*, 833 S.W.2d 557, 560 (Tex. App.—Texarkana 1992, no writ) (“An accident is the result of an act of God when it is due directly and exclusively to natural causes without human intervention”). It does not apply to situations in which negligence has been a substantial contributing cause of the damages. This is so whether or not the person who is negligent could have reasonably foreseen the disaster or the force of the disaster. As one Texas court stated, after a homeowner successfully sued to recover for damages due to a billboard sign that collapsed on her house during Hurricane Alicia in 1983,

> [C]onditions created by the defendant’s initial negligence must not have run their course and must have actively contributed to the injuries . . . If an actor’s conduct is a “substantial factor” in causing harm to another, the fact that he did not foresee nor should have foreseen the extent of the harm or the manner in which it occurred does not preclude liability.


That court found that the billboard company’s failure to take “adequate precautionary measures” to secure the sign “actively contributed” to the sign’s falling on the house, regardless of whether the force of Hurricane Alicia had been foreseeable. In that regard, a failure to secure objects that can reasonably be expected to be swept up in a disaster is likely to give rise to liability. Similarly, the failure to take steps to remove, or at least secure, a diseased or dead tree may well make a homeowner liable for damages, if the tree is uprooted by a disaster and thereby damages neighboring property or persons.

### 3.4 Assistance Numbers

**Federal:**

**Federal Emergency Management Agency (FEMA)** [www.fema.gov; 1-800-621-FEMA (3362)]. If your home was damaged during a disaster and repairs are not covered by insurance, you may qualify for a FEMA grant to make it safe and livable. Structural repairs (roof, foundation, etc.) may be covered but not cosmetic repairs (shutters, carpet, etc.). FEMA encourages homeowners with damage to register so that an agent can be sent to assess the damage and determine what repairs will be covered. You can register online at [www.DisasterAssistance.gov](http://www.DisasterAssistance.gov) or by calling the FEMA number above.
Generally, FEMA requires private property owners to use their own resources to clean up debris from their property. Local government officials may set up various options to assist residents in collecting and disposing of debris after a disaster, including providing drop off sites or a curbside collection program. There must be an immediate threat to life, public health, and safety to justify the removal of debris by a public entity, and this must be expressly authorized by state or local authorities. The private land owner should call 3-1-1 if it believes the city of Houston should authorize the debris removal as part of the public interest. Outside Houston, contact your local government. FEMA’s policy on removal of debris from private property is available online at: https://www.fema.gov/media-library-data/1465341702161-43b1b2c99bb28e058f6350f36919151/FactSheetDebrisRemovalPrivateProperty2016.pdf.

State of Texas:

Texas Department of Insurance ("TDI"). Offers numerous services for consumers and insurers. TDI helps to locate insurance carriers, monitors insurance fraud, and offers answers to Frequently Asked Questions. In addition, the Department of Insurance will issue important bulletins relating to disasters and postdisaster claims handling. Insurance-related complaints can be made to TDI via their website e-mail address ConsumerProtection@tdi.texas.gov, or via the consumer helpline - 1-800-252-3439. See TDI’s website for various disaster resources: http://www.tdi.texas.gov/consumer/storms/ and http://www.tdi.texas.gov/consumer/storms/helpafterharvey.html.

Local:

City of Houston. It is suggested that all citizens clean up their own yards and help their neighbors. Check http://www.houstontx.gov for updated information on storm clean up and dial 3-1-1 with questions.

Harris County. Check http://harrisrecovery.org/ for the latest information on this and other topics.

Solid Waste Management Department. Solid Waste Management is responsible for storm debris collection in the City of Houston. Visit http://www.houstontx.gov/solidwaste/ or call 3-1-1 for debris drop-off locations and pick-up information. For instructions on separating your debris for removal, see http://www.houstontx.gov/solidwaste/debris_08302017.html.

3.5 FAQs

Q. 52 My neighbor’s tree fell into my yard during the disaster. It smashed my fence and took out my landscaping. Can I make my neighbor pay for the fence repairs and landscaping?

If the tree was healthy before the disaster and the storm’s high winds caused the tree to fall over and damage your property, you cannot hold your neighbor liable. This was an “Act of God.” However, if the tree was decayed, diseased, dead, or in an otherwise dangerous condition before the disaster, you can hold him liable for damages. In this case, your neighbor was negligent in maintaining the tree. The tree posed an unreasonable risk of harm and your neighbor had a duty
to trim the branches or remove the tree before the storm to prevent it from falling over. “It is established in our law that damages resulting from an act of God are not ordinarily chargeable to anyone. However, for a defendant to be relieved of liability for an unprecedented flood, there must be no negligence on his part concurring with the acts of God to cause the damage.” Luther Transfer & Storage, Inc. v. Walton, 296 S.W.2d 750, 753–754 (Tex. 1957) and cases cited therein; Hutchings v. Anderson, 452 S.W.2d 10, 15 (Tex. Civ. App. 1970). Home insurance should cover this type of damage.

Q. 53  What if my neighbor’s tree hits my house?

Same as above. If the tree was healthy and it fell due to high winds during the disaster, your neighbor is not responsible. If the tree was in poor condition prior to the disaster, your neighbor should have had the tree removed or taken other reasonable measures prior to the storm. The dispute is likely one over home insurance—if your neighbor is not responsible, insurance should cover; if it was your neighbor’s responsibility, his insurance should cover you. As a practical matter, it may be easier to claim on your insurance and let your insurance company pursue any claim that may exist against your neighbor.

Q. 54  No trees came down during the disaster, but I’m sick of picking up limbs out of my yard from my neighbor’s tree. And I’m worried about the next storm; that tree looks awful. What can I do?

You can cut the limbs that grow onto your property, but you cannot kill the tree. The tree owner may have the responsibility for removing a dead or diseased tree prior to a storm, but you cannot take on that job yourself. Rather, you should inform your neighbors of the dangerous condition of the tree and request that they address the problem. If they fail to do so and you end up with damage (like the examples above), you will be able to recover damages from the tree owner. (There is no case law directly on point regarding not killing the tree; the closest is a case, Withrow v. Armstrong, 2006 WL 3317714 (Tex. App. 2006), where a neighbor poured poison on a tree’s roots on her side of the property, which killed the owner’s tree. The owner sued for trespass and collected damages from the neighbor.)

If you live in the city of Houston, call 3-1-1 if your neighbor refuses to remove a dead or damaged tree. 3-1-1 is the number for Houston’s Service Helpline. The Inspections & Public Service (IPS) Division of the Department of Neighborhoods is responsible for cleaning up neighborhoods using building codes, sign codes, nuisance violations, and beautification projects. If the city determines that the tree is dangerous, they will issue a notice requiring removal. If the tree is not removed, the neighbor can be fined between $200 and $2000. See http://www.houstontx.gov/ips/avoid_common_violations.html. If you live outside of Houston, you should check with your local city government to determine if there is a tree ordinance that applies to your situation.

Q. 55  Can I make my neighbor trim the tree branches that hang onto my property?
No. You can trim them, but you cannot make your neighbor trim them. And if you trim them, it needs to be in such a way that it won’t kill the tree. Otherwise, if the tree dies, your neighbor could attempt to recover damages from you for “trespass.” This presumes the tree is healthy. Also, you can trim the branches only up to the property boundary line. If the tree is dangerous, then you can call 3-1-1 if you live in the City of Houston and see if the City agrees. The Inspections & Public Service (IPS) Division of the Department of Neighborhoods is responsible for cleaning up neighborhoods using building codes, sign codes, nuisance violations, and beautification projects. If you live outside of Houston, you should check with your local city government to determine if there is a tree ordinance that applies to your situation.

Q. 56 My neighbor is freaking out after the disaster and wants to cut down all of his trees. They provide the only shade in my yard. Can I stop my neighbor?

Not under common law. The trees belong to your neighbor and so they are his property to do with as he wishes. It does not matter if the trees are your shade or if the trees’ branches go over into your yard. If the tree is on the property line, you may have an ownership interest. There may be a tree ordinance or restrictive covenants pertaining to your subdivision, though, that protects the trees if they are a certain size. Check with your local city government if you are outside the city of Houston. If you are in the city, check and see if your neighborhood has an ordinance. Also check with your Homeowners’ Association.

Q. 57 My neighbor had a lot of trees fall on his property. He keeps running a chain saw long after I’ve put my kids to bed. Can I stop him?

It depends. Houston does have a noise ordinance. A typical chain saw has a volume of around 100 decibels (dB(A)). The Houston Noise Ordinance (Section 30-5) limits noise to 65 dB(A) during daytime hours and 58 dB(A) at night. Daytime hours are defined as between the hours of 8 a.m. and 10 p.m. Nighttime hours are defined as 10:01 p.m. to 7:59 a.m. the following day. Houston, Tex., Code of Ordinances, Ch. 30, §§ 30.1, 30.5(a)(1)(2017). But there is an exception for “emergency work,” which is defined as “any work performed for the purpose of

(i) preventing or alleviating the physical trauma or property damage threatened or caused by an emergency,

(ii) restoring property to a safe condition following a fire, accident, or natural disaster,

(iii) protecting persons or property from exposure to danger, or

(iv) restoring public utilities.” Houston, Tex., Code of Ordinances, Ch. 30, §§ 30-1, 30-16(3)(2017).

While this exception is probably intended for the city and its contractors, it is not clear and it is possible that your neighbor could successfully argue that he is performing emergency work in cutting the trees. There is also an exception for “the operation of any mechanically powered saw,
drill, sander, router, grinder, lawn or garden tool, lawnmower, or any other similar device used between the hours of **7:00 a.m. and 8:00 p.m.**, provided the device did not produce a sound exceeding 85 dB(A) when measured from your property line.” See Houston, Tex., Code of Ordinances, Ch. 30, § 30-16(7). The equipment must be used for the maintenance or upkeep of the property on which the equipment is being operated.

So if you live in Houston and your neighbor is using the chain saw after 8 p.m., your neighbor may be violating the noise ordinance. The analysis is the same if your neighbor is starting a new business selling firewood from all the downed trees brought to the property. That said, you are probably best served by talking to your neighbor and asking him to limit the hours he is cutting rather than trying to take him to court for the noise. You can call 3-1-1 to see if the Department of Neighborhoods can provide assistance. If you live outside of Houston, you can check to see if your local government has a similar noise ordinance.

**Q. 58**  *The fence between my property and my neighbor’s property is down. Who has to pay to replace it?*

The fence between two properties is on either your property or your neighbor’s property; it cannot be on both properties. Consequently, unless there are certain deed restrictions mandating fences to be erected and which spell out responsibilities among neighbors, you are not obligated to fix the fence if it is on your neighbor’s property. Nor can you compel your neighbor to fix the fence if it is on their property. However, if the fence is on your property, it is your responsibility. If the fence was originally installed on your neighbor’s property but fell on to your property as a result of the storm, you can remove the fence from your property in the same way you can move trees and limbs from your property.

If the fence is on the boundary line between both properties, both property owners own the fence if they both use it and thus would share the cost of repairing/replacing the fence. Every state interprets “use” differently, but there are three main definitions:
- **Occupancy** – use of the land up to the fence.
- **“Join” for use** – the attachment of another fence to the boundary fence.
- **Entire enclosure** – the property owner’s entire property is enclosed by the attachment of other fencing to the boundary fence.

Most state laws or local ordinances place responsibility for the maintenance of the boundary fences on the owners that use the fence unless an agreement indicates otherwise.
4.0 LANDLORD/TENANT ISSUES

4.1 Overview

This chapter focuses on Texas statutory and common law regarding the rights of landlords and tenants with respect to residential leases. Be wary of relying on resource materials that may include general statements of what the law usually is across the nation, as Texas law is quite different from the laws of other states, particularly regarding statutory landlord-tenant law.

4.2 Most Common Issues/Questions

- Is a tenant entitled to terminate a lease if the dwelling is completely or partially unusable?
- May a tenant withhold rent owing due to a landlord’s failure to repair the dwelling after the disaster?
- What recourse does a tenant have if she cannot pay rent because of a lost job or wages?
- What should a tenant do if a landlord tries to evict the tenant following the disaster?
- Does a tenant have any right to recover against any party, including a landlord or neighbor, because of personal property loss or damage?

4.3 Summary of the Law

The landlord-tenant relationship in residential leases is governed almost exclusively by section 92 of the Texas Property Code. Issues not covered by the Property Code are covered by the common law. The Property Code thoroughly addresses most situations which can arise between a landlord and tenant, e.g., a landlord’s duty to repair; when and under what circumstances a tenant may resort to self-help in getting repairs; when and under what circumstances a tenant or landlord may terminate the lease. Subchapter B of the Property Code, Repair or Closing of Leasehold, contains many of the provisions relevant to dealing with a disaster situation.

The Property Code is very lengthy and complex. Callers should be strongly discouraged from taking actions until they thoroughly understand their rights under the Property Code, especially as it relates to withholding rent (which they should never do) and/or terminating the lease. If the provisions of the Property Code, e.g., notice provisions, are not followed precisely, the party not following the provisions (either landlord or tenant) can be held liable for damages, attorney’s fees, and civil penalties. See: https://texasattorneygeneral.gov/cpd/tenant-rights. See, e.g., Tex. Prop. Code § 92.005.
It is also important to note that in their leases the parties may contract away certain rights or otherwise modify the landlord-tenant relationship. (However, the duty to repair under subchapter B can only be waived in very limited circumstances.) Therefore, a good starting point in answering a landlord-tenant question is the lease between the parties.

Commercial leases are governed primarily by the common law (although section 93 of the Property Code addresses some aspects of a commercial tenancy, e.g., interruption of utilities, removal of property, and exclusion of the tenant). Parties to commercial leases are given wide latitude in crafting their agreements in any way so long as the terms violate no law or important public policy. Therefore, the lease document will almost exclusively govern the relationship. If a particular situation is not expressly contemplated or addressed by the lease, then the relevant case law and rules of contract construction will apply.

Recent legislation passed in the 2009, 2011, 2013, and 2015 Texas legislative sessions has made some changes to the landlord-tenant sections of the Property Code.

**Appeals from Eviction for Nonpayment of Rent**
Tex. Prop. Code §§ 24.0053, 24.0054; Tex. R. Civ. Proc. R. 510.9. The justice court sets a bond for a tenant appealing a suit for eviction for nonpayment of rent, and the tenant must pay the bond within five days of the court’s ruling if the tenant wants to appeal. If (and only if) it is a nonpayment of rent case, the tenant must pay one month’s rent into the court registry within five days of the judgment to stay in possession of the unit during the appeal. If the tenant can’t afford the bond, the tenant can file a statement of inability to afford payment of court costs, but, if it is a nonpayment of rent case, he must still pay one month’s rent into the court within five days of the appeal and must pay monthly rent thereafter to the county court registry within five days of the rent being due. (Tex. R. Civ. Proc. R. 510.9.) If a tenant doesn’t pay the rent into the justice court registry, the justice court may issue a writ of possession immediately without a hearing, allowing a constable to remove a tenant and his/her belongings from the leased premises.

**Tenant’s Remedies Regarding Revocation of Certificate of Occupancy**
Tex. Prop. Code § 92.023 states that a landlord who has the certificate of occupancy revoked for his leased premises is liable to a tenant not in default for (1) the full amount of tenant’s security deposit; (2) a pro rata portion of any rental payment paid in advance; (3) tenant’s actual damages; including any moving costs, utility connection fees, storage fees, and lost wages; and (4) court costs and attorney’s fees from any related action against the landlord. This law only applies to leases entered into on or after September 1, 2011.

**Repair Orders in Justice Courts**
Tex. Prop. Code § 92.0563 and Tex. R. Civ. Proc. R. 510.1–9 set forth procedures for suits filed in justice court by tenants requesting relief regarding the repair of residential rental property. Justice courts are now allowed to order repairs to leased premises, order a reduction in the tenant’s rent, award a civil penalty of one month’s rent plus $500, and assess damages of up to $10,000, excluding interest and court costs, but inclusive of attorney’s fees.

**Tenant’s Right of Restoration after Unlawful Utility Disconnection**
The Texas Legislature has repealed provisions that permitted residential landlords to interrupt utility service for nonpayment of rent, and Tex. Prop. Code § 92.0091 creates an expedited procedure for the justice court to issue an ex parte writ of restoration, ordering the utilities immediately reconnected, pending a final hearing. A landlord’s failure to comply is grounds for contempt (Tex. Gov’t Code § 21.002), punishable by a fine and confinement in county jail.

However, under certain circumstances a landlord may interrupt service for certain allocated or prorated nonsubmetered electric bills for the non payment of the electric bill. This is under Tex. Prop. Code § 92.008.

**Landlord’s Duty to Name all Occupants in an Eviction Suit**

If an eviction is based on a written lease, then a landlord must sue, by name, all tenants who are obligated under the lease. If the landlord does not name each person who is obligated under the lease, those not named cannot be evicted and a writ of possession cannot be issued against that person. Tex. R. Civ. Proc. R. 510.3(c).

### 4.4 Assistance Numbers

- **American Red Cross Disaster Services Relief Hotline** 1-800-RED-CROSS
- **Better Business Bureau** 713-868-9500
- **FEMA** 1-800-621-3362
- **State Bar of Texas Legal Disaster Hotline** 1-800-504-7030
- **Texas Department of Insurance Consumer Helpline** 1-800-252-3439
- **Texas Attorney General** 1-800-252-8011

### 4.5 FAQs - General

**Q. 59** *What are my rights if I want to terminate my lease on my dwelling, following the disaster?*

Section 92.054(b) of the Texas Property Code provides that if the rental premises are as a practical matter totally unusable for residential purposes and if the loss is not caused by the negligence or fault of the tenant, a member of the tenant's family, or a guest or invitee of the tenant, either the landlord or the tenant may terminate the lease by giving written notice to the other at any time before repairs are completed. If the lease is terminated under this section of the
Property Code, the tenant is entitled to a pro rata refund of rent from the date the tenant moves out and to a refund of any security deposit otherwise required by law.

**Q. 60 If the premises are totally unusable because of the disaster, do I have to permanently move out even though I want to stay?**

Most likely yes. If the premises are unfit for human habitation, there is a strong likelihood that a government agency, e.g., the local building department, will declare the premises off limits for residential use. Also, in addition to the landlord and tenant ability to terminate a lease if the rental premises are unusable as a result of a casualty loss (see Q. 59 above), section 92.055 of the Property Code allows the landlord to “close the rental premises” by giving written notice by certified mail, return receipt requested, to the tenant, the local health officer, and the local building inspector stating that the landlord is terminating the tenancy as soon as legally possible. (This provision of the Property Code is less frequently used in natural disasters, because it is a more cumbersome process and the landlord cannot re-rent the unit within six months. Also, it requires that the lease contains a provision allowing the landlord to do this, thus making it “legally possible.”) On proper notice, the lease would be terminated. It is unclear exactly how much time a tenant has to move out once proper notice is given. However, it is most likely to be as soon as is reasonably practical. Of course, if it is only the landlord terminating the lease (and not a government official condemning the unit), and the tenant has not moved out, the landlord may not use self-help to remove the tenant. The landlord must still go through the judicial eviction process to remove the tenant from the unit. (See Q. 71 below.)

The relief available to a tenant in these situations will depend on how the landlord has terminated the tenant’s lease and whether the tenant has given the landlord a written request for repairs. If the landlord uses section 92.054 (see Q. 59 above) to terminate the tenant’s lease, then the tenant is entitled to pro rata refund of rent from date the tenant moves out and refund of security deposit. If the landlord closes the premises per Section 92.055, and the tenant has given a repair notice and moves out before the end of the lease term, the tenant is entitled to actual and reasonable moving expenses, a refund of the pro rata portion of rent, return of the security deposit, as well as a judgment of actual damages, civil penalties, court costs, and attorney’s fees. Tex. Prop. Code § 92.055(c), (d). If the landlord closes the premises per section 92.055, and the tenant has not given a repair notice, the tenant cannot get the remedies in section 92.0055 (c) or (d).

In short, if the tenant has not given a notice of termination pursuant to Tex. Prop. Code § 92.054 (Q. 59 above), has not received a termination notice from the landlord, and is not certain of the status of the unit, it is important to immediately send the landlord a proper notice of repair (as described in answer to Q. 62 below). That will not only set up possible repair remedies pursuant section 92.0563 of the Property Code (described in answer to Q. 62 below), but may also give the tenant additional remedies if the landlord chooses to close the premises under section 92.055 of the Property Code.
Q. 61  If the dwelling is partially unusable because of the disaster and if I don’t want to permanently move out, can my rent be partially abated (temporarily reduced)?

Yes. However, the tenant can only get the reduction by a judgment in a county or district court, or by agreement with the landlord. Section 92.054(c) of the Property Code provides if the rental premises are partially unusable for residential purposes and if the loss is not caused by the negligence or fault of the tenant, a member of the tenant's family, or a guest or invitee of the tenant, the tenant is entitled to reduction in the rent in an amount proportionate to the extent the premises are unusable because of the casualty, but only on judgment of a county or district court. A landlord and tenant may agree otherwise in a written lease. Of course, since the tenant has the right to a rent reduction in these circumstances (assuming the lease has not waived that right), the tenant should attempt to negotiate a written agreement with the landlord, since section 92.005 of the Property Code allows the tenant to recover attorney’s fees if the tenant prevails in a lawsuit for such a reduction.

Q. 62  May I withhold payment of rent because of the disaster or because the landlord has failed to timely repair the dwelling after the disaster?

NOTE: Because of the complexity of the provisions discussed below, callers should be strongly discouraged from repairing and deducting rent or otherwise effectuating the remedies without the advice of counsel and/or a very thorough understanding of sections 92.056, 92.0561, and 92.0563 of the Property Code. The discussion below only outlines some of the most prominent provisions. It is important to note that with respect to significant damage, (1) tenant is capped at the greater of monthly rent or $500 for any repair and deduct remedies, which could be far below the amount of the repairs needed and (2) if the casualty loss is insured (which will depend on the coverages of the landlord, which may be unknown and/or in question), the period to make repairs does not begin until the landlord receives the insurance proceeds. So depending on the extent and nature of the damage, it might be advisable for the tenant to commence with a termination under section 92.054 instead of attempting to use the repair and deduct remedy.

No. A tenant should never withhold rent, and may only repair and deduct amounts from monthly rent, but only under certain, very specific and limited circumstances.

The Property Code requires landlords to make a diligent effort to repair or remedy certain conditions on the rental property. A landlord may be liable to a tenant for not making such repairs but only if the conditions set forth in section 92.056 of the Property Code are met. For the remedies in this section to be available: (1) the tenant must give the landlord notice of the specific condition that needs repair or remedy (the notice should be in writing and sent by certified mail, return receipt requested, by registered mail, or by a mail service that tracks delivery (such as offered by UPS or Fed Ex, otherwise a second notice is required); (2) the condition must materially affect the physical health or safety of an ordinary tenant; (3) if the first notice was not sent by certified or registered mail, the tenant must give the landlord a subsequent written notice to repair or remedy the condition after a reasonable time to repair or remedy the condition following the initial notice; (4) the landlord must have had a reasonable time to repair or remedy the condition after receiving the tenant’s initial and/or subsequent notice (if required);
(5) the landlord must not have made a diligent effort to repair or remedy the condition, e.g., if the landlord has diligently tried to fix a bad leak but has simply been unsuccessful, this requirement is not met; and (6) the tenant must not be delinquent in the payment of rent at the time the notice is given.

If all of these conditions are met a tenant may: (1) terminate the lease; (2) repair the condition and deduct the cost (subject to the limitations discussed below) from subsequent rent payments; or (3) obtain judicial remedies under the Property Code, e.g., an order directing the landlord to remedy the condition, an order reducing rent, judgment against the landlord for a civil penalty of one month’s rent plus $500, actual damages, costs and attorney’s fees.

As for the repair and deduct remedy, there are some very strict limitations on the types of repairs that can be made, the circumstances under which they can be made, and the amounts the tenant may deduct from rent payments. For the tenant to be able to make repairs under this provision, the tenant must have given notice to the landlord of the need for remedy or repair, and one of the following must have occurred: (1) the landlord must have failed to remedy the backup or overflow of raw sewage inside the tenant’s dwelling or the flooding from broken pipes or natural drainage inside the dwelling, (2) the landlord must have expressly or impliedly agreed in the lease to furnish potable water to the tenant's dwelling and the water service to the dwelling must have totally ceased, (3) the landlord must have expressly or impliedly agreed in the lease to furnish heating or cooling equipment; the equipment must be producing inadequate heat or cooled air; and the landlord must have been notified in writing by the appropriate local housing, building, or health official or other official having jurisdiction that the lack of heat or cooling materially affects the health or safety of an ordinary tenant, or (4) the landlord must have been notified in writing by the appropriate local housing, building, or health official or other official having jurisdiction that the condition materially affects the health or safety of an ordinary tenant. In addition, the notice to the landlord must state that tenant intends to repair or remedy the condition. Finally, the tenant must not have waived the landlord’s duty to repair in a written lease (the duty can be waived only under very limited circumstance).

The tenant's deduction for the cost of the repair or remedy may not exceed the amount of one month's rent under the lease or $500, whichever is greater. However, if the tenant's rent is subsidized in whole or in part by a governmental agency, the deduction limitation of one month's rent shall mean the fair market rent for the dwelling and not the portion of rent that the tenant pays. The fair market rent shall be determined by the governmental agency subsidizing the rent, or in the absence of such a determination, it shall be a reasonable amount of rent under the circumstances.

Repairs and deductions under this section may be made as often as necessary, as long as, the total repairs and deductions in any one month do not exceed one month’s rent or $500, whichever is greater. Again, because the complicated nature of the repair and deduct remedy in the Property Code, a tenant should seldom be advised to use it.

As for all repair remedies, a complicating factor, as it relates to a natural disaster, is what constitutes a “reasonable time” for the landlord to make such repairs. Under the Property Code, there is a rebuttable presumption that seven days after receipt of notice is a reasonable time.
However, section 92.054(a) of the Property Code states that for an insured casualty, the time for repair does not begin until the landlord receives the insurance proceeds.

Moreover, a landlord may sign an “Affidavit for Delay” and deliver it to the tenant, in which case the tenant must delay contracting for repairs. The affidavit must summarize the reasons for the delay and the diligent efforts made by the landlord up to the date of the affidavit to get the repairs done. The affidavit must state facts showing that the landlord has made and is making diligent efforts to repair the condition, and it must contain dates, names, addresses, and telephone numbers of contractors, suppliers, and repairmen contacted by the owner. There are two lawful grounds for an “Affidavit for Delay.” An affidavit may delay repair by the tenant for: (1) fifteen days if the landlord's failure to repair is caused by a delay in obtaining necessary parts for which the landlord is not at fault; or (2) thirty days if the landlord's failure to repair is caused by a general shortage of labor or materials for repair following a natural disaster, such as a hurricane, tornado, flood, extended freeze, or widespread windstorm. Thus, a proper affidavit may delay repair by the tenant for up to 30 days. Also, the landlord may file subsequent affidavits, provided that the total delay of the repair or remedy extends no longer than six months from the date the landlord delivers the first affidavit to the tenant.

As stated previously, if the tenant has not terminated the lease and has not received a termination notice from the landlord, it is important for the tenant to immediately send the landlord a proper notice of repair as described here. That will not only set up possible repair remedies pursuant section 92.0563 of the Property Code described above, but may also give the tenant additional remedies if the landlord chooses to close the premises under section 92.055 of the Property Code.

Finally, if the tenant uses the repair and deduct remedy, causes repairs to be performed, or makes rent deductions for repairs in violation of the provisions or in bad faith, the landlord may recover actual damages and/or a civil penalty of one month's rent plus $500.

Q. 63 My current unit is uninhabitable due to a disaster, but my landlord has another available. Is landlord required to make the other unit available? Can landlord make me sign another lease contract extending the length of my lease in order to move to the new unit?

No. Neither the landlord nor the tenant has any obligation with respect to other available housing unless expressly set forth in the lease. However, according to section 92.062 of the Texas Property Code, if—due to a disaster—you move to another unit owned by your landlord, your landlord cannot make you sign a new lease extending your lease term past the original end date.

Q. 64 Do I have to keep paying rent to my landlord while I am not living at my house/apartment?

Yes, unless and until the lease is terminated (by the tenant or landlord) or the tenant has an agreement with the landlord to do otherwise (in writing, to protect the parties). Unless the rental premises are as a practical matter totally unusable for residential purposes (see Q. 59 above) a tenant will generally not be excused from paying rent while not occupying the premises.
However, the tenant may be entitled to a rent reduction. (See Q. 61 above.) This is true even in a case where authorities have “asked” residents not to return to an area because of the effects of a recent disaster. (This may change, however, in the event the authorities permanently forbid residents from returning to the area.)

**Q. 65 What can happen and what should I do if I cannot pay the rent on my dwelling because of job or salary interruptions following the disaster?**

Temporary government rent assistance may be available from the Federal Emergency Management Agency (FEMA) or other governmental agencies. Disaster Unemployment Assistance (DUA) may be available to you if you do not qualify for standard Unemployment Insurance (UI), are unemployed as a direct result of the disaster, are able and available to work, file an application for DUA within thirty days of the date of announcement of the availability of DUA, and have not refused in employment in a suitable position.

If your lease is terminated by your landlord because the premises are *totally* unusable, you must move out—regardless of whether you can or cannot pay the rent. Of course, if you do not leave, the landlord cannot use self-help to remove you—the landlord will have to file an eviction case against you in court and seek an order to remove you. If you live in public or federally subsidized housing or receive Section 8 assistance, you are entitled, in most circumstances, to have your rent reduced when you suffer a loss in income. You must notify your landlord or the housing authority. If the premises are only *partially* unusable and if you don’t pay the abated (partially reduced) rent, you must move out if the landlord asks you to – unless you and your landlord agree otherwise. If the landlord is entitled to evict you and you do not move after the landlord has given you notice to vacate, you can be evicted only through a justice of the peace court eviction lawsuit.

**Q. 66 How could I pay rent if I wanted to?**

It is recommended that you contact your landlord to determine what methods of payment may be viable. Should you be unable to successfully contact your landlord, sending a personal check via certified mail to the address set forth in the lease agreement or the last provided address, if different, is advisable. Depending on the landlord, it may also have a website and have payment or other information related to the disaster on such site.

**Q. 67 Can my landlord rent my home/apartment to someone else while I am gone?**

No. The landlord must honor the lease unless the dwelling is *totally* unusable or the lease contains an express provision allowing the landlord to terminate in event of a fire, flood, or similar casualty. If the landlord wants you out in order to move someone else in, then the premises are obviously not “totally unusable” and the landlord cannot terminate the lease. If the landlord unlawfully locks you out, you should contact the justice of the peace about a writ of re-entry. This is an expedited process through which you can get back into your home the same day.

**Q. 68 How do I contact my landlord?**
It is advisable to try every means of communication available, including, but not limited to: telephone calls to every available phone number, e-mail correspondence, and letters sent via mail to the address set forth in the lease agreement or last provided address, if different. Depending on the landlord, it may also have a website and have contact or other information related to the disaster on such site. The tenant should document all efforts and attempts to contact her landlord.

**Q. 69  My landlord told me to move out because the dwelling is totally unusable after the disaster. Do I have to move out?**

If, following the storm, the dwelling is as a practical matter totally unusable for residential purposes, the landlord may terminate the lease by giving written notice to the tenant at any time before repairs to the dwelling are completed. If the lease is so terminated, the tenant must vacate the dwelling. (See also Q. 59, 60 above.) The tenant is entitled to a pro rata refund of rent from the date the tenant moves out and to a refund of any security deposit otherwise required by law. *Tex. Prop. Code § 92.054(b).*

**Q. 70  My landlord told me to move out the next day because he wants the dwelling for his daughter who lost her house in the flood. He told me if I didn’t move out, he’d change the locks. Do I have to move out?**

No. The landlord must continue to honor the terms of the lease. The landlord may not change the locks to prevent the tenant from entering the dwelling for such a reason. *Tex. Prop. Code § 92.0081.*

**Q. 71  What should I do if I am served with an eviction lawsuit?**

A landlord cannot use self-help to remove a tenant from your apartment, and nor can the landlord use the police or law enforcement to assist in the tenant’s removal without a final eviction order (writ of possession) issued by a judge. The landlord must file an eviction lawsuit in Justice Court in the precinct where the property is located to evict a tenant. Even if the landlord has properly terminated a lease because of a natural disaster, the landlord cannot remove a tenant without going to court. If the tenant is served with an eviction lawsuit, the tenant should carefully read the citation and look for deadlines, including the trial date in court. The tenant will have the opportunity to tell the judge her side of the story. The tenant can tell the judge about any defenses to eviction she might have, for example: the landlord did not properly terminate the lease; landlord did not give a notice to vacate after terminating the lease; or the landlord is retaliating against the tenant for asking for repairs. A judge can order the tenant’s eviction for violating the terms of her lease, such as by not paying rent, or after the landlord properly terminated the lease and gave a subsequent notice to vacate. If the tenant lives in public housing, federally subsidized housing, or a tax credit property, the landlord must have good cause (like serious violations of your lease) to terminate or not renew the tenant’s lease, and there may be other rights such tenants may have, such as access to a grievance procedure.

**Q. 72  How can I recover my personal property from the leased premises?**
FEMA and federal security officials are going to be in control of when and how evacuees are allowed to return to their homes.

Between evacuation and when the agencies permit a return, the best advice we can give an evacuee is to try to contact the landlord and determine whether the landlord (i) knows anything about the condition of the property, and (ii) has been able to do anything to secure the property.

4.6 FAQs – Can I Hold the Landlord or Previous Homeowner Responsible for Fraud or Negligence?

Q. 73 May I recover damages against my landlord for injuries or property damage I suffered as a result of the disaster?

When the injury or property damage results from a natural disaster and not from the landlord’s negligence, the landlord is not liable for such injury or property damage. However, the Texas Property Code does not prevent claims made under existing common law and other statutory law, including against the landlord for injuries or property damage resulting from the landlord’s negligence. See Tex. Prop. Code § 92.061. The landlord can therefore be sued if the landlord’s negligence caused or contributed to the tenant’s injuries or damage from the disaster.

Q. 74 I have suffered personal injuries, or loss or damage to my personal belongings from the disaster. May I recover damages against my landlord or the previous homeowner if they knew about the possibility of flooding and failed to inform me?

If the landlord or seller made an affirmative misrepresentation concerning the possibility of flooding, the tenant or buyer may be able to sue the landlord or seller for fraud to recover for property damages or personal injuries. If you knew, however, that the property could flood or did not rely on the affirmative misrepresentation, then you will not be able to recover damages.

If the landlord or seller said nothing about the possibility of flooding, then you will probably not be able to recover any damages. Generally, the mere failure to disclose a fact known by the seller or landlord is not fraud. However, failure to disclose the possibility of flooding may, under certain circumstances, support a lawsuit against a landlord or seller who knew of past flooding or knew of the possibility of flooding. Active concealment of known past flooding (for example, painting over flood water marks on walls) may also be the basis for tenant recovery. See 37 Am. Jur. 2d, Fraud and Deceit, 144–146.

Q. 75 Can I recover damages against my landlord or the previous homeowner if they didn’t know about the possibility of flooding?

No. As a general rule, the tenant or buyer cannot recover from the landlord or previous owner a loss or damage from flooding if the landlord or previous owner knew nothing about past flooding or the possibility of flooding, and did not tell the tenant or buyer that the property was not subject to flooding.
4.7 FAQs – Am I Covered by Insurance?

Q. 76 All of my personal belongings were destroyed at the place I rent. What help can I get from my insurance company?

If you had renter’s insurance or homeowner’s contents insurance at the time of the storm, contact your insurance company. If your situation is desperate, make sure you describe your situation to the insurance company. If the insurance company agrees that there is coverage, you can ask for advance payment to cover a part of your loss.

Emergency assistance may be available from local Volunteer Agencies (i.e., Red Cross, Salvation Army, United Way).

Q. 77 What should I do if I do not have insurance on my personal belongings?

If your losses are not covered by insurance, you may be able to receive money for “Other than Housing Needs” that are the result of a disaster from FEMA to replace necessary items of personal property. “Other than Housing Needs” assistance is available for necessary expenses and serious needs caused by the disaster. You may also wish to contact the Red Cross, which may be able to help you.

Q. 78 If my personal belongings are lost or damaged as a result of the hurricane, flood or other disaster, may I recover damages from my landlord under the landlord’s hazard insurance policy?

No. The landlord has no “insurable interest” in the tenant’s property, and therefore, the landlord’s hazard insurance cannot (and does not) insure the tenant’s personal property.

However, if the damage or loss of the tenant’s property is due in whole or in part to the landlord’s negligence, the tenant may be able to sue the landlord and the loss may be covered by the landlord’s liability insurance carrier.

Q. 79 Is flood damage to my home covered under my insurance policy?

Your homeowner’s insurance policy (sometimes called a “casualty insurance policy,” “hazard insurance policy,” or “fire and extended coverage policy”) normally does not cover flood damage. The policy may cover water damage inside the home from direct or blowing rainfall, but it normally does not cover damage from surface water or rising water. Windstorm insurance normally will be limited to greater-than-normal wind conditions, such as from a disaster. You should carefully read your policy, talk to your insurance agent, and consult an attorney if you have questions.

Flood insurance may be purchased from the federal government under the National Flood Insurance Program (NFIP). You can buy policies from any state-licensed local agent if your community is participating in the NFIP. There is usually a thirty-day grace period after
Q. 80 Does my automobile insurance cover the damage to my car resulting from the disaster?

Normally, disaster damage to an owner’s vehicle will be covered under the owner’s comprehensive auto coverage, although specific language in the policy and any express policy exclusions will control.

Q. 81 May I recover damages against my neighbor whose property damaged my property during the disaster?

The general rule is that a person is not liable for injuries or damages caused by a natural disaster or “Act of God” where there is no fault of negligence on the part of the owner whose property caused damage to others during the disaster. Therefore, your neighbor is liable only when he or she was negligent and such negligence was a cause of the damage. See 1 Am. Jur. 2d, Act of God, 11, 15; 57 Am. Jur. 2d, Negligence, 669.

Q. 82 What can I do with someone else’s property, which the disaster carried onto my land?

When personal property is carried away by flood, wind or explosion onto the land of another, such personal property still belongs to the original owner and the original owner may enter and retrieve it. If the landowner refuses to let the owner of the personal property enter, or if the landowner appropriates the property for the landowner’s own use, the owner of the personal property can sue the landowner for the value of the property. The landowner is an “involuntary bailee” and has the right to possession of the property against all others, except the true owner. The landowner may, if necessary, move the property to use the land, provided it is done in a reasonable manner. The landowner may not damage the property either intentionally or through gross negligence. See 1 Am. Jur. 2d, Abandoned, Lost, Etc., Property, 24–27.

Q. 83 May I sue the local, state or federal government for damages caused by the disaster?

Under some circumstances, the government may have liability if its employees were negligent and caused the damages. However, under the doctrine of “sovereign immunity,” governmental authorities are generally immune from liability for the negligent acts of their agents and employees. The doctrine of sovereign immunity normally applies to “governmental functions” such as crime prevention, flood control, firefighting, preservation of health, etc.

Q. 84 What about my commercial lease?

In commercial leases, the Texas common law has not been pre-empted by statute, but the answer to this question is commonly addressed by the terms of the lease. Therefore, you must review the
provisions, preferably with an attorney if possible, to determine the scope of your rights and obligations.

Q. 85 Must I continue paying rent for my commercial lease space (office, retail, minis- 
storage, etc.) even though it has been rendered totally or partially unusable by the disaster?

The particular provisions of a commercial lease will control whether rent must be paid following a complete or partial destruction of the space. If the terms of the lease do not address casualty, then for a lease of space such as office space, retail space or minisstorage space (but not for a lease of land), if the storm rendered the space unusable for its intended purpose, the lease is terminated and the tenant is relieved of its obligation to pay rent following the destruction. Norman v. Stark Grain & Elevator Co., 237 S.W. 963 (Tex. Civ. App.—Dallas 1922, writ ref’d).
5.0 REAL AND PERSONAL PROPERTY

5.1 Overview

In the summaries and Q&A discussion below, we have tried to anticipate some of the practical questions that homeowners, tenants, and business owners might ask concerning real and personal property issues.

Note, regarding the scope of this section: we do not address the mechanics of making insurance claims or the legal issues related to insurance claims.

Disaster Remediation Contracts

Tex. Bus. & Com. Code §§ 58.002 and 58.003 regulate the actions of disaster remediation contractors who do not maintain offices within a county or adjacent county where a natural disaster occurred. Unless a disaster remediation contractor has an established office in the county or adjacent county where a property is located for at least one year prior to the contract, a disaster remediation contractor cannot require full or partial payment before beginning work and can only require partial payment reasonably proportionate to work performed.

Continuation of Homestead Exemption While Replacement Structure is Constructed

Tex. Tax Code § 11.135 allows a homeowner to continue a homestead exemption for structures left uninhabitable or unusable by a casualty while the homeowner constructs a replacement if the homeowner does not establish a different principal residence for which the homeowner receives an exemption and intends to return and occupy the structure as the homeowner’s principal residence. To continue the exemption, the homeowner must begin active construction of the replacement qualified residential structure or other physical preparation of the construction site, on or before the one year anniversary of the date the homeowner ceases to occupy the former qualified residential structure as its principal residence. The exemption, under these conditions, can be maintained for up to two years. It also preserves homestead protections for homeowners displaced by wind or water damage.

Increases in Tax Appraisal Value

Tex. Tax Code § 23.01(e) prohibits increases in the appraisal value of a property the year after the property’s appraised value was lowered based on a protest or appeal, unless a chief appraiser can support an increase with substantial evidence.

Reappraisal of Property Damaged in Disaster Area

Tex. Tax Code § 23.02. The governing body of a taxing unit that is located partly or entirely inside an area declared to be a disaster area by the governor may authorize reappraisal of all property damaged in the disaster at its market value immediately after the disaster. If reappraised, the governing body shall prorate the taxes for the year in which the disaster occurred.

Installment Payments of Taxes on Property in Disaster Area

Tex. Tax Code § 31.032. If a residential homestead property, or other limited residential property, is damaged and is in a disaster area, the owner may pay the taxes in quarterly
installments. This section also provides relief for small businesses with less than $5 million (as adjusted annually for inflation) in gross receipts that have suffered similar damage by allowing payment of property taxes in installments as well.

**Waiver of Certain Tax Penalties**

*Tex. Tax Code § 23.129.* The chief appraiser or collector *may* waive a late penalty for an otherwise compliant taxpayer if the late filing was the result of a disaster that made it effectively impossible for the taxpayer to comply with tax filing requirements or an event beyond the taxpayer’s control that destroyed the taxpayer’s property or records. The taxpayer must submit the waiver application within thirty days after the filing deadline.

### 5.2 Assistance Numbers and Helpful Regulatory Agency Information

**HUD**

1301 Fannin St., Suite 2200  
Houston, TX 77002  
(713) 718-3199  
OR  
Single Family: 817-978-5528 or 1-800-225-5342  
Public Housing: 817-978-5700  
Multifamily: 817-978-5842  
mailto:answers@hud.gov

*Disaster Relief Options for FHA Homeowners*  

**FEMA**

[http://www.fema.gov](http://www.fema.gov)  
1-800-621-FEMA (3362)

*Do I Qualify for “Housing Needs” Assistance?*  
[http://www.fema.gov/do-i-qualify-assistance](http://www.fema.gov/do-i-qualify-assistance)

### 5.3 FAQs

**Q. 86** *My house was damaged and I can’t live in it. Do I have to make my mortgage payments? What if I can’t pay my mortgage because of job or salary interruptions following the disaster?*

Most home loan documents require the homeowner to make mortgage payments after a disaster—even if the house is damaged and the owner can’t live in it. However, many lenders will allow the owner to delay mortgage payments for several months after a disaster (although
interest may continue to be added). Many lenders will make loan modifications to allow the missed payments to be added to the loan, thereby lengthening the term of the mortgage. The borrower needs to communicate with their lender and tell the lender about the specifics of his or her circumstances. The lenders will nearly always work with their customers. If the FHA guarantees the mortgage, there are special provisions after a disaster, such as those above. See the website at http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/nsc/qaho0121.

Q. 87 What if I can’t make the payments? Can my lender foreclose on me?

The short answer is yes. The typical residential property mortgage in Texas doesn’t include forbearance due to storm damage and allows the lender to foreclose following default. However, see the above discussion concerning forbearance and other payment options.


Q. 88 What should I do if I receive a notice that my lender is going to foreclose on my home for non-payment of the mortgage?

If your mortgage is insured by the Federal Housing Administration (FHA) or financed by the Rural Development Agency of the U.S. Department of Agriculture, you may be entitled to reduced or suspended payments. See the website at http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/nsc/qaho0121 and http://www.rd.usda.gov/files/3550-1appendix16.pdf. Note that the Rural Development Agency information provided does mention assistance (grants/loans) with payments, but does not mention the reduction or suspension of such payments.

Your lender must notify you and give you an opportunity to seek help before beginning foreclosure proceedings. However, you must meet the deadlines the lender will give you.

If you have income and you want to keep your house, you may be able to file a Chapter 13 bankruptcy. In this type of bankruptcy, the homeowner pays regular mortgage payments that accrue after the bankruptcy and all other living expenses and also pays an amount every month toward the mortgage installments that were delinquent prior to the bankruptcy. See 11 U.S.C. § 1322(b)(5); In re Adams, 176 B.R. 9, 10 (Banker. E.D.N.C. 1994). If you think you may want to file a Chapter 13 bankruptcy, you should consult an attorney.

Q. 89 Who is responsible to replace my personal property that was located on someone else’s property (on leased property, rented out to a customer, etc.)?

Absent a lease provision to the contrary, which would be unusual, the landlord would not be liable to the tenant (or the tenant’s customers in a commercial context) for storm damage to the tenant’s (or customers’) personal property.
Put simply, this means the owner of the personal property bears the loss. Insurance contracts, however, will often produce a different result. For instance, the liability insurance carried by a car dealership might well cover storm damage to third party vehicles that were in the shop waiting for repair when the storm hit. In some situations, multiple insurance coverages might be available (in the example just given, the car dealership and the car owner may each have liability insurance that would apply). The resolution of the question of whose insurance would pay when neither party is at fault is beyond the scope of this outline.

**Q. 90 Who is responsible for the value of my personal property that was stolen (looted)?**

Generally, theft would be covered under most insurance policies. For homeowners, the specific property that might be covered, and the exclusions would all be set forth in the homeowner’s policy. For tenants (for instance a tenant that operates a shop that was looted), the landlord’s insurance is not likely to respond and, as noted above, the landlord is not going to be legally responsible absent either a lease provision or some widely recognized common law theory (landlord’s failure to provide adequate security) that places the loss on the landlord. It seems highly unlikely that the common law theories would fit the circumstances of this disaster.

**Q. 91 Is there any program available for me to recover the value of my lost personal property?**

FEMA may cover some of the value of lost personal property. You may be able to receive money from FEMA for “Other than Housing Needs” that are the result of a disaster to replace necessary items of personal property, such as clothing, household items (room furnishings, appliances), tools (specialized or protective clothing and equipment) required for your job, and necessary educational materials (computers, school books, supplies). Applications for assistance can be made at either 1-800-621-FEMA or at www.fema.gov. Absent insurance, FEMA rules are going to apply, and are beyond the scope of this outline.

**Q. 92 Can my property be condemned?**

Short answer, yes. Agencies with appropriate jurisdiction (both state and federal) will make the decision whether a given structure is habitable.

**Q. 93 If the property is condemned, will I be paid for it?**

This form of condemnation (determining that a structure is no longer habitable) is not a “taking” for public use. The government would not be liable to the property owner for its value. See, e.g., *Fort Worth & D.C. Ry. Co. v. Ammons*, 215 S.W.2d 407, 410 (Tex. Civ. App.—Amarillo 1948, writ ref’d n.r.e.). Insurance, FEMA disaster assistance, or similar relief will generally be the only sources of recovery.

**Q. 94 How will I know if my property is safe to move back to?**
Government agencies and FEMA will make this decision. How they will make it and when are issues beyond the scope of this outline.

**Q. 95** My property has been damaged in a disaster (flood, tornado, explosion, hurricane). Do I still have to pay the same amount in taxes that I paid last year?

Maybe not. According to Tex. Tax Code § 23.02, if your property is in an appraisal district located “partly or entirely inside an area declared to be a disaster area by the governor,” the taxing authority may have your property value reappraised immediately following the disaster. Taxes on the property will be prorated for the year in which the disaster occurred based on the date of the disaster and the value of the property both before and after it.

**Q. 96** What if my property was affected by a nonnatural disaster (ex: explosion)?

Tex. Tax Code § 23.02(a), (d) allow people who have suffered property damage from any disaster, including nonnatural ones, to have their property reappraised immediately following the disaster.

**Q. 97** How are property taxes calculated on the property following the disaster?

Taxes on the property will be prorated for the year in which the disaster occurred based on the date of the disaster and the value of the property both before and after it. For example, a property that would normally pay $10,000 in taxes is damaged by an explosion on March 7th and is then reappraised at a value that would only owe $5,000 in taxes for the year. The taxes on the property would be calculated in two steps. In the first step, the appraisal district would divide the number of days the property would have owed the full $10,000 by the number of days in the year. It would then multiply this number by $10,000 (the full tax amount). The taxes owed on the property for January 1st through March 6th of the year would be (65/365)*10000=$1780.82. To find the rest of the amount due, the appraisal district would divide the number of days the property would have owed the reduced $5,000 amount (the day of the disaster plus the number of days remaining in the year) by the number of days in the year. It would then multiply this number by $5,000. The taxes due for March 7th through December 31st would be (300/365)*5000=$4108.59. In this example, the total taxes owed would be **$5890.41**, the total of $1780.82 and $4108.59.

**Q. 98** What is a “disaster recovery program?”

It is a program “administered by the General Land Office that is funded with Community Development Block Grant Disaster Recovery Program money authorized by the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009…and the Consolidated and Further Continuing Appropriations Act, 2012…”

**Q. 99** A building(s) on my property was repaired by a disaster recovery
program after the disaster. The building is different from the original that was replaced. Will this affect my taxes?

Possibly, under Tex. Tax Code § 23.23(g) replacement structures that differ from the originals may not necessarily be considered “new improvements” if an increase in the square footage or the quality of construction and composition were necessary to satisfy the requirements of the disaster recovery program.
6.0 EMPLOYER/EMPLOYEE ISSUES

6.1 Overview

This section provides practical advice for assisting persons who have temporarily or permanently lost employment or are facing other employment-related issues as a result of a disaster.

6.2 Most Common Issues/Questions

Common employment-related questions and issues arising from a disaster are:

- What unemployment benefits are available for persons whose employment is interrupted or lost due to a disaster (or whose family income is affected by a disaster)?
- Can health benefits be continued after an employment loss has occurred?
- Can my employer fire me because a natural disaster has occurred?
- What obligations does my employer have to pay me if I cannot work because of the disaster?
- Is leave available if I become ill or a family member becomes ill as a result of the disaster or its aftermath?
- How do I get my pay?

6.3 Summary of the Law

Unemployment Compensation

A person may be entitled to receive unemployment compensation benefits if he or she becomes unemployed as a result of a disaster or other natural disaster (e.g., because his or her employer’s business was closed or destroyed, the person’s employment was terminated, or he or she is unable to reach the place of employment because of the disaster). First, a person must apply for regular unemployment compensation with the Texas Workforce Commission (TWC). If a disaster victim is not eligible for regular unemployment compensation, he or she may be entitled to federal disaster unemployment assistance (DUA). For some counties, the deadline to apply for DUA is September 27, 2017.¹

In the event of a disaster, TWC will publish announcements about the availability of DUA benefits. For Hurricane Harvey, the TWC’s announcements are available here:

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¹As of the writing of this manual on September 13, 2017. For updates, check the TWC webpages cited in this section.
To be eligible for regular (non-disaster) unemployment compensation under the Texas Unemployment Compensation Act (Texas Labor Code Title 4), an individual must meet all of the following qualifying requirements: (1) the individual must have earned sufficient wages to qualify for benefits in the “base period,” which consists of the four consecutive completed calendar quarters, prescribed by the Texas Workforce Commission, in the five completed calendar quarters before the claim is filed; (2) the person must be unemployed or partially unemployed; (3) the person cannot have been fired for misconduct or voluntarily quit without good cause; (4) the individual must be able and available to work; and (5) the individual must be actively seeking work. For a plain-language explanation of the requirements, see: http://www.twc.state.tx.us/jobseekers/eligibility-benefit-amounts.

Continuation of Group Health Coverage

Due to a disaster, some individuals may lose their employer-provided group health plan coverage as a result of either a voluntary or an involuntary termination or a reduction in work hours that would render the employee unable to continue his or her coverage as an active employee. An employer may be required to extend COBRA continuation coverage to such an individual and his or her dependents (“Qualified Beneficiaries”) previously covered under the employer’s group health plan. COBRA coverage is not available if the termination was for gross misconduct.

If applicable, COBRA requires an employer to extend to Qualified Beneficiaries the right to continue their health coverage under the same group health plan under which the beneficiaries were covered prior to their coverage loss. Group health plans include, but are not limited to, medical, dental, and vision plans. See 26 C.F.R. § 54.4980B-2, Q&A-1. Each individual Qualified Beneficiary may make a separate election with respect to coverage. See 26 C.F.R. § 54.4980B-6, Q&A-6. For example, if an employee previously covered a spouse and a dependent child through family coverage under an employer-provided group health plan, either the spouse or the dependent child could separately elect COBRA continuation coverage under a single, rather than family, plan while the remaining members of the family waived coverage.

Generally, a Qualified Beneficiary may continue his or her coverage for up to 18 months. However, COBRA coverage can be very costly. An employer may charge up to 102 percent of the actual cost of providing the coverage to a similarly situated

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2 The death of the covered employee would also be a qualifying event that would trigger an employer’s obligations under the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”). 26 U.S.C. § 4980B(f)(3).

3 If the employer no longer offers the same health plan under which the Qualified Beneficiary was covered, the Qualified Beneficiary may still be able to elect coverage under another group health plan maintained by the employer.
active employee (not just the contribution for coverage that the employee paid while actively employed). 26 U.S.C. § 4980B(f)(2)(C). COBRA continuation coverage is not available in all situations. For example, COBRA generally only applies to private sector employers with at least 20 employees, governmental employers, and certain employee organizations. 26 C.F.R. § 54.4980B-2, Q&A-4. Further, an employer is not required to offer COBRA coverage if it ceases providing any group health plan to its active employees. 26 U.S.C. § 4980B(f)(2)(B)(ii). For example, if an employer closes operations entirely and no longer offers any group health plans, a Qualified Beneficiary has no rights under COBRA to continuation coverage.

An individual who is eligible for COBRA coverage and wishes to elect COBRA coverage may want to contact the employer providing the group health plan coverage.

Employers are generally required to send a notice regarding COBRA rights to the last known mailing address of the Qualified Beneficiary. Therefore, those who have been dislocated by the disaster may not promptly receive notice from their employers regarding COBRA continuation coverage. Qualified Beneficiaries only have 60 days in which to elect COBRA coverage from the later of the date of the COBRA notice or the loss of coverage. 26 U.S.C. § 4980B(f)(5). For further information, see “An Employee’s Guide to Health Benefits Under COBRA,” available at http://www.dol.gov/ebsa/publications/cobraemployee.html.

Employer’s Wage Payment Obligations

Under the federal Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, et seq., the Texas Minimum Wage Act (TMWA), Tex. Lab. Code § 62.001, et seq., and common law, employees must be paid for all of the work they have performed and for all of the time they have worked. This is true regardless of immigration status, and it is not a valid defense to claims under the FLSA and TMWA that the work was done slowly, poorly, etc., or that the employer cannot afford to pay. Work time includes time that a person has been engaged to wait and travel time between job sites. In general, there are no exceptions made in the case of disasters. See “Employment & Wages Under Federal Law During Natural Disasters & Recovery” available at https://www.dol.gov/whd/regs/compliance/whdfs72English.pdf.

In general, employees who are exempt from the FLSA’s minimum wage and overtime provisions because they are bona fide executive, administrative, professional, outside sales, or certain computer employees and are paid a salary of at least $455 per week must be paid their full salary if the business shuts down for less than a full work week or if the employer does not have work available for the employee for the full work week. When the business is open and work is available, deductions from a salaried employee’s salary may be made if the employee is absent from work for one or more full days for personal reasons. In addition, a full day’s absence may be deducted if it occurred because of sickness or disability, as long as the deductions are made pursuant to a bona fide sick or disability leave plan, policy, or practice. See 29 C.F.R. § 541.602. For further information, see “Salary Basis Requirement and the Part 541 Exemptions Under the Fair Labor Standards Act (FLSA)” available at https://www.dol.gov/whd/overtime/fs17g_salary.pdf, and “Frequently Asked Questions Regarding Furloughs and Other Reductions in Pay and Hours Worked Issues” available at https://www.dol.gov/whd/regs/compliance/whdfs70.pdf.
Additional U.S. Department of Labor Fact Sheets relating to wages, including additional and different requirements for different categories of workers (migrant and seasonal agricultural workers, workers on visas, first responders, etc.), are available at https://www.dol.gov/whd/fact-sheets-index.htm.

The Texas Payday Law requires employers to pay employees who are exempt from the FLSA’s overtime provisions at least once a month and other employees at least twice a month on the paydays designated by the employer. Tex. Lab. Code § 61.011. Wages may be paid by: (1) delivering them to the employee, or a person designated by the employee in writing, at the employee’s regular place of employment, during regular work hours, or at a place and time agreed by employer and employee; (2) sending them to the employee, or a person designated by the employee in writing, by registered mail, to be received no later than payday; or (3) delivering them to the employee by any reasonable means authorized by the employee in writing. Employers with a direct deposit plan may also pay wages by direct deposit. Tex. Lab. Code § 61.017. Employers whose employees may have been displaced by a natural disaster should take steps to ensure that pay is delivered in a manner that ensures receipt by the employee.

An employee who is discharged from employment must be paid in full no later than the sixth (6th) day after the date of discharge. Employees who are not discharged but leave employment voluntarily or for other reasons must be paid in full no later than the next regularly scheduled payday. Tex. Lab. Code § 61.014.

Under certain circumstances, employees who lose employment as a result of a plant closing or mass layoff are entitled to 60 days advance notice under the federal Worker Adjustment and Retraining Notification (WARN) Act, 29 U.S.C. § 2101 et seq. If the closing or layoff is a direct result of a natural disaster, employers must still give as much notice as possible, even if that notice comes after the disaster. Employees that do not receive proper notice may be due backpay and benefits for up to the 60 day notice period. The WARN Act notice requirement applies only to employers with at least 100 employees. The employer must give written notice to the bargaining representative of affected union employees and to unrepresented individual workers who may reasonably be expected to experience an employment loss. Notice must include whether the layoff or closing is permanent or for 6 months or less, the date (within a 14-day period) that your employment will end, and the name and contact information of a person in the company that can provide additional information. For more information, see https://www.doleta.gov/layoff/warn.cfm.

A worker who is treated as an independent contractor by an employer may, in fact, be an employee, and therefore may be entitled to the protections of the FLSA, the TMWA, the Texas Payday Law, etc. A worker is likely an employee of the employer if the worker receives all or substantially all of his work from the employer, the worker does not have his own customers, etc.

**Prohibited Employment Discrimination & Wrongful Termination**

Generally speaking, Texas is an employment-at-will state. This generally means that if an employer doesn’t like the way the employee performed aspects of the job or if the employee has failed to follow workplace policies (or if the employee’s services are simply no longer needed),
an employer can fire the employee unless the firing is otherwise unlawful. Although “at will” employment is the general rule, there are many exceptions, including the following (where the employer and employee are covered by the relevant law):

- An employee cannot be fired because of the employee’s race, sex, religious preference, ethnicity, national origin, age, or disability;
- An employee cannot be fired for complaining about the employee’s rights under employment laws providing for minimum wage, overtime, medical leave, discrimination, workers’ compensation, and workplace safety laws (among others);
- An employee cannot be fired for taking leave because of a serious illness, maternity leave, paternity leave, time off to adopt a child, or time off to help take care of a seriously ill close family member (if the employee is covered by the FMLA, the law that allows for this time off);
- An employee cannot be fired for refusing an order to do something illegal;
- An employee cannot be fired for discussing working conditions, pay, or salary with co-workers, or joining others in making a complaint or complaining on behalf of coworkers about pay or working conditions;
- An employee cannot be fired for being a member of, joining, or trying to form a union;
- An employee cannot be fired for reporting an employer’s violation of a law to appropriate law enforcement authorities (known as “whistleblowing”); and
- If you have an employment contract specifying the grounds for termination, you cannot be fired in violation of the contract - this includes a collective bargaining agreement negotiated by a union in your workplace.

The above list does not cover all of the situations in which it is unlawful for an employer to fire an employee, but it contains some of the more common situations.

**Prohibited employer discrimination against evacuees:** Texas law also prohibits discrimination for participation in an emergency evacuation. An employer may not discharge or discriminate against an employee who leaves the employee’s place of employment to participate in a general public evacuation ordered under an emergency evacuation order. Tex. Lab. Code § 22.002. Emergency services personnel (including fire fighters, police officers, emergency medical technicians, and other individuals who are required to provide services for the benefit of the general public in emergency situations) are exempt from this provision. Tex. Lab. Code § 22.004.

In addition, the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. §§ 4301–4333, makes it unlawful for an employer to deny initial employment, reemployment, promotion, or any benefit of employment to a person who is obligated to perform in a uniformed service, including the Reserves and National Guard. This includes a call to active duty as a result of a national emergency. For further information, see “Your Rights Under USERRA” available at http://www.dol.gov/vets/programs/userra/userra_private.pdf.

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Unpaid Leave Entitlement

In addition to paid leave that may be available under an employer’s vacation or sick leave policy, the federal Family and Medical Leave Act (FMLA) requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. See 29 U.S.C. § 2601 et seq.; 29 C.F.R. pt. 825. Leave is available in part to cover an employee’s own serious health condition that renders the employee unable to perform the employee’s job, and to care for the employee’s spouse, son or daughter, or parent who has a serious health condition. Employees are eligible if they have worked for their employer for at least one year, and for 1,250 hours over the previous 12 months, and if their employer has at least 50 employees within 75 miles. The FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances. For the duration of FMLA leave, the employer must maintain the employee’s health coverage under any group health plan.

Pursuant to the statute, substitution of paid leave is allowed. 29 U.S.C. § 2612(d)(2). Employees may take, or employers may require employees to use, paid vacation, personal, family, or medical sick leave concurrently with FMLA, with some limitations. The U.S. Department of Labor updated the regulations under the FMLA in 2008, and these regulations now restrict the substitution of paid leave. Under the new 29 C.F.R. § 825.207, employers can require employees to meet all of the normal requirements of paid leave policies before permitting substitution. For example, if a policy requires that vacation be taken in full day increments, an employer can deny substitution for an employee’s one-half day FMLA leave. Similarly, if vacation time cannot be taken during a particular month, substitution could be denied during that time period. For more information, visit http://www.dol.gov/whd/fmla/index.htm.

6.4 Regulatory Agency Directives

The U.S. Department of Labor, in coordination with FEMA, provides funds to state unemployment insurance agencies for payment of Disaster Unemployment Assistance (DUA) benefits. Accordingly, the Texas Workforce Commission (TWC) administers DUA benefits to individuals who lost their jobs or self-employment or who are no longer working as a direct result of a major disaster for which a disaster assistance period is declared. In the event of a disaster, TWC will publish announcements about the availability of DUA benefits. For Hurricane Harvey, the TWC’s announcements are available here:

http://www.twc.state.tx.us/hurricane-harvey-resources
http://www.twc.state.tx.us/news/disaster-unemployment-aid-now-available-11-additional-texas-counties
As the announcements note, for some counties, the deadline to apply for DUA is September 27, 2017.\footnote{As of the writing of this manual on September 13, 2017. For updates, check the TWC webpages cited in this section.}

Unemployed disaster victims who are not eligible for regular unemployment compensation should apply for unemployment benefits as soon as possible since there are deadlines to apply (see above) as well as waiting periods for receipt of benefits. For more information, please visit: http://www.twc.state.tx.us/jobseekers/disaster-unemployment-assistance.

6.5 FAQs

\textbf{Q. 100 What is unemployment compensation?}

Unemployment compensation, such as the benefits provided to Texas workers by the Texas Workforce Commission, provide temporary financial assistance to a worker who has been laid off or fired from a job for a reason other than misconduct or who has quit a job for a good cause reason.

\textbf{Q. 101 How do I qualify for unemployment insurance benefits?}

To be eligible for regular unemployment compensation under the Texas Unemployment Compensation Act (Texas Labor Code Title 4), an individual must meet all of the following requirements: (1) the individual must have earned sufficient wages to qualify for benefits in the “base period,” which consists of the four consecutive completed calendar quarters, prescribed by the Texas Workforce Commission, in the five completed calendar quarters before the claim is filed; (2) the person must be unemployed or partially unemployed; (3) the person cannot have been fired for misconduct or voluntarily quit without good cause; (4) the individual must be physically able and available to work; and (5) the individual must be actively seeking work.

\textbf{Q. 102 What is Disaster Unemployment Assistance, or DUA?}

Disaster Unemployment Assistance (DUA) provides financial assistance to individuals whose employment or self-employment has been lost or interrupted as a direct result of a major disaster as declared by the President of the United States and are not eligible for regular UI benefits under any state or federal law program (\textit{e.g.}, self-employed individuals or individuals unavailable to work due to an injury that is the direct result of the disaster). While DUA is a federal program, it is administered by states as agents of the federal government. 42 U.S.C. § 5177.

\textbf{Q. 103 How do I qualify for Disaster Unemployment Assistance?}

Disaster Unemployment Assistance may be available to certain unemployed U.S. nationals and qualified aliens who:
• Have applied for and used all regular unemployment benefits from any state or do not qualify for unemployment benefits;
• Worked or were self-employed or were scheduled to begin work or self-employment in the disaster area; and
  o Can no longer work or perform services because of physical damage or destruction to the place of employment as a direct result of the disaster;
  o Can no longer work because the individual is not able to reach the place of employment as a result of the disaster;
  o The workplace is inaccessible due to closures by federal state or local officials;
  o Cannot perform work or self-employment because of an injury as a direct result of the disaster;
  o Became the breadwinner or major support of a household because of the death of the head of the household, as a result of the disaster.
• Establish that the work or self-employment that they can no longer perform was their primary source of income.

See also: http://www.nelp.org/publication/how-workers-access-dua-after-hurricane-harvey/.

Disaster Unemployment Assistance for Noncitizens:

Noncitizens must meet the following requirements (in addition to other DUA requirements) to be eligible for Disaster Unemployment Assistance (DUA):

1. A noncitizen must be authorized to work for the weeks for which she is claiming DUA. See 56 Fed. Reg. 22800-01.
2. In addition, a noncitizen must have had one of the following statuses during the time she was earning the wages that are used to calculate her weekly benefit amount:
   a. lawfully admitted for permanent residence in the United States at the time such services were performed (LPR or “green card” holder);
   b. lawfully present for purposes of performing such services (for example, present on a temporary work visa); or
   c. permanently residing in the United States under color of law at the time such services were performed (this can be complicated—consult with an immigration attorney).

See 20 C.F.R. § 625.6(a)(1). With some exceptions, an individual’s weekly benefit amount is normally calculated using the wage credits earned during her “base period” (which, for Hurricane Harvey, is the 2016 calendar year). See Tex. Lab. Code §§ 201.011, 207.004. Therefore, this second requirement usually will mean that the noncitizen must have had one of the three statuses above during her “base period” or a portion of her “base period.” Otherwise, the individual may qualify for benefits when she applies, but her benefits will be zero because she did not have a qualifying status when she was earning her “base period” wages. For an explanation of the “base period,” see http://www.twc.state.tx.us/jobseekers/disaster-
Q. 104 How do I file for Unemployment Insurance (UI) or Disaster Unemployment Assistance (DUA)?

Please see detailed information available on the TWC website:
http://www.twc.state.tx.us/jobseekers/disaster-unemployment-assistance.

To file a claim for unemployment insurance or disaster unemployment assistance, please consider the following:

- You must file for regular benefits before filing for DUA. As a practical matter, the TWC may take your applications for both regular benefits at the same time.
- You may file for regular and disaster unemployment benefits online at http://www.twc.state.tx.us/ui/uiclaim.html.
- If you cannot file online, call one of the Tele-Center phone numbers listed below, Monday – Friday, 8:00 a.m. – 5:00 p.m. (Central Time).

  Austin local:   (512) 340-4300  
  Dallas local:   (972) 339-6200  
  El Paso local:   (915) 832-6400  
  Fort Worth local:   (817) 420-1600  
  Houston local:   (281) 983-1100  
  McAllen local:   (956) 984-4700  
  San Antonio local:  (210) 258-6600  
  Others call toll free:  1-800-939-6631  
  Relay Texas (TDD):  1-800-735-2989  
  Relay Texas (Voice):  1-800-735-2988

You will need your Social Security number, a copy of your most recent federal income tax forms or check stubs, or documentation to support that you were working or self-employed when the disaster occurred.

You must complete your work search registration at WorkinTexas.com or your local Workforce Solutions office within three days of applying for DUA. You do not have to register if you were self-employed at the time of the disaster and are taking steps to reopen your business. If you do not plan to reopen your business, you must complete a work search registration and seek work.

To receive DUA benefits, you must submit proof of employment with the employer that was affected by the disaster (a pay stub, earnings statement, written statement from your employer or
notarized statement from a co-worker) to the TWC within 21 days from the day the DUA application is filed. Failure to submit the required documentation within the 21-day time period may result in denial of eligibility for DUA.

**Q. 105 How do I get proof of prior wages or earnings?**

To obtain proof from the Internal Revenue Service (IRS) of prior income/earnings, complete IRS Form 4506-T and send to the IRS. Write the appropriate disaster designation, such as “DISASTER HARVEY,” in red letters across the top of the forms to expedite processing. Fax or mail the form to the appropriate IRS Campus found in the instructions on the form. The anticipated response time is 24-48 hours from IRS receipt of the fax. For additional assistance from the IRS, call the IRS Disaster Assistance Hotline at (866) 562-5227.

**Q. 106 Are UI benefits taxable?**

Any UI benefits you receive are taxable income. You will be issued Form 1099-G at the end of January showing the amount of benefits paid to you, as well as any federal income tax withheld at the time the benefits were paid. The amount on the 1099-G is not reduced by any repayments you may have made for overpaid benefits. Therefore, if you repaid any benefits, you must maintain your own record of payment, such as reimbursement receipts or canceled check notices to make adjustments to your taxable income and as documentation for the federal Internal Revenue Service and State Tax Office when you file your tax returns.

**Q. 107 What DUA benefits are available?**

Disaster Unemployment Assistance (DUA) is available to individuals for weeks of unemployment beginning after the date the President makes a disaster declaration and for up to 26 weeks after the major disaster, as long as their unemployment continues to be a result of the major disaster. The maximum weekly benefit amount is determined under the provisions of the state law for unemployment insurance in the state where the disaster occurred. See [http://www.twc.state.tx.us/jobseekers/disaster-unemployment-assistance](http://www.twc.state.tx.us/jobseekers/disaster-unemployment-assistance).

**Q. 108 What help is available to find new employment?**

Reemployment services are available through Texas Workforce Centers or by accessing [http://www.WorkInTexas.com](http://www.WorkInTexas.com) for information.

For victims of wage theft from new/temporary employers, the Texas Legislature has also recently amended the Penal Code to provide employees with greater protection. As amended, Tex. Penal Code § 31.04 now categorizes conduct as theft of service when an employer “intentionally or knowingly secures the performance of the service by agreeing to provide compensation and, after the service is rendered, fails to make full payment after receiving notice demanding payment.” Most importantly, under the amended law, the partial payment of wages alone is not sufficient evidence to negate an employer’s intent to avoid payment for a service.

**Q. 109 What is an employer’s obligation with respect to a group health plan?**
In certain situations, COBRA may require an employer to extend COBRA continuation coverage under a group health plan to an employee and his or her dependents (“Qualified Beneficiaries”) following coverage loss due to certain qualifying events. Qualifying events include loss of coverage due to the following events:

- Most voluntary or involuntary terminations,
- A reduction in hours triggering a coverage loss, or
- The death of the covered employee.

If applicable, COBRA generally requires the employer to extend coverage under the group health plan for a period of 18 months. However, the employer may charge the Qualified Beneficiaries up to 102 percent of the cost of providing coverage under the group health plan to a similarly situated active employee.

COBRA coverage is not required in all cases. Certain employers, including small employers, may be exempt from COBRA. Further, if an employer terminates all group health plans for active employees, the employer no longer has to extend COBRA coverage to any Qualified Beneficiaries. For more detailed information, go to http://www.dol.gov/ebsa/pdf/cobraemployee.pdf.

Q. 110 If a worksite must close temporarily, are there alternatives to a layoff?

In some circumstances, it may make sense for an employer to place its employees on unpaid administrative leave status while the office or other worksite regroups. If the employer’s benefits plans permit continuation of coverage during such leave, employees may be able to maintain coverage. Employers should check the applicable plan documents before making this decision.

Q. 111 Can my employment be terminated without notice or cause?

Generally speaking, Texas is an employment-at-will state. This generally means that if an employer doesn’t like the way the employee performed aspects of the job or if the employee has failed to follow workplace policies (or if the employee’s services are simply no longer needed), an employer can fire the employee unless the firing is otherwise unlawful. Although “at will” employment is the general rule, there are many exceptions. Please see “Prohibited Employment Discrimination & Wrongful Termination” above.

The WARN Act, 29 U.S.C. § 2101, et seq., requires that employers with 100 or more employees provide 60 days notice before a mass layoff or a plant closing of at least 30 days. A mass layoff occurs when a third of employees are fired at worksites of 50 or more or when 500 or more employees are fired at a large worksite.

If the closing or layoff is a direct result of a natural disaster, employers must still give as much notice as possible, even if that notice comes after the disaster. Notice should be in writing and should tell the employee whether the layoff or closing is permanent or for 6 months or less, the
date (within a 14-day period) that the employment will end, and the name and contact information of a person in the company who can provide additional information. The employer must give written notice to the bargaining representative of affected union employees and to unrepresented individual workers who may reasonably be expected to experience an employment loss.

Employees who do not receive proper notice may be due backpay and benefits for up to the 60 day notice period.


Q. 112 Are there any legal restrictions against firing, suspending, or disciplining employees?

Various state and federal laws prohibit discrimination in hiring, discipline, discharge, and other terms and conditions of employment on the basis of an employee’s race, color, national origin, sex, pregnancy, religion, disability, or genetic information. For example:

- An employee cannot be fired because of the employee’s race, sex, religious preference, ethnicity, national origin, age, or disability;  
- An employee cannot be fired for complaining about the employee’s rights under employment laws providing for minimum wage, overtime, medical leave, discrimination, workers’ compensation, and workplace safety laws (among others);  
- An employee cannot be fired for taking leave because of a serious illness, maternity leave, paternity leave, time off to adopt a child, or time off to help take care of a seriously ill close family member (if the employee is covered by the FMLA, the law that allows for this time off);  
- An employee cannot be fired for refusing an order to do something illegal;  
- An employee cannot be fired for discussing working conditions, pay, or salary with coworkers, or joining others in making a complaint or complaining on behalf of coworkers about pay or working conditions;  
- An employee cannot be fired for being a member of, joining, or trying to form a union;  
- An employee cannot be fired for reporting an employer’s violation of a law to appropriate law enforcement authorities (known as “whistleblowing”); and  
- If you have an employment contract specifying the grounds for termination, you cannot be fired in violation of the contract - this includes a collective bargaining agreement negotiated by a union in your workplace.

The above list does not cover all of the situations in which it is unlawful for an employer to fire an employee, but it contains some of the more common situations.

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An employer also may not discharge or discriminate against an employee who leaves work to participate in a general public evacuation ordered under an emergency evacuation order. This does not apply to emergency services personnel.

The law also grants certain rights to, and prohibits discrimination against, a person who is obligated to perform in a uniformed service, including the Reserves and National Guard. This includes a call to active duty as a result of a national emergency.

**Q. 113 Am I entitled to take leave to deal with my own or a family member’s serious health problem?**

Your employer may have a sick leave or vacation policy that entitles you to a period of paid leave. In addition, the federal Family and Medical Leave Act (FMLA) may provide up to 12 weeks of unpaid leave for certain family and medical reasons. The FMLA applies to employers with at least 50 employees. To be eligible, you must have worked for your employer for at least one year and for 1,250 hours over the previous 12 months. You can take leave for a serious health condition that prevents you from performing your job or to care for a spouse, child, or parent who has a serious health condition. You can continue your existing group health coverage and are entitled to reinstatement at the end of the leave. You will need to let your employer know that you or a family member has a serious health condition for which you require leave.

**Q. 114 I had to evacuate and need to get my pay. What do I do?**

If your wages are not direct deposited in your bank account, make sure your employer has your current address. Direct your employer to send your pay to you by registered mail. If you want to have someone receive or pick up your wages on your behalf, your employer will need your written authorization to send or give the pay to that person.

**Q. 115 My employment has been terminated. When will I get my final paycheck?**

If your employer has discharged you, you must be paid no later than the 6th day after the date of your discharge. If you quit, then you are entitled to your final paycheck no later than the next regular payday.

Source: A portion of this question and answer section utilizes information provided by U.S. Department of Labor at [http://www.dol.gov/](http://www.dol.gov/).
7.0 SOCIAL SECURITY, BANKING, AND FINANCIAL ISSUES

7.1 Social Security Benefits

If you did not receive your regularly scheduled payment from Social Security, as a result of a disaster, you can go to any open Social Security office and request an immediate payment. To find the nearest Social Security office call 1-800-772-1213 (TTY 1-800-325-0778). You can also visit the Social Security website at www.socialsecurity.gov.

With very few exceptions, the Social Security Administration requires that you sign up for their direct deposit service. With direct deposit, you no longer receive a check in the mail. Instead, your money is deposited for you directly into your bank, savings and loan, or credit union account no matter what happens to interrupt mail service. Alternatively, you could have a credit card that has your benefits added to it. This measure should have eliminated most problems.

Additionally, if the applicant is blind, over the age of sixty-five, or disabled and cannot perform any kind of work, the applicant should apply for benefits at the nearest Social Security office. You can also start an application by calling the Social Security Administration’s toll free telephone number 1-800-772-1213. You may start your application for disability benefits online (https://secure.ssa.gov/iClaim/dib). You may apply for Retirement and/or Medicare online (https://www.ssa.gov/planners/retire/applying8.html). Once Social Security has all the necessary documentation, such as proof of earnings and medical evidence of disability, it will send a written decision. If the applicant is denied and you think they are eligible, you should file a request for reconsideration within sixty days of the date of the initial decision. If they are denied again, you should request a hearing and contact Legal Services.

The applicant may also be eligible for other kinds of Social Security benefits, on his account or on the account of another if they want to retire, or they are an aged or disabled widow or widower, or are the dependent family member of a disabled, retired or deceased worker. If you think your client is eligible for any of these benefits, you should contact the Social Security Administration and apply.

A person may be eligible for Social Security survivors benefits if a spouse, an ex-spouse, or parent died. That person may also be eligible for a $225 one-time death benefit.

7.2 Tax Relief

The IRS website has a section on disaster tax issues (https://www.irs.gov/newsroom/tax-relief-in-disaster-situations) where it posts all of the latest information related to tax relief available to disaster survivors. The page provides a comprehensive set of FAQs for disaster survivors. The IRS also maintains a “Disaster Relief Resource Center for Tax Professionals” on its web page to provide resources for advocates assisting disaster survivors with tax issues. Advocates and survivors should use the IRS webpage as a starting point for their research.

Shortly after a disaster declaration, the IRS issues Notices and News Releases, which it will post on its website, describing filing and payment deadline extensions and other tax relief for affected
taxpayers. All applicable IRS notices and news releases should be read carefully to determine which deadlines are extended, for how long, and for which taxpayers. In some major disasters, the IRS has suspended certain types of collection actions, including liens, levies, and seizures. For all federally declared disasters, however, installment agreement payments are automatically suspended.

Disaster survivors may need quick access to prior year tax returns to file amendments to claim disaster losses in a prior year as allowed under 26 U.S.C. § 165(i), to prove business income for business interruption insurance claims or for any number of other disaster-related exigencies. The IRS will waive the usual fees and expedite requests for copies of previously filed tax returns and tax return transcripts for affected taxpayers. Taxpayers should write the assigned disaster designation, such as “Texas, Hurricane Harvey” in red ink at the top of Form 4506, Request for Copy of Tax Return, or Form 4506-T, Request for Transcript of Tax Return, as appropriate, and submit it to the IRS. Other transcripts, such as account and wage and income transcripts, can be requested free of charge by calling 1-800-908-9946 or online at http://www.irs.gov/Individuals/Order-a-Transcript.

Taxpayers claiming disaster losses on amended tax returns to access immediate cash refunds should write the disaster designation in red across the top of Form 1040X to ensure the IRS applies expedited processing procedures. The average expedited processing time is sixty days. Taxpayers experiencing economic hardship should apply for a manual refund through the IRS taxpayer advocate service. A manual refund can generally be processed within one to two weeks. Apply by faxing a completed IRS Form 911 to your local taxpayer advocate office. In such a case, do not file the amended tax return by mail. Instead, attach it to the Form 911 so it can be manually input by the taxpayer advocate assigned to assist with the manual refund request. Visit www.irs.gov/taxpayer-advocate for more information.

Qualified disaster relief payments under 26 U.S.C. § 139 are not taxable income to disaster survivors if the reimbursed expense is not also paid by insurance or other reimbursement and has not been deducted on a prior year tax return. Qualified disaster relief payments include payments to reimburse reasonable and necessary personal, family, living, or funeral expenses incurred as a result of the disaster, reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence (even if rented), and expenses incurred to repair or replace contents of a personal residence.

IRS computer systems automatically identify taxpayers located in covered disaster areas and apply automatic filing and payment relief. Taxpayers who reside or have a business outside the covered area, or who moved to the covered area after their last contact with IRS, must call the IRS disaster hotline at 1-866-562-5227 to request tax relief.

Finally, the IRS staffs a Disaster Assistance Hotline at 1-866-562-5227. Calls are only answered on weekdays from 7:00 a.m. to 7:00 p.m., local time.

7.3 FAQs – Banking/FDIC Issues

Q. 116 Who can I contact for information?
The FDIC realizes that customers with limited access to a working telephone or the internet may have greater difficulty obtaining financial information. Customers with access to a working telephone can contact the FDIC toll-free at 1-877-ASK-FDIC or 1-877-275-3342 or TDD 800-925-4618 for information about accessing their bank accounts, lost records, ATM cards, direct deposits or how to reach their bank. This hotline operates from 8:00 am to 8:00 pm Eastern Time from Monday through Friday and 9:00 a.m. to 5:00 p.m. on Saturday and Sunday. Customers with access to the internet may visit the FDIC website at www.fdic.gov/consumers/assistance and submit a Consumer Assistance Online Form with questions or complaints electronically.

**Q. 117 The local banks are not cashing my checks or letting me withdraw money from teller stations. What can I do?**

If you do not have an account relationship with the bank, it may be concerned about whether there are sufficient funds in your account. Ask the bank you are dealing with to call your bank to determine your account balance. The FDIC encourages you to work with your bank to provide the necessary information to the bank you are now dealing with so you can conduct banking transactions. However, the FDIC recognizes that you may have no other alternative but to open a new banking account in the area in which you have relocated.

**Q. 118 My direct deposit is not showing up in my account, and I need money. Is there somebody who can help me clear this up with the bank?**

There may be delays in the processing of transactions, including direct deposits, as banks activate back up plans. The banks will process the transactions once the plans are implemented. Talk to your bank about the problem. You can also contact the individual or company that originated the deposit to see if they have any information about the status of your deposit.

**Q. 119 If my ATM card does not work, what should I do?**

If your ATM card will not work, it is probably because your bank’s verification system is not working. You may consider other options, such as cashing a check in your immediate area or using a credit card. You may also contact one of the emergency service organizations, such as FEMA (www.fema.gov; 1-800-621-3362) or the Red Cross (www.redcross.org; 1-800-733-2767) and request assistance.

**Q. 120 ATM fees are piling up, why aren’t the banks waiving these fees?**

Please contact your bank and explain your situation. FDIC regulators strongly encourage banks to waive these fees for those hardest hit by disasters.

**Q. 121 How will I get my Social Security check?**

Contact the Social Security Administration (SSA) or go to an open Social Security office for instructions or information regarding SSA assistance programs. To find an open office, call the
Q. 122 I would like to wire money to relative or friend affected by the disaster or from my current financial institution to another one closer to my current location. How do I go about wiring money to or from an institution?

Here are some steps for wiring money to or from an institution affected by a disaster:

- Find a bank’s telephone number, e-mail address, and physical address on the FDIC’s bank Find system (https://research.fdic.gov/bankfind).
- Contact the institution to which you want to send or retrieve money and determine if the bank can accept or send wire transfers.
- Provide the following information:
  - Either your account number or the account number of the individual who will receive the money (in the middle of the check or deposit slip) and the bank routing number (in the lower left hand corner of your check or deposit slip). If you cannot find a bank's routing number, it is usually listed on the bank's web page.
  - The address of the bank to which you are wiring money.
- Request the institution to fax or e-mail you a confirmation so you know the person receives the money, if you are transferring the funds over the internet.

You should understand the identification verification process at the receiving institution. Some institutions will accept incoming wires for noncustomers but will require proof of your identity before they release the funds. Ensure you have the identification required or explain up front what you have and ask the bank if that is acceptable. Also determine up front the existence of any fees associated with wiring funds.

Q. 123 How can I protect against fraud or scams?

Protect your personal and financial information. Understand that some people may take advantage of natural disasters by using fraudulent websites, phone calls, emails and text messages claiming to offer “help” but may be trying to trick people into providing Social Security numbers, bank account numbers and other valuable details. Do not divulge your bank or credit card numbers or other personal information over the phone unless you initiated the conversation with the other party and you know that it’s reputable. Be on guard against imposters who contact you claiming to be government employees or volunteers and who ask for personal financial information or money. Reject offers to cash a check for someone in exchange for a fee, even if the bank makes the funds available to you right away, as it may later turn out that the check was fraudulent.

Be careful before accepting unsolicited offers of repairs or other assistance. Deal only with licensed and insured home-repair contractors and get recommendations from people you know and trust. To check out a local business, including complaints against it, start by contacting your
state attorney general’s office or your state or local consumer affairs office. In addition, get prices and other key details in writing and take your time to read and understand anything you are asked to sign.

Q. 124 I can’t reach my bank by phone or Internet, what should I do?

If your bank is located in the heavily storm-damaged area, and is not a part of a major regional or national institution, it may not be open for some time. You can use the FDIC’s bank find system at https://research.fdic.gov/bankfind to obtain a bank’s contact information. You should contact one of the emergency service organizations, such as FEMA (www.fema.gov; 1-800-621-3362) or the Red Cross (www.redcross.org; 1-800-733-2767) and request assistance.

Q.125 I am worried about identity theft.

If you feel ID theft is a real concern or have reason to believe you are victim of identity theft, you may place a "fraud alert" on your credit file, by contacting the fraud department at one of the three major credit bureaus for which contact information appears below.

Be aware that putting an alert on your account may prevent you from opening an account, unless they are able to get in touch with you and positively confirm your identity, and that you are applying for credit.

- Equifax: 1-800-525-6285; www.equifax.com; P.O. Box 740241, Atlanta, GA 30374-0241
- Experian: 1-888-EXPERIAN or 1-888-397-3742; www.experian.com; P.O. Box 9554, Allen, TX 75013
- TransUnion: 1-888-909-8872; www.transunion.com; Fraud Victim Assistance Department, P.O. Box 2000, Chester, PA 19016

In addition, people who think their personal information has been misused should contact the local police. They also can contact and file a complaint with the Federal Trade Commission (FTC) by phone at 877-IDTHEFT or 1-877-438-4338 or TDD 1-866-653-4261, or on the internet at http://www.ftc.gov/idtheft.

The Texas Legal Services Center (TLSC) has also created a toll-free hotline (1-888-343-4414) to provide people information and assistance who have been victims of identity theft.

As always, protect your Social Security number, bank account and credit card numbers, and other personal information, especially in response to unsolicited requests from strangers. Remember that fraud artists may try to take advantage of the crisis by tricking victims (or their loved ones) into divulging personal information or by stealing sensitive mail or documents from homes and offices.
Q. 126 If my local bank was destroyed, is my money still insured?

Yes, your money is insured by the Federal Deposit Insurance Corporation (FDIC). Deposits with a FDIC insured bank or savings institution will continue to be protected up to $250,000. However, you should keep any financial records that you have in order to help reconstruct your accounts.

Q. 127 Will there be enough cash?

Be assured the Federal Reserve System has and will continue to meet the currency needs of the financial institution industry. The banking industry nationwide has more than sufficient resources to fill any shortfall.

Q. 128 What about the contents of my safe deposit box? Does FDIC insurance cover safe deposit boxes?

No, deposit insurance does not cover items contained in safe deposit contents. Safe deposit boxes are not immune from theft, fire, flood and other loss. Most safe deposit boxes are held in the bank’s vault, which are fireproof and waterproof. If possible, contact the branch or office where your box was located to determine the condition of your box.

Q. 129 Is my bank safe? Do you believe the affected banks will survive?

We are not aware of any bank that has closed due to the impact of a natural disaster. Consumers can also rely on the guarantees provided by the FDIC, which oversees the insurance funds that back deposits in banks and thrifts, and the National Credit Union Share Insurance Fund, which protects credit union depositors. These depositors can rest assured that deposit insurance is in full force.

Q. 130 Merchants will not accept my checks because my bank is not operational and they cannot verify my account balance. What should I do?

If a merchant cannot verify that you have an available balance, it is unlikely that they will accept your check. Until your bank is operational again, we can only suggest that you contact one of the emergency service organizations, such as FEMA (www.fema.gov; 1-800-621-3362) or the Red Cross (www.redcross.org; 1-800-733-2767).

Q. 131 I am no longer working due to the disaster and don’t have the income to live on and meet my payments. If I miss some loan payments, how will this affect my credit? Will I be charged late fees?

FDIC regulators strongly encourage banks to be understanding during times of crisis and to work with customers seriously affected by a disaster. Regulators are encouraging banks to allow customers to skip loan payments with no adverse consequences for the borrower, extend loan
repayment terms and restructure existing loans. Before skipping payments or changing the terms of a loan, contact your bank.

**Q. 132 I need longer term financing until insurance checks come in and I can find another job, will banks help?**

Not all banks provide unsecured loans, but FDIC regulators encourage banks to consider working constructively with affected consumers to meet their lending needs.

**Q. 133 What happens if my bank has lost my records?**

Banks are required to have contingency plans for all types of disruptions to operations, including natural disasters. Banks have backup systems of records and other built-in duplications that are housed in safe locations so that financial records can be reconstructed and restored.

**Q. 134 How can consumers deposit or cash any insurance checks they may receive?**

By the time emergency relief and insurance payments are received, the affected institutions should be prepared to process these payments for their customers. Should a customer’s primary financial institution not be ready to receive these payments it is anticipated arrangements will be made with neighboring institutions to handle these special consumer needs.

**Q. 135 Who can I contact for more information?**

The FDIC has a consumer hotline. Please call 1-877-ASK-FDIC (275-3342). You may also visit the FDIC’s website at www.fdic.gov. The hotline is operating from 8 a.m. to 10 p.m. central time, seven days a week.

8.0 CONSUMER PROTECTION ISSUES

8.1 Overview

Disasters are breeding grounds for unscrupulous consumer practices. Disaster victims, particularly senior citizens, the disabled, and limited English or non-English speaking persons are vulnerable to scams. Even financially sound families may fall behind on credit payments resulting in collection actions. Consumer information is essential to help prevent victimization.

IMPORTANT NOTE: The information contained in this section is designed to help volunteer attorneys provide preliminary guidance to victims of consumer fraud or those with debtor/creditor problems in Texas. In most instances, the matters should be referred to the Texas Attorney General at 1-800-621-0508 (consumer protection hotline) or 1-800-252-8011 (general hotline). The Texas Attorney General’s and Federal Trade Commission’s websites are excellent resources on consumer protection issues: http://www.oag.state.tx.us/consumer/index.shtml and https://www.consumer.ftc.gov/.

8.2 Most Common Issues

- Deceptive Trade Practices / Door-to-Door Sales
- Debt Collection / Credit Reporting
- Price Gouging Certain Commodities During a Disaster
- Home Equity Fraud
- Home Remodeling and/or Repair / Mold Remediation Fraud (see FAQs)

8.3 Summary of Relevant Laws

A. Texas Deceptive Trade Practices Act

The Texas Deceptive Trade Practices Act (DTPA), Tex. Bus. & Com. Code § 17.41, et seq., protects consumers against false, misleading, or deceptive trade practices, including unconscionability and breach of warranty. The DTPA provides that a consumer who is damaged by such unlawful practices has a private right of action and may recover economic damages, injunctive relief, other equitable orders, and attorney fees. If the illegal acts are committed knowingly or intentionally, the aggrieved consumer may obtain mental anguish and additional damages not to exceed three times the economic damages.

B. Home Solicitation Contracts

Texas Door-to-Door Sales Law. It is important to know when a sale constitutes a home solicitation because special laws cover this kind of sale. In Texas, chapter 601 of the Texas Business & Commerce Code regulates the home solicitation industry and applies to certain consumer transactions in which (1) a merchant engages in a personal solicitation of a sale to a
consumer at a place other than the merchant’s place of business or (2) a consumer agrees or offers to make a purchase at a place other than the merchant’s place of business. Texas law requires specific language to be included in contracts and notices of cancellation. A buyer has the right to cancel a home solicitation contract until midnight of the third business day after the day on which the buyer signs the agreement. If a seller fails to give a buyer notice of the right to cancel the contract, the contract is void. The state door-to-door sales law does not apply to certain transactions, including:

- A purchase of goods or services less than $25;
- A purchase of farm equipment;
- An insurance sale regulated by the Texas Department of Insurance;
- A sale of goods or services made: (1) under a preexisting revolving charge account or retail charge agreement; or (2) after negotiations between the parties at a business establishment in a fixed location where goods or services are offered or exhibited for sale;
- A sale of real property if: (1) the purchaser is represented by a licensed attorney; (2) the transaction is negotiated by a licensed real estate broker; or (3) the transaction is negotiated at a place other than the consumer’s residence by the person who owns the property.

For further information regarding door-to-door sales, please visit the Texas Attorney General’s website on the topic at: https://www.texasattorneygeneral.gov/cpd/door-to-door-sales and https://www.texasattorneygeneral.gov/cpd/the-3-day-right-to-cancel-a-purchase.

**FTC Cooling-Off Rule.** In addition to Texas state law, the Federal Trade Commission enforces federal requirements related to home solicitation sales pursuant to the Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations, 16 C.F.R. pt. 429 (Cooling-Off Rule). The Cooling-Off Rule applies to sales at the buyer’s home, workplace, or dormitory, or at facilities rented by the seller on a temporary or short-term basis, such as hotel or motel rooms, convention centers, fairgrounds, and restaurants. The Cooling-Off Rule applies even when a salesperson is invited to make a presentation in the home. Under the Cooling-Off Rule, the salesperson must tell the consumer about cancellation rights at the time of sale. The salesperson also must give the consumer two copies of a cancellation form (one to keep and one to send) and a copy of the contract or receipt. The contract or receipt should be dated, show the name and address of the seller, and explain the right to cancel. The contract or receipt must be in the same language that’s used in the sales presentation. The Cooling-Off Rule does not cover sales that are:

- Under $25;
- For goods or services not primarily intended for personal, family, or household purposes (the Rule applies to courses of instruction or training);
- Made entirely by mail or telephone;
Also exempt from the Cooling-Off Rule are sales that involve:

- Real estate, insurance, or securities;
- Automobiles, vans, trucks, or other motor vehicles sold at temporary locations, provided the seller has at least one permanent place of business;
- Arts or crafts sold at fairs or locations such as shopping malls, civic centers, and schools.

For further information regarding the Cooling-Off Rule, please visit the FTC’s website on the topic at: https://www.consumer.ftc.gov/articles/0176-buyers-remorse-when-ftcs-cooling-rule-may-help.

C. Debtor/Creditor

Often disasters can trigger financial crises as victims fall behind in their bills. Missed payments or collection actions can damage their credit ratings. Victims should notify creditors of their situations as soon as possible. Some creditors will agree to reduce, reschedule, or even postpone payments for certain periods of time.

Credit reporting is governed by the federal Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq., which requires that credit reporting agencies furnish a free copy of a consumer’s credit report upon request within 30 days after the consumer is notified of an adverse action. Credit reporting agencies also have a statutory obligation to investigate consumers’ claims. Texas law governing credit reporting is found at chapter 20 of the Texas Business & Commerce Code.

For further information regarding debt collection and credit repair, please visit the Texas Attorney General’s website on the topic at: https://www.texasattorneygeneral.gov/cpd/debt-collection and https://www.texasattorneygeneral.gov/cpd/credit-repair.

D. Fair Credit Billing Act

Under the federal Fair Credit Billing Act (FCBA), 15 U.S.C. § 1666, et seq., if a consumer paid for a purchase with a credit card, and a billing dispute arises about the purchase (e.g., the merchandise shipped was not what was ordered), the consumer can notify the credit card company that he or she wants to dispute the purchase. A sample dispute letter can be found at the following link, under the section titled “Exercise Your Rights”: http://www.consumer.ftc.gov/articles/0219-disputing-credit-card-charges. The dispute letter must be addressed to the credit card company at the address provided for “billing inquiries,” which is
typically specified on the billing statement. In addition, the letter must be received by the credit card company no later than 60 days after the first bill containing the disputed amount is mailed. The credit card company must acknowledge the dispute in writing within 30 days after receiving the dispute letter, unless the problem has been resolved. The credit card company must resolve the dispute within two billing cycles (but not more than 90 days) after receiving written notice from the consumer. The consumer may withhold payment of the amount in dispute until the dispute is resolved, but the consumer is still required to pay any part of the bill that is not in dispute.

Note: Disputes about the quality of goods and services are not “billing errors,” so the dispute procedure does not apply. However, if a consumer buys unsatisfactory goods or services with a credit card (or the 60-day period for sending notice of a billing error has expired), a consumer may have other rights under the Act.

For further information about the FCBA, please visit the FTC’s website on the topic at: https://www.consumer.ftc.gov/articles/0219-disputing-credit-card-charges.

E. **Price Gouging**

Section 17.46(b)(27) of the Texas Business and Commerce Code makes it a deceptive trade practice to take advantage of a disaster by selling or leasing fuel, food, medicine, or another necessity at an exorbitant or excessive price, or even demanding exorbitant or excessive prices for these items. This statute can be enforced privately, by the Attorney General, or by district and county attorneys.

For further information about price gouging, please visit the Texas Attorney General’s website on the topic at: https://www.texasattorneygeneral.gov/cpd/price-gouging.

F. **Home Equity Fraud**

Home equity is the market value of a home minus the mortgage and other liens on the home. For example, if a home’s market value is $100,000 and the mortgage and all liens are $80,000, the equity is $20,000 ($100,000 - $80,000 = $20,000).

Home equity fraud is the taking of a homeowner’s equity by fraudulent means. Victims of home equity fraud are most often elderly persons, particularly widows over age 70, minorities with limited English skills, or homeowners with fixed incomes below $24,000.

There are numerous protections for consumers with Home Equity Loans, most of which are in the Texas Constitution, Article 16 § 50(a) with important provisions at (E)(q).

8.4 **Regulatory Agency Directives / Announcements**

- Price gouging: https://www.texasattorneygeneral.gov/cpd/price-gouging
• Consumer protection – home solicitation:
  https://www.texasattorneygeneral.gov/cpd/door-to-door-sales;
  https://www.texasattorneygeneral.gov/cpd/the-3-day-right-to-cancel-a-purchase;
  and https://www.consumer.ftc.gov/articles/0176-buyers-remorse-when-ftcs-cooling-rule-may-help
• Fair credit billing: https://www.consumer.ftc.gov/articles/0219-disputing-credit-card-charges
• Disaster scams: https://www.texasattorneygeneral.gov/cpd/disaster-scams
• Mortgage foreclosure “rescue”:
  https://www.texasattorneygeneral.gov/cpd/mortgage-fraud
• Debt collection: https://www.texasattorneygeneral.gov/cpd/debt-collection
• Key contacts:

  To report a complaint about any of the topics listed above, consumers should contact the Texas Attorney General at 1-800-621-0508 (consumer protection hotline), 1-800-252-8011 (general hotline), or https://www.texasattorneygeneral.gov/cpd/file-a-consumer-complaint.

Texas Attorney General: Consumer Division

  Website: https://www.texasattorneygeneral.gov/cpd/consumer-protection
  Consumer Protection Hotline: 1-800-621-0508
  General Hotline: 1-800-252-8011

  Houston Regional Office
  Phone: (713) 223-5886
  Fax: (713) 223-5821
  808 Travis, Suite 1520
  Houston, TX 77002-1702
  Contact Information for Other Regional Offices: https://www.texasattorneygeneral.gov/cpd/cpd_regionals

Better Business Bureau

  BBB of Greater Houston and South Texas
  Website: https://www.bbb.org/houston
  Email: info@bbbhou.org
  Phone: (713) 868-9500
  Fax: (713) 867-4947
  1333 W. Loop South, Ste. 1200
  Houston, TX 77027
8.5 FAQs

_Q. 136 What can I do to protect myself from unscrupulous contractors?_

Before contracting for any services, the consumer should:

- **Verify licensing**, if applicable, with appropriate regulatory agencies;
- ** Verify company legitimacy** with local Better Business Bureaus;
- **Obtain comparison bids** with lists of services provided and material costs;
- Obtain all **estimates in writing**;
- Speak with other customers to **verify satisfaction**;
- **Read all contracts** or service agreements **before signing**; and
- **File complaints** with appropriate regulatory agencies if confronted with potential fraud or abuse.


_Tex. Bus. & Com. Code § 58.001, et seq.,_ regulates the actions of disaster remediation contractors who do not maintain offices within a county or adjacent county where a natural disaster occurred. Unless a disaster remediation contractor has an established office in the county or adjacent county where a property is located for at least 1 year prior to the contract, a disaster remediation contractor cannot require full or partial payment before beginning work and can only require partial payment reasonably proportionate to work performed.

For further information about home remodeling and selecting a contractor, please visit the Texas Attorney General’s website on the topic at: [https://www.texasattorneygeneral.gov/cpd/home-remodeling-and-repair](https://www.texasattorneygeneral.gov/cpd/home-remodeling-and-repair).
Q. 137 Should I enter into a lien contract to pay for home repairs?

After a disaster, a homeowner frequently needs major repairs for serious damage. These repairs may include roofing and siding, plumbing, electrical wiring, heating and cooling, replacement of damaged structures, interior living quarters, etc. The cost of these repairs is most likely greater than the insurance coverage and the ability of the homeowner to cover the cost. Frequently, a low-income homeowner has deferred maintenance which may make the damage ineligible for FEMA funding.

The homeowner may feel trapped between the high cost of the repairs and the limited funding for repairs. Unscrupulous contractors or salespeople will take advantage of the fears of the homeowner and agree to make the repairs at unrealistic prices or via financing schemes.

The salesperson or contractor then induces the homeowner to sign a lien-contract secured by the home. The loan repayment amounts are higher than what the consumer can afford to pay on a fixed income. Alternatively, the contractor provides inadequate repairs or services and the consumer refuses to pay the note to the finance company.

The consumer should be fully aware that the lien-contract functions like a promissory note. If the homeowner misses only one payment, the creditor may foreclose and sell the home without ever going to court. The most common result is that the homeowner not only fails to have necessary repair work done, but also loses his or her home through foreclosure.

Q. 138 Should I consider refinancing my home to pay for home repairs or other expenses?

Because of the increased costs of confronting an emergency, consumers frequently fall behind in their credit payments or overextend themselves to the point that they must choose whether to pay creditors or obtain basic necessities such as food. Such consumers are often approached by finance companies promising to consolidate the homeowner’s debt for existing mortgage, credit card debt, car loans, and repair loans. These companies then pressure the homeowner to sign multiple agreements without providing the homeowner sufficient time to review them or consult with anyone.

The negative outcomes of such refinancing schemes include high processing fees, payments to bogus/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.

Lower income and minority borrowers, as well as elderly homeowners, are often targeted by predatory lenders. They encourage borrowers to lie about their income in order to get a loan; knowingly lend the borrower more money than he or 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 desperate situations. A few tips for consumers include:
• 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 and review their complaint history.

• Never make false statements on a loan application. Any lender who allows this is fraudulent and possibly criminal.

• Do not let anyone convince you to borrow more money that you know you cannot afford.

• Attend homeownership education courses. They are available through the U.S. Department of Housing and Urban Development (HUD) or counseling agencies. You can find a list of HUD-approved Housing Counselors for Texas here: http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?webListAction=search&searchstate=TX.

**Q. 139 Can I trust my family member or close friend to help me with expenses?**

Isolated homeowners who need assistance to maintain their homes frequently are victimized by friends, relatives, or caretakers. They assist the homeowner with household chores, including shopping or taking them on medical visits. Children of elderly parents sometimes seek control of their parents’ property for their own uses. Often, these persons use scare tactics to convince the elderly, disabled, or limited English or non-English speaking homeowner to transfer title of the property to them. Sometimes they obtain a power of attorney when a person is very sick. Unbeknownst to the homeowner, the power of attorney holder may convey or encumber the property and keep the proceeds for himself or herself.

If a power of attorney is needed, consider a Limited Power of Attorney, whereby the agent has no authority to make any contracts regarding the home.

**Q. 140 What do I need to know about foreclosure consultants?**

Some financial predators prey on persons during the foreclosure process. They claim to be foreclosure experts who offer to assist homeowners after they receive a notice of default. In Texas, once the finance company files a formal lien with the County Clerk, the homeowner is deluged by these foreclosure consultants. These financial thieves further encumber the property with liens for fees and extravagant charges. They try to obtain title through a power of attorney
or by direct transfer. They take advantage of the homeowner’s distress and offer to purchase the home for below market value through misrepresentations on the value of the home and on encumbrances. They represent to the homeowners that they may stay in the property for the rest of their lives. In fact, after they obtain the property, they sell it and the new owner serves the tenants with eviction papers. Clients should be warned of such scams. Consumers should also be advised of the tips outlined above as ways to guard against fraudulent lenders.

HUD offers foreclosure counselors for free on their website via The Making Home Affordable Program (HAMP). All the information needed to begin the process is located on their website at: https://www.makinghomeaffordable.gov/pages/default.aspx. To speak with a housing counselor now, call 888-995-HOPE (4673).

If anybody attempts to charge a consumer money for a modification, the odds are that the consumer is dealing with somebody who is trying to scam him or her.

**Q. 141 How do I decide which bills to pay first?**

Before deciding which bills to pay and which to ignore, consumers need to know the consequences. The types of debts listed below could have immediate, harmful consequences if unpaid:

- **Court-ordered payments**, such as alimony or child support, must be paid on time or jail time could be sought for contempt of court. If clients are unable to pay, do not simply ignore it. Ask the court to modify the payment order. A court will usually lower or eliminate your payments to meet your new financial condition. Additionally, if a client is on SSD, his or her children should be eligible for “dependents’ benefits,” which may cover the client’s support obligations in their entirety. Check with the client’s local Social Security office.

- **Ongoing services**, such as utilities, telephone service, or health insurance coverage, must be paid or consumers will lose future service or coverage.

- **Items purchased on credit or pledged as security on a loan** can usually be taken if payments cannot be made. However, a lender is unlikely to seek the return of any property unless a borrower misses several payments and is uncooperative. If the consumer needs extra time to make payments, he or she should contact the lender in advance.

Generally speaking, a consumer should pay his or her bills in the order of priority: home mortgage/rent, medical bills/food/utilities/court ordered payments, and then everything else. Your credit card bill is the last bill that you pay, and you only pay it if you have paid for your necessities in full.

But be aware: even after a creditor has taken one of the above steps, it may still have the right to recover money. For example, although a bank has repossessed a car, if its resale value is less than what is owed, there may be liability for the difference.
**Q. 142 What should I do if I find myself unable to pay all of my bills?**

If the debtor can afford to make small monthly payments, he or she should contact the collector to ask if the payments are acceptable and reach an agreement on all of the following:

1. Total amount owed on a bill, including the interest to be added each year;
2. Amount of monthly payments;
3. Due dates that payments must reach the collector;
4. Address where payments must be mailed; and
5. Whether the collector will remove negative information about the bill from the debtor’s credit report.

It is important for debtors to keep a record of phone calls from the collector regarding the past due bill, including the full names of the individuals he or she speaks with and date, time, and details about the conversations. If the debtor arranges a payment agreement, he or she should send a brief letter confirming the terms of the payment plan. The debtor should always keep copies of any letters and payments sent to the collector. Letters to the collector should be sent via certified mail. Consumer Credit Counseling Services may negotiate with collectors on behalf of debtors for little or no fee. To locate a credit counselor, please visit: [https://www.consumer.ftc.gov/articles/0153-choosing-credit-counselor](https://www.consumer.ftc.gov/articles/0153-choosing-credit-counselor).

Be careful about signing renewal and/or refinancing agreements with creditors, as you may be waiving rights that you may have against the creditor. Also, generally speaking, if you sign an agreement with a creditor for payment, you will have re-started the statute of limitations with regard to that debt.

**Q. 143 What do I do if I have no ability to pay my creditors?**

Some debtors who have no employment income or prospects for such income might be considered “judgment proof.” Such people own no real estate, no personal property of significant value, no more than one car, and would probably not have bank accounts or other investments. Such debtors who are unable to arrange a workable payment plan should consider sending the collector a letter informing them of the inability to pay and requesting that the collector stop contacting the debtor about the debt. The debtor should include in the letter any special circumstances which help explain the inability to pay. Sending such a letter limits the collector’s right to contact the debtor.

Bankruptcy may become a last resort option for disaster victims who cannot satisfy their creditors. Filing bankruptcy will not necessarily cancel all debts. It is recommended that individuals wishing to pursue bankruptcy proceedings be referred to a State Bar-certified lawyer referral service where an experienced bankruptcy attorney can be identified. For information about lawyer referral call the State Bar of Texas at 800-252-9690 or visit the State Bar’s website at [https://www.texasbar.com/AM/Template.cfm?Section=Lawyer_Referral_Service_LRIS](https://www.texasbar.com/AM/Template.cfm?Section=Lawyer_Referral_Service_LRIS).
Q. 144 What happens when debtors fail to pay?

Debtors are not criminally liable for owing debts; however, a collector may file a civil lawsuit against them to collect the debt, and a court judgment will give the collector the right to collect any non-exempt assets. Also, the collector has the right to report the unpaid debt to a credit reporting agency.

Auto loan contracts usually permit the collector to repossess a car without advance notice after a borrower’s failure to make payments. The debtor will have to pay the full balance of the loan plus all costs of repossession in order to regain possession. If the debtor cannot pay, the collector may sell the car and sue the debtor for the amount the debtor owes over the sale price.

If a past due bill is for services a debtor continues to receive (e.g., utilities), the collector may discontinue service or withhold reconnection, even if the debtor moves to another residence. The collector may also sue to try to collect the unpaid balance.

Under federal and state laws there are certain types of income and property that are exempt from collection, regardless of how much is owed and regardless of whether or not there is a bankruptcy. The most important of these are:

- Social Security payments, annuity income (this should cover private disability insurance payments), pension income, worker’s compensation and unemployment compensation (there are some exceptions for child support, alimony, and taxes);
- The proceeds and avails from a life insurance policy;
- Necessary household appliances and furnishings;
- Necessary personal items and clothing;
- Necessary medical equipment; and
- If working, any tools needed for the job;
- A two-wheeled, three-wheeled, or four-wheeled motor vehicle for each member of a family or single adult who holds a driver’s license or who does not hold a driver’s license but who relies on another person to operate the vehicle for the benefit of the non-licensed person;
- Farming or ranching vehicles and implements;
- Personal property for a family that has an aggregate fair market value of not more than $100,000.00 exclusive of any liens, security interests, or other charges encumbering the property; or
- Personal property owned by a single adult and has an aggregate fair market value of not more than $50,000.00, exclusive of any liens, security interests, or other charges encumbering the property.
If all property and income is exempt, then the debtor should notify creditors. Once creditors know there is nothing to take, they will usually write off the debt or at least stop collection activity.
9.0 INSURANCE ISSUES

9.1 Overview

When a disaster occurs, most major insurance companies establish disaster hotlines for their policyholders. The lists of insurance company hotlines are generally posted on the websites of the various state departments of insurance. Also, major insurers often set up mobile disaster units close to affected areas. The contact information for the insurance departments is as follows:

Texas Department of Insurance (www.tdi.texas.gov)
1-800-252-3439

National Association of Insurance Commissioners (www.naic.org)
1-816-783-8500; help@naic.org

If anyone claims that they are working on behalf of the government, the Texas Department of Insurance, or your insurance company, and asks for money to help expedite your claim, be careful. Demand to see official photo identification and immediately report this to your insurance company or the State of Texas Department of Insurance for verification.

You may be approached by a “public adjuster” who will offer to assist you in handling or expediting your insurance claims in return for a percentage of your insurance benefit payments. Only attorneys can represent third parties in claims against insurance companies and only attorneys are allowed to collect a percentage of your payments. Be sure this contract with your attorney is in writing and that you understand exactly what expenses, if any, you are agreeing to pay over and above the contingency fee.

Most insurance companies will only reimburse for the reasonable cost of repair. If prices quoted for repairs appear inflated, get another estimate and obtain your insurance company’s agreement before undertaking repairs. Remember that your claim will only be approved to the extent that it does not exceed your policy limit. If you undertake repairs at an inflated price, you may reach your maximum policy limit very quickly.

Remember that all of the following information and answers to FAQs do not substitute for the four corners of the insurance policy. It is important that you read your insurance policy very carefully.

9.2 Flood Insurance

FEMA oversees the National Flood Insurance Program. All flood insurance policies require you to give prompt written notice of loss. Contact your insurance company or insurance agent to find out how to file your notice of claim. Typically, you will file a claim for damages under your flood insurance policy by submitting a signed Proof of Loss to your insurance company. The Proof of Loss must be in the hands of the insurance company within 60 days after the loss occurs. However, in cases of severe catastrophe, FEMA may authorize Proof of Loss extensions for everyone in your area. If you do not agree with the amount in the Proof of Loss prepared by
the adjustor for your company, you must hire your own adjustor and get your Proof of Loss in by the deadline.

You will need to submit a list of lost or damaged contents. To the extent possible, include on the list the quantity of each item, a description, brand name, cost, model and serial number, and your estimate of the loss amount. An insurance adjuster will prepare an estimate of damages and provide you with a copy. You and the insurance company can then agree on the amount of the damages to be paid. If you do not agree, then you can appeal the insurance company’s decision. Please refer to your policy for more information on claims payment and the appeal process.

More detailed NFIP information at United Policyholders- a nonprofit: http://unitedpolicyholders.org/blog/houston-flooding-insurance-claim-help

9.3 FAQs – Auto

Q. 145 My car was flooded. How does the insurance company determine if my car should be totaled?

Whether your car will be totaled is determined on a case-by-case basis. Typically, when the cost of repair plus the salvage value equals or exceeds the actual cash value of the vehicle prior to the loss, it will be considered a total loss. A primary factor is the amount of water in your car. Generally, if water covered your dashboard or electrical components, the car will be totaled.

Q. 146 My car was totaled due to flood damage and I have full coverage on it. The company is going to pay the Blue Book value but I still owe substantially more than that. Doesn’t the company have to pay what I owe on the auto?

No. The insurance company is only obligated to pay the current market value of your vehicle. You can request that the adjuster explain to you how the value was derived to ensure that all of the vehicle’s equipment, features, upgrades and recent work was considered in determining the value. To cover the difference between the market value of your vehicle and what you actually owe, you would need an endorsement or separate policy, to provide guaranteed auto protection (GAP) coverage.

Q. 147 What will happen to the vehicle’s title if my car is totaled?

If you own the vehicle outright, you will have to sign the title over to the insurance company. In exchange, they may give you a check for the market value of the vehicle, depending on the terms of your policy. If you still owe on a car loan, the insurance company will coordinate with you and your lender to have the title signed over to them. In most cases, the insurance company will establish contact with the lender and be advised of the amount owed on the loan. If the insurance company has determined that the market value of the vehicle is $10,000 and the amount owed the lender is $8,000, the insurance company will issue a check for $8,000 to the lender to release
the lien on the car. The insurance company will then issue a $2,000 check to you to obtain your signature on the title. For specific information on how titles are processed, contact the DMV by phone at 1-888-368-4689 or online at http://txdmv.gov/.

**Q. 148 If my car is damaged by flood, and my policy only provides liability coverage, is there anyone I can contact for help?**

If your auto insurance policy only provides liability coverage, it will not pay for damage to your car due to a flood. If a disaster has been declared, you can contact FEMA (www.fema.gov; 1-800-621-3362), or the Red Cross (www.redcross.org; 1-800-733-2767) to assist with immediate needs.

**Q. 149 The insurance company requested that I tow my flooded vehicle to a specific location for inspection. Am I responsible for the towing charges?**

No. The insurance company should pay the towing expense by reimbursing you or paying the tow truck operator once the vehicle is delivered at the inspection site. You should not be responsible for the expense since you are assisting the insurance company in a prompt inspection of your vehicle, as well as protecting it from further damage.

**Q. 150 The insurance company agreed to repair my vehicle. Can the company require the use of used parts?**

In some cases, used parts and aftermarket parts may be permissible, depending on the age, condition, and mileage of the particular vehicle. Most Texas personal automobile policies require the insurance company to pay the lesser of the following: actual cash value of the property; the amount to repair or replace the property with other of like kind and quality; or the amount stated in the declarations page of the policy.

**Q. 151 Since my car was flooded, I had to rent a vehicle. Does my auto policy cover the cost of renting a car?**

Your policy will provide coverage for renting another vehicle only if you have an endorsement on your policy for rental reimbursement coverage. Under this coverage, the insurance company will pay up to the limit shown on the endorsement for the reasonable amount of time it takes to repair or replace your vehicle.

**Q. 152 Is my vehicle covered for flood damage?**

Flood damage is covered if you carry “other than collision” coverage, also called comprehensive coverage, on your policy. This information can be found on your policy’s declarations page. If you do not have a copy of your policy, you can check with your agent or insurance company.

**Q. 153 What if I do not agree with the settlement offered by the insurance company, particularly the market value amount for my totaled vehicle?**
Ask the adjuster to explain how the settlement amount was derived. You may also provide examples of vehicles for sale in your area that are in the same pre-loss condition to support the market value. If you still disagree, the personal auto policy allows you to demand an appraisal of the loss. There is a specific provision in many policies for appraisal which lists the responsibilities of both parties.

Q. 154  *My car was washed away in the flood. How do I find out where it is now?*

Contact the Unclaimed Autos department of the area police department. Also, your vehicle may have been towed to a storage facility without your consent. If the vehicle was towed without your consent, and the storage facility wants to charge you a fee, you might contact the Texas Department of Motor Vehicles (TxDMV) at 888-368-4689.

Q. 155  *I’ve received a check from the insurance company but am not satisfied with the amount. I plan to file a complaint to request additional funds be paid. Should I cash the check? If I cash the check, does it mean that I accept their decision and amount of payment?*

You should not endorse a check before discussing your concerns with the company. Call the adjuster or company first before cashing the check. In addition, read both sides of the check carefully, as well as any accompanying documents. Some companies have a release from further liability disclaimer printed on the back of the check. The disclaimer sometimes states that your endorsement of the check releases the insurance company from further liability. In some cases, particularly when dealing with damaged real property, the check may be a partial payment to initiate repairs. Additional funds may be released when you submit proof that repairs have been completed. **Please be sure that you understand what the check represents and how cashing it will affect you prior to taking any action regarding the check.** If you need more of an explanation or information, talk to your agent or insurance company.

Q. 156  *How does replacement cost coverage work?*

Replacement cost coverage replaces or repairs your damaged property with new material and/or items of like kind and quality.

Q. 157  *Is replacement cost coverage available on all policy types?*

Replacement cost coverage is not available under a typical auto policy. Some insurers provide new car replacement for a limited number of years if the auto is insured when new. You should check with your agent or company to see if they offer replacement cost coverage on all policy types.

Q. 158  *If an insured vehicle is financed, how are claim checks issued? If issued to both the insured and lienholder, how does the insured collect?*

The lienholder endorsement requires the insurance company to pay the insured and the lienholder as their interest may appear on the title. The insured and the lienholder may both be
named on the check. In most cases, insurance claim payments for damage to property that is security for a loan will be made payable to you and the lienholder, and the checks would require endorsements from both parties. The insured and the lienholder will agree on the release of funds.

**Q. 159  What is the insured’s recourse if the check made payable jointly to the lien holder and insured is sent directly to the lien holder and cashed without the insured’s knowledge or endorsement on the check?**

If this occurs, your first step would be to contact the insurer and your lienholder to discuss the issue. You can also contact the Texas Department of Banking at 1-877-276-5554 or visit their website at http://www.dob.texas.gov/.

**Q. 160  Does the insured have to agree to have the vehicle totaled if the insured will be “upside down” on the loan?**

The policy will state how the loss will be paid. The insurance company decides whether to total a car. A car is typically totaled if it will cost more to repair the car than the car is worth. Insurance coverage for the difference between the actual cash value of a car and the outstanding loan amount can be covered by a GAP endorsement or a separate GAP policy. Absent a GAP policy or another provision that includes replacement cost coverage, if the cost to repair exceeds the actual cash value (also known as a “total loss” or “totaled car”), the company will pay the actual cash value of the car. If the car is subject to an outstanding lien, you are responsible for the balance.

**Q. 161  What if my car is determined to be a total loss but I want to keep it?**

If your car is a total loss but you want to keep it, you would need to negotiate a settlement with the insurance company in which you are able to retain the salvaged car. However, you would be responsible for the cost of repairs and would be subject to the laws regarding owner-retained salvage. For questions regarding owner-retained salvage, contact the Texas DMV at 888-368-3689 or www.txdmv.gov. Additionally, you may want to contact the lienholder to find out whether retaining the salvaged car would impact the lien.

Source: This question and answer subsection utilizes information provided by the Texas Department of Insurance: http://www.helpinsure.com/home/condisasterfaq.html.

9.4  **FAQs – Mobile Homeowners**

**Q. 162 Are there different types of policies that provide coverage for mobile homes?**

Yes, a number of types of policies may apply to mobile homes, including a homeowner’s policy. The majority of mobile homes are currently written on a mobile home owner’s policy. You should check with your agent or company to see what type of policy you have.
Q. 163 Wind caused my tree to fall on my mobile home and damaged my roof. Does my mobile home owner’s policy cover the damages to my home and would the company pay to remove the tree from my property?

If your policy provides coverage for windstorm, it will pay for the damage to your roof. The tree itself will not be covered. Most mobile home owner’s policies provide a limited amount of debris removal coverage. Some companies may provide an option to increase coverage. You should contact your agent or company regarding debris removal coverage.

Q. 164 Does my mobile home owner’s policy provide additional living expenses?

Most mobile home owner’s policies provide some additional living expense reimbursement in the event the mobile home is damaged or destroyed from an event that is covered under the policy and the mobile home is thereby rendered uninhabitable. Some companies may provide an option to increase this coverage. It is important that you contact your agent and/or company regarding your additional living expense coverage.

Q. 165 My mobile home was flooded. Will my mobile home owner’s policy pay for my damage?

Some mobile home owner’s policies do provide coverage resulting from a flood. Other mobile home policies exclude flood coverage. It is important to check your policy and/or contact your agent regarding flood coverage for your mobile home.

Source: This question and answer subsection utilizes information provided by the Texas Department of Insurance: http://www.helpinsure.com/home/condisasterfaq.html.

9.5 FAQs – Homeowners

Q. 166 What’s the difference between the different types of homeowner policies? How does a dwelling policy differ from a homeowner’s policy?

Homeowner’s policies may either provide “all risk” or “named peril” coverage. All risk is used to describe policies that typically cover all perils unless specifically excluded in the policy. Named peril means the damage must be caused by a peril that is specifically named or listed in the policy. The homeowner’s policy provides coverage for the dwelling, personal property, other structures, loss of use (also called additional living expense – ALE), medical payments, and personal liability. A dwelling policy provides coverage for the dwelling and/or personal property.

Q. 167 Can I make repairs to my property immediately?

Generally, you should only make temporary repairs to protect your property from further damage. Do not make permanent repairs until an adjuster has inspected the damage. Your policy covers the cost of necessary temporary repairs, so save your receipts for materials and labor. You should take pictures of the damage before making temporary repairs.
Q. 168 Does a homeowner’s insurance policy provide additional living expense coverage?

If you can’t remain in your home because of loss from “a covered peril,” your homeowner’s or renter’s policy will pay for staying in a hotel, motel, or other temporary shelter. (Note that this is not true of most flood insurance policies.) Payments are limited based on policy provisions. If the damage does force you to move, be sure to tell your insurer where you are and how to reach you by phone. Also, leave a note at your damaged residence telling the insurance adjuster how to find you.

Q. 169 My home was not flooded by rising water; however, the sewer line backed up and caused damage in my home. Is this covered under my homeowner’s policy?

It depends on your policy. Some policies exclude water or sewage from outside the residence premises plumbing system that enters through sewers or drains. Review your policy and contact your insurance company or agent regarding coverage.

Q. 170 My house was flooded and I placed my furniture and household items in the front yard to dry out, but they were stolen. Will my homeowner’s policy cover this loss?

It depends on your policy. Even though there is an exclusion for flood losses, many policies contain an exception to that exclusion, such as “We do cover an ensuing loss by theft or attempted theft or any act of stealing.” Review your policy and contact your insurance company or agent regarding coverage.

Q. 171 My policy states that if a claim results from a weather-related catastrophe or a major natural disaster, each claim-handling deadline is extended for an additional 15 days. Does this mean that I have coverage under my policy for damage caused by the flood?

This language does not alter or amend what is covered by the policy. It merely extends the claim processing time requirements of the Texas Insurance Code.

Q. 172 Under a homeowner’s policy, who determines the cause of damage and who pays for an expert if one is needed?

The insurance company usually determines the cause of damage as its adjusters investigate and evaluate the loss. If an expert is required to determine the cause of the loss, the cost is usually borne by the insurance company, but in some cases may be paid by the insured. You should only pay if you hired the expert in support of the claim.

Q. 173 My house got water in it from the flood. I had damage to the roof and the roof is sagging and rain water came in through the roof. I don’t have flood
insurance, but I do have homeowner’s insurance. What, if anything, may be covered under my homeowner’s policy?

If a covered peril, such as wind or lightning, caused damage to the roof and created an opening, then water damage to your home and personal property resulting from rain water coming through that opening may be covered under the standard homeowner’s policy.

**Q. 174** I’ve received a check from the insurance company but am not satisfied with the amount. I plan to file a complaint to request additional funds be paid. Should I cash the check? If I cash the check, does it mean that I accept their decision and amount of payment?

You should not endorse a check before discussing your concerns with the company. Call the adjuster or company first before cashing the check. In addition, read both sides of the check carefully, as well as any accompanying documents. Some companies have a release from further liability disclaimer printed on the back of the check. The disclaimer sometimes states that your endorsement of the check releases the insurance company from further liability. In some cases, particularly when dealing with damaged real property, the check may be a partial payment to initiate repairs. Additional funds may be released when you submit proof that repairs have been completed. **Please be sure that you understand what the check represents and how cashing it will affect you prior to taking any action regarding the check.** If you need more of an explanation or information, talk to your agent or insurance company.

**Q. 175** How does replacement cost coverage work on policy types such as flood, homeowner’s, dwelling, and mobile home?

Replacement cost coverage replaces/repairs your damaged dwelling or personal property with new material and/or items of like kind and quality. In most cases, you should only be responsible for paying the deductible. Some homeowner’s and dwelling policies automatically include replacement cost coverage for the dwelling; others may be endorsed for an additional premium; and some may only provide actual cash value. Companies may also offer replacement cost coverage for mobile home policies. Review your policy and check with your agent or company to see if your policy has replacement cost coverage.

**Q. 176** I’ve received a check from my company for damages to my home. It is going to cost more to repair than the amount received. Did they pay me enough for damages?

If you have replacement cost coverage, your claim may be paid in two stages. Your first claim check may be for the actual cash value (“ACV”) of the damaged property. ACV is determined by taking the replacement cost for the covered loss and deducting for depreciation. Once the damaged property is repaired or replaced, you are entitled to receive the depreciation that was previously withheld in your first check, up to the replacement cost of the damaged property, and not to exceed the actual amount spent or the total amount of insurance on the dwelling. Generally, in order to receive the difference between ACV and replacement cost, the policy contract requires that the repair or replacement be completed within a specific period of time,
usually 180 to 365 days from the date of loss. Policies may also provide an option for the insured to extend that time frame if requested in writing as outlined in the actual policy. It is important to check your policy and/or contact your agent regarding the specific requirements of your policy.

If you are not underinsured, you should only be responsible for paying your deductible in most cases. If you believe your company is not offering an amount sufficient to repair/replace your damaged property, minus your deductible, you may want to request appraisal in accordance with the provisions in the policy. Ask your company to explain the basis for its payment and clarify if additional funds are forthcoming.

**Q. 177** Do checks from insurance companies have to be endorsed by both the insured and the mortgage company? Does the same procedure apply to mobile homes?

Insurance claims payments for damage to property that is security for a loan must be made payable to the policyholder and the mortgage company, so they would require endorsements from both parties.

**Q. 178** What recourse does the insured have if the check was issued directly to the mortgage company? How long can a mortgage company hold money before releasing any to the insured? Can the mortgage company disperse the money in small increments? Can they withhold disbursements?

Your insurance company cannot make a check for a claim payable only to the mortgage company. If they do, you should refuse to accept it and demand the check be re-issued to you and your mortgage company.

The Texas Insurance Code provides that the mortgage company must, within 10 days after they receive the insurance proceeds, tell you what their requirements are in order to have the funds released. Once you have provided sufficient evidence to show that you have met those requirements, the mortgage company has 10 days to release the funds.

- If you have a concern about a private mortgage lender, you should contact the Federal Trade Commission (FTC) at 1-877-382-4357 or online at [http://www.ftc.gov](http://www.ftc.gov). Additionally, you may want to contact the Office of Consumer Credit at 1-800-538-1579 or online at [http://occc.texas.gov](http://occc.texas.gov).
- If the lender is a state-chartered savings and loan, or bank, contact the Texas Department of Savings and Mortgage Lending at 1-512-475-1350.
- If the lender is a federally chartered lender, contact the Office of the Comptroller of the Currency (OCC) Customer Assistance Group at 1-800-613-6743.
- In some instances, the Office of Housing and Urban Development (HUD) may be able to help and should be called at 1-800-225-5342.

**Q. 179** Are plumbing problems/backed up toilets covered by any types of insurance, even after a flood?
Some homeowner’s policies provide coverage for accidental discharge, leakage, or overflow from within a plumbing system and if rising flood waters cause toilets to overflow, the loss may be covered. Contact your insurance company or agent regarding coverage.

**Q. 180** There is a power outage in my area and we have no utilities in our home. Will my policy pay for a hotel until power is restored?

Probably not. The policy will normally only provide additional living expense coverage if your home is damaged by a peril covered in your policy and, as a result of the covered damage, the residence premises are unfit to live in. You must check the specific language in your insurance policy, or contact your company/agent.

**Q. 181** I bought my house several years ago and last year my mortgage was bought by another mortgage company. My original company provided flood insurance, but now I find that the new mortgage company did not provide it. What can I do?

Mortgage companies are required by statute to ensure that a property in a flood zone has flood insurance. A mortgage company must provide notice to the borrower of the requirement of flood insurance. If the borrower fails to purchase flood insurance, then a mortgage company may purchase flood insurance for the property. For information regarding the statute, contact the FEMA representative at a Disaster Recovery Center (DRC) (http://asd.fema.gov/inter/locator/home.htm?DRCLOC) or the National Flood Insurance Program (https://www.fema.gov/national-flood-insurance-program). Remember that it is important as a homeowner to ensure that all necessary insurance coverage is in place.

- If you have a concern about a private mortgage lender, you should contact the Federal Trade Commission (FTC) at 877-382-4357. You may also visit its website at www.ftc.gov.
- If the lender is a state-chartered savings and loan, or bank, contact the Texas Savings and Loan Department at 512-475-1350.
- If the lender is a Federal Chartered Lender, contact the Office of Thrift Supervision at 972-277-9500.
- In some instances, the U.S. Department of Housing and Urban Development (HUD) can help. Call HUD at 800-225-5342.

**Q. 182** Wind caused my tree to fall on my house, which caused damage to my roof. Does my homeowner’s policy cover the damage to my house and pay for the removal of the tree from my property?

If your policy provides coverage for wind, the roof damage caused by the tree is covered. Homeowner’s policies will not pay for the tree itself; however, most policies will pay to remove a tree if a covered peril caused it to fall on and damage covered property. Some policies limit the
coverage for removal to $500 per tree and $1,000 per loss. Contact your insurance company or agent regarding coverage.

**Q. 183** My neighbor’s tree fell down on my house and damaged my roof. Will my neighbor’s homeowner’s policy pay for the damage to my home and remove the tree?

Probably not. Your neighbor is not legally liable for an act of nature. However, if there was some sort of negligence involved, such as if the tree was dead, your neighbor may be responsible for the damage to your home. If your neighbor’s policy does not pay for your damage, you can make a claim under your policy if the peril that caused the tree to fall is a covered peril in your policy. You should contact your agent and/or company regarding the damage.

**Q. 184** Some trees blew down in my yard during a storm. Will my homeowner’s insurance policy pay for the loss to and removal of the trees?

No. Wind is not a covered peril for trees, shrubs, plants, and lawns. Removal of the trees is not covered either since they did not fall on or damage covered property.

**Q. 185** A windstorm blew my fence down. Will my homeowners insurance cover loss of my fence?

If your policy provides coverage for wind, you may have coverage for the fence. Coverage for fences is usually limited to actual cash value which is the replacement cost for the damaged property less depreciation. Some policies do not provide any coverage for fences damaged by wind. You should check your policy and/or contact your agent regarding coverage.

**Q. 186** Who should I contact if I have damage to my home as a result of a windstorm and my windstorm insurance is provided through the Texas Windstorm Insurance Association (TWIA)?

For questions on policy coverage or filing a claim on your TWIA policy, please contact your insurance agent or contact the TWIA at 1-800-788-8247 or via its website at www.twia.org.

For questions regarding inspections of your property for certification to the Windstorm Building Code, please contact the Texas Department of Insurance Windstorm Inspection unit at 1-800-248-6032 or refer to the website at http://www.tdi.state.tx.us/wind/index.html.

**Q. 187** What coverage do I have for my house and personal property under my TWIA policy?

Generally, the TWIA Dwelling Policy provides coverage for direct physical loss to your dwelling, other structures such as detached garages, and personal property, including clothing. The amount of insurance for other structures is included in the limit of insurance for the insured dwelling and will not exceed 10% of that limit unless you have specifically insured other
structures on the Dwelling Policy. You should contact your agent and review your policy and any applicable endorsements for specific coverage.

**Q. 188** During the storm, a tree fell on the roof of my home which allowed rain to enter from the opening made by the tree. I now see mold growing. Do I have coverage?

Most homeowner’s policies will provide coverage for the property damaged by rain that entered through an opening caused as a direct result of wind. Generally, mold is excluded in the homeowner’s policy; however, some policies will cover an ensuing mold loss caused by or resulting from covered water damage. Coverage for ensuing mold loss would include the reasonable and necessary costs to repair or replace your damaged property. However, most policies do not include any additional cost for remediation or testing of ensuing mold unless your policy includes mold remediation coverage.

**Q. 189** During the storm, my home was flooded. Does my homeowner’s policy cover mold damage from the flood water?

Typically, homeowner’s policies do not cover damage caused by or resulting from flood, surface water, waves, tidal water or tidal waves, overflow or streams or other bodies of water, or spray from any of these whether or not driven by wind. If there is no flood coverage provided in the homeowner’s policy, any ensuing mold loss resulting from flood would not be covered under the policy.

**Q. 190** Do I have to hire a public insurance adjuster to file and help in the settlement of my auto or homeowner’s insurance claim?

No. Hiring a public insurance adjuster to assist you in filing a property insurance claim is optional. Public insurance adjusters charge fees to help negotiate claim settlements with insurance companies. Be aware that the public insurance adjuster fee is normally a percentage of the claim settlement and therefore is paid out of settlement monies received from an insurer.

**Q. 191** Are there any limitations on the compensation of a public insurance adjuster?

Yes, the following limitations apply:

- If a claim is settled within 72 hours of the date the loss is reported to the insurance company, the public insurance adjuster is entitled only to reasonable compensation for time and expenses and cannot receive a commission consisting of a percentage of the total amount paid by the insurer.

- The public insurance adjuster’s fee may not exceed 10 percent of a claim settlement. A clear statement of the public insurance adjuster’s commission must be disclosed in the public insurance adjuster’s written contract. Always review the contract language and note that you may request a change to limit recovery to the percentage of the amount the public adjuster recovered.
Q. 192 Is a public insurance adjuster permitted to be involved in the repair of damaged property for which the public adjuster negotiated settlement?

No. The public insurance adjuster may not participate, either directly or indirectly, in the reconstruction or repair of damaged property that is the subject of a claim adjusted by the public insurance adjuster.

Q. 193 Are public insurance adjusters required to be licensed by the Texas Department of Insurance?

Yes, a person may not act as a public insurance adjuster in Texas or hold himself or herself out to be a public insurance adjuster in Texas, unless the person holds a license or certificate issued by the commissioner. You may verify the license status of a public insurance adjuster at http://www.tdi.texas.gov/licensing/agent/agentlists.html.

Q. 194 The food in my refrigerator spoiled because of loss of power in my area. Will my homeowner’s policy pay for the loss?

Most homeowner’s policies will provide up to $500.00 for spoilage of refrigerated or frozen food caused by an off premises power failure, if the power failure is a direct result of a peril covered in your policy. If the power failure is a result of physical damage to the dwelling or any equipment contained in the dwelling and is caused by a peril covered in your policy, coverage is not limited to $500.00. Other policies may not provide the $500.00 for a loss resulting from a power failure off premises unless added by an endorsement.

Q. 195 If I evacuate due to a storm, and my personal property is damaged or stolen while in another location, will my personal property be covered by my auto or homeowner’s policy?

Homeowner’s policies provide coverage for personal property while away from the insured location or premises. Most policies limit the amount of this coverage to either 10% or 20% of the total amount of coverage for personal property. Some policies limit theft coverage for personal property while away from the residence premises at any other residence owned by, rented, or occupied by an insured, unless the insured is temporarily living there. Generally, a personal automobile policy will not cover personal property.

Source: This question and answer subsection utilizes information provided by the Texas Department of Insurance: http://www.helpinsure.com/home/condisasterfaq.html.

9.6 FAQs – National Flood Insurance Program (NFIP)

Q. 196 What is the difference between a flood insurance policy issued by the NFIP and a policy issued by an insurance company? Does one provide better coverage than the other?
Flood insurance is provided by the federal government through the NFIP. The policies that are sold by insurance companies are usually NFIP policies sold through the write your own program. This is done to make it easier to purchase flood policies through local insurance agents. Even though the policies are purchased through the insurance companies, they are NFIP policies. Claims are handled by NFIP adjusters and by insurance company adjusters that are certified by the NFIP to handle flood claims. Questions and complaints can be referred to the NFIP at 1-888-225-5356. Some insurance companies may also offer flood coverage other than the NFIP policy. You should check with your agent or company to see if flood coverage other than the NFIP policy is available and to compare the coverage being offered to determine the best coverage for your needs.

Q. 197 How can I obtain insurance coverage to protect my home and contents from damage caused by flooding?

NFIP makes flood insurance available to people who live in communities that participate in the National Flood Insurance Program. Contact your agent or the NFIP at 1-888-225-5356 to purchase a NFIP policy. The home need not be near a body of water or in a floodplain to qualify.

Q. 198 Why would I buy flood insurance if my property is in a low or moderate risk area?

Twenty to twenty-five percent of all flood insurance claims come from low to moderate risk areas.

Q. 199 Can I buy flood insurance if I rent?

You can buy up to $100,000 of flood insurance for your contents.

Q. 200 How much flood insurance can I buy?

You can buy up to $250,000 for the dwelling and $100,000 for your contents.

Q. 201 Does the policy provide any coverage for additional living expense?

No, the NFIP policy does not provide coverage for additional living expense.

Q. 202 How is damaged residential property valued after a loss under an NFIP policy?

If the property is insured to at least 80 percent of its value and is your principal residence, the dwelling will be valued at replacement cost if the dwelling is replaced. If the dwelling is rebuilt at a new location, the replacement cost won’t exceed what it would have cost to replace at the former location.
Contents, appliances, carpets and carpet pads, and outdoor property are valued at actual cash value. Actual cash value is the cost to repair with new material of like kind and quality less depreciation.

**Q. 203 Is there coverage for the cost of debris removal? What about loss avoidance measures?**

The cost of removing debris on your property, and the cost of removing debris of your property that is on someone else’s property is covered, but it’s subject to the limit of the policy. You will be compensated at the federal minimum wage if you perform the work yourself. Loss avoidance is limited to $1,000 for the cost of sandbags, temporary levees, pumps, and plastic sheeting and lumber, including the value of your work. An additional $1,000 is available for the cost of moving insured property to protect it from flood. These benefits do not increase the limit of insurance.

**Q. 204 If my automobile was parked on my property and damaged by flood, does the flood policy cover the damage?**

No, automobiles are not covered property under the NFIP policy. If you have comprehensive or full coverage under your auto policy, flood should be covered by that policy. If you have liability only, there is no coverage for the auto.

**Q. 205 Does flood insurance cover damage to built-in appliances?**

Check to see what flood insurance coverage you have. Then, call the NFIP at 1-888 225-5356 to determine what would be covered in a flood insurance policy. Generally, flood policies provide coverage for the structure and personal property. Built-in appliances may fall under either category.

**Q. 206 What coverage is available for commercial buildings?**

Up to $500,000 is available for non-residential buildings, and an additional $500,000 for contents of non-residential buildings. Buildings and contents are valued at actual cash value.

**Q. 207 When does coverage become effective under an NFIP policy?**

There is a 30-day waiting period before coverage goes into effect after an NFIP policy is purchased. However, there is an exception to the 30-day waiting period when a new policy is initially purchased in connection with a loan. In that case, the policy becomes effective at the time of the loan closing.

**Q. 208 What if my dwelling or commercial building is valued over the maximum limits available?**

The insurance company that insures your commercial building for fire might add excess flood coverage. That coverage usually has the NFIP maximum limits as a deductible. Availability
might depend on the flood zone of each location. There may be insurers that will write excess policies for dwellings over the $250,000 maximum limits. You should contact your agent to learn more about available coverage.

**Q. 209 Where can I get more information about flood insurance?**

Check out [www.floodsmart.gov](http://www.floodsmart.gov).

Source: This question and answer subsection utilizes information provided by the Texas Department of Insurance: [http://www.helpinsure.com/home/condisasterfaq.html](http://www.helpinsure.com/home/condisasterfaq.html).
10.0 HEALTH CARE ISSUES

10.1 Overview

After a natural disaster, lawyers may face questions running the gamut from simple requests about where to find the phone number for a particular state agency to more complex inquiries about health care insurance or malpractice liability.

As a lawyer, you must differentiate between questions that raise genuine legal issues or require you to direct someone to an appropriate agency and questions that are more properly within the province of a physician or another health care provider. In the wake of Disaster Katrina, some legal hotlines reportedly received calls for advice on how to diagnose “Katrina Cough” or the best first-aid techniques to deal with a particular illness or injury. These are not questions that a lawyer should (or should be expected to) answer, and you should not attempt to do so.

On the other hand, we expect that there will be many questions that are well within the scope of a lawyer’s expertise. We anticipate that you will be asked to suggest sources of information concerning public resources or benefits, as well as questions concerning payment for health care services. This guide is designed to provide basic information to help you formulate your response.

10.2 Most Common Issues/Questions

- I lost my job as a result of the disaster. What will happen to my health insurance?
- What if my employer drops health insurance coverage altogether?
- When I go to the doctor’s office, I am usually asked to sign a “HIPAA” form. What is HIPAA?
- Can I request that my personal health information not be disclosed to anyone?
- What personal information of mine is covered by HIPAA?
- How can I find out if my PHI has been wrongfully used or disclosed?
- I lost my job, but my spouse is still employed. I used to be covered under my employer’s plan. Can I switch to my spouse’s plan?
- I lost all of my health insurance papers, and I need to file a claim. What should I do?
- How can I get my prescriptions filled?
10.3 **Summary of the Law**

**Organization and financing of health care in the United States**

In the United States, the delivery of health care involves a complicated network of providers, including, among others, first responders (such as emergency medical technicians and paramedics), health care practitioners, hospitals, out-patient clinics, ambulatory care centers, and emergency treatment centers. In many cities, including Houston, health care providers enter into contractual relationships known as “integrated delivery systems.” An integrated delivery system generally ties together a hospital or hospital system, professional practice groups of physicians and other providers, management systems, rehabilitation programs, and, in most instances, an insurance provider or health maintenance organization (HMO).

The sources of health-care financing are also wide-ranging. In rare circumstances, patients may actually pay the entire cost of the medical services that they receive. More commonly, payment comes from a combination of sources, including a patient’s copayment and additional funds from private insurance (including employer sponsored health benefits), government benefits (such as Medicaid or Medicare), or even funds set aside to cover charity care.

Some health care financing arrangements still rely in part on a “fee-for-services” payment system, but most methods of insuring or financing health care involve some degree of managed care. Managed care combines the delivery and financing of health care in order to create economies of scale. HMOs, preferred provider organizations (PPOs), and integrated delivery systems are examples of the managed care strategy at work. In a managed care system, a combination of contractual obligations and incentives is used to align the expectations of patients, providers, and payors with the goal of reducing the cost of health care delivery while maintaining a level of health care access that satisfies the patients’ needs.

**Provider/Patient Relationships**

While health care providers are not subject to a common-law “duty to treat,” such an obligation can arise from contractual obligations, statutory requirements, or a de facto relationship established by the parties’ conduct. Lawyers should not assume that the “no duty to treat” principle is applicable in all cases.

Once a provider-patient relationship has been established, the provider assumes legal and ethical duties to the patient that, again, may be based on contract (such as may be required as a condition of the physician’s participation in an HMO), common law theories of tort, fraud and fiduciary standards, federal or state statutes, or professional ethics. In addition, both private accreditation systems and public quality control regulations play a part in defining the public’s reasonable expectations of health care providers.

It is also important to note that hospitals and health care systems owe certain duties to patients that are independent of any obligations that may derive from the physician/patient relationship. These responsibilities typically include the duty to: (a) select, supervise, and retain medical staff, (b) use reasonable care in the maintenance of facilities and equipment, (c) oversee all
persons who practice medicine within the facilities, and (d) formulate, adopt, and enforce adequate rules and policies to ensure quality care for patients.

10.4 Useful Websites

Texas Department of State Health Services

For information concerning disaster assistance services being offered in surrounding states, visit the Texas Department of State Health Services’ website: http://www.dshs.state.tx.us/preparedness/disasters.shtm.

Specific DSHS announcements are located as follows:

- **DSHS Reminds Public of Carbon Monoxide Dangers**
  http://www.dshs.state.tx.us/preparedness/factsheet_co2-generators.shtm

- **DSHS Issues Health-Related Precautions**
  http://www.dshs.state.tx.us/news/releases/20080914.shtm (DSHS issued health-related precautions specific to Disaster Ike, but the release contains generally helpful information.)

Texas Health and Human Services Commission

- **Finding Help in Texas (FAQs)**
  https://211texas.hhsc.state.tx.us/211/faq.do

- **Temporary Assistance for Needy Families (TANF)**
  http://yourtexasbenefits.hhsc.texas.gov/programs/tanf/

- **Medicaid Texas**
  http://yourtexasbenefits.hhsc.texas.gov/programs/health/

Texas Department of Insurance

http://www.tdi.state.tx.us/CONSUMER/storms/

Harris County Health Department

http://www.hcphes.org/

Red Cross

http://www.redcross.org/

10.5 FAQs – COBRA Health Insurance Continuation

**Q. 210 I lost my job as a result of the disaster. What will happen to my health insurance?**

If you have lost your job due to a natural disaster, you may be eligible to extend your employer-based medical plan coverage for a limited period of time.
A federal law known as “COBRA” applies to employers of 20 or more employees. Employees, including former employees, covered under an existing health plan are eligible for continuation coverage pursuant to COBRA if: (a) the employer continues to offer health plan coverage and (b) coverage is lost due to a “qualifying event,” such as death of an employee or termination of employment. This would apply to employer-sponsored dental and vision plans as well. The maximum period of coverage allowed under federal law is 18 months for employment termination and 36 months if coverage is lost due to death of the employee. In addition, Texas law requires health plans that are fully insured to make available continuation coverage for up to 6 additional months.

The federal COBRA statute applies to employer-sponsored health plans that had at least 20 employees as of the end of the prior plan year, while the Texas continuation statute applies to fully insured plans down to 2 employees. Therefore, even if federal COBRA does not apply to your employer’s plan, it is possible that Texas state continuation could apply.

Continued coverage must be the same as the group health plan coverage for similarly situated employees. If the employee’s plan option is terminated, coverage must continue to be offered to the employee and his/her covered dependents as long as the employer provides health plan coverage.

Generally, the cost of continuation coverage may not exceed 102% of the total premium. This may be much more than what the employee generally pays, as it can include the employer portion of the group health plan premium/cost. Furthermore, premiums may be changed only once during a 12-month period, and medical conditions may not be the basis of the change.

Employers must notify participants of their COBRA rights, usually within 44 days (30 days to notify the plan administrator, and 14 days for the plan administrator to notify the participants). Once the notice is mailed, participants have 60 days from that date to elect or reject coverage. Payment for the first period of coverage (no more than 1 month) must be made in full no later than 45 days from the date of the COBRA election, with a 30-day grace period for each premium due for coverage thereafter.

If you believe that your right to continuation coverage has been ignored or violated, you should contact the Employee Benefits Security Administration (a part of the U.S. Department of Labor) at 866-444-3272, or locally (Dallas) at 972-850-4500. You can contact the Texas Department of Insurance regarding Texas continuation at 800-252-3439.

Q. 211 What if my employer drops health insurance coverage altogether?

If your employer goes out of business or otherwise cancels its group health plan coverage, neither federal COBRA nor state continuation will be available to you or your family members. However, you and your family members may be able to obtain individual insurance policies. You should contact an insurance broker to purchase such a policy. If you do not know of one, you can contact the Texas Department of Insurance at 800-252-3439 to find a broker in your area.
Previously, if you were turned down for coverage from 2 separate insurers due to a preexisting health condition (yes, this was legal in many circumstances), you still may have been able to obtain major medical insurance coverage from the Texas Health Insurance Risk Pool, commonly referred to as simply “the Risk Pool.” However, as a result of the passing of the Affordable Care Act, “the Risk Pool” no longer exists.

The Affordable Care Act (ACA) reformed the existing health insurance market by prohibiting insurers from denying coverage or charging higher premiums because of an individual’s preexisting conditions. The ACA also created the Health Insurance Marketplace, also known as the “Marketplace” or the “Exchange,” where taxpayers find information about health insurance options, purchase qualified health plans, and, if eligible, obtain help paying premiums and out-of-pocket costs. Although there have been many proposals to repeal the ACA, its provisions remain in effect.

Some low income individuals may qualify for Medicaid programs in Texas. Medicaid in Texas is dependent on various factors and is determined on a case by case basis. If you have lost your employer provided insurance and you are low income in Texas, you or your children may qualify for Medicaid.

10.6 FAQs – HIPAA, Privacy, and Special Enrollment Rights

Q. 212 When I go to the doctor’s office, I am usually asked to sign a “HIPAA” form. What is HIPAA?

The Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) established fairly stringent privacy and disclosure requirements for health care providers and health plans. There are certain exceptions to these requirements in the event of a disaster, however. A bulletin authored by the U.S. Department of Health and Human Services provides a summary of what patient information can be shared in order to assist in disaster relief efforts. It was published for Disaster Katrina victims in 2005, but the information contained there is still accurate today. Please visit: http://www.hhs.gov/sites/default/files/katrinanhipaa.pdf.

Here is a brief look at the issue:

TREATMENT. Health care providers as well as your health plan can share patient information as reasonably necessary to provide treatment, coordinate care, and arrange for payment. You may request reasonable restrictions on the use of your data, even for these purposes.

NOTIFICATION. Health care providers and health plans can share patient information as necessary to identify, locate, and notify family members, guardians, or anyone else responsible for the individual’s care, of the individual’s location, general condition, or death.
IMMINENT DANGER. Health care providers and health plans can share patient information with anyone as reasonably necessary to prevent or lessen a serious and imminent threat to the health and safety of a person or the public – consistent with applicable law and standards of ethical conduct.

FACILITY DIRECTORY. Health care facilities maintaining a directory of patients can tell people who call or ask about individuals whether the individual is at the facility, their location in the facility, and general condition.

Q. 213 Can I request that my personal health information not be disclosed to anyone?

If you feel your life and/or health are in imminent danger from the disclosure of your health information or identity, you should notify your health care provider and/or health plan immediately and request that your information be disclosed only to you. Under HIPAA, this is known as a Request for Confidential Communications. These requests must be reasonable and not adversely impact your care. In addition, you must specify how and where you wish to be contacted. If the non-disclosure presents a threat to public health or safety, your request may be denied.

A Request for Confidential Communications is distinct from a Request for Restrictions, which can be made for any reason. A Request for Restrictions is your right to ask that a simple restriction or limitation be placed on the medical information about you that will be used or disclosed. A health care provider or health plan does not have to agree to this request, but reasonable requests are usually honored.

Q. 214 What personal information of mine is covered by HIPAA?

HIPAA applies to individually identifiable health information used by health care providers and health plans in their treatment, payment, and health care operation functions. Under HIPAA, this information is known as “Protected Health Information” or “PHI.” Note, PHI does not include information used or disclosed by your employer for employment-related reasons, nor by health care providers when they are performing employment-related functions (such as drug testing and fitness for work).

Q. 215 How can I find out if my PHI has been wrongfully used or disclosed?

If you feel this has happened, you have the right to request an accounting of all disclosures which have been wrongfully made by a health care provider or health plan in the prior 6 years. This accounting must be provided promptly. In addition, you have a right to review and receive a copy of all PHI in the possession of your health care providers and health plans. If the PHI cannot be provided to you for review in a mutually convenient time and place, the health care provider and health plans may not charge you for a copy of your PHI. Otherwise, they may charge a reasonable fee for copies. Complaints regarding the misuse or wrongful disclosure of PHI should be directed to the United States Department of Health and Human Services at 1-877-696-6775.
Q. 216  I lost my job, but my spouse is still employed. I used to be covered under my employer’s plan. Can I switch to my spouse’s plan?

Often, the most cost-effective option for maintaining health coverage is special enrollment. If other group health coverage is available (for example, through a spouse’s employer-provided plan), special enrollment in that plan should be considered. It allows the individual and his/her family an opportunity to enroll in a plan for which they are otherwise eligible, regardless of enrollment periods. However, to qualify, enrollment must be requested within 30 days of losing eligibility for other coverage.

After you request special enrollment due to your loss of eligibility for other coverage, your coverage will begin on the first day of the next month.

You and your family each have an independent right to choose special enrollment. A description of special enrollment rights should be included in the plan materials you received when initially offered the opportunity to sign up for the plan.

Special enrollment rights also arise in the event of a marriage, birth, adoption, or placement for adoption. You have to request enrollment within 30 days of the event. In special enrollment as a result of birth, adoption, or placement for adoption, coverage is retroactive to the day of the event. In case of marriage, coverage begins on the first day of the next month.

This question and answer subsection utilizes information provided by the U.S. Department of Labor at http://www.dol.gov/ebsa/faqs/faq_compliance_hipaa.html.

10.7  FAQs – Health Insurance Claims

Q. 217  I lost all of my health insurance papers and I need to file a claim. What should I do?

Ask your insurance company or your plan administrator to provide you with a summary plan description (“SPD”). The SPD explains the terms of the plan, including the procedures for filing claims. If you don’t receive your health insurance through your workplace, then ask your insurer for a claims procedure booklet.

You will want to know how to file a claim for your benefits. The steps outlined below describe some of your plan’s obligations and briefly explain the procedures and timelines for filing a health or disability benefits claim.

Before you file, however, be aware of the Employee Income Retirement Security Act of 1974 (“ERISA”), a law that protects your health and disability benefits and sets standards for those who administer your plan. Among other things, the law and rules issued by the Department of Labor include requirements for the processing of benefit claims, the timeline for a decision when you file a claim, and your rights when a claim is denied. You should know that ERISA does not
cover some employee benefit plans (such as those sponsored by government entities and most churches).

An important first step is to make sure you meet your plan’s requirements to receive benefits. Your plan might say, for example, that a waiting period must pass before you can enroll and receive benefits or that a dependent is not covered after a certain age. Also, be aware of what your plan requires to file a claim. The SPD or claims procedure booklet must include information on where to file, what to file, and whom to contact if you have questions about your plan, such as the process for providing a required pre-approval for health benefits. Plans cannot charge any filing fees or costs for filing claims and appeals.

If, for any reason, that information is not in the SPD or claims procedure booklet, write your plan administrator, your employer’s human resource department (or the office that normally handles claims), or your employer to notify them that you have a claim. Keep a copy of the letter for your records. You may also want to send the letter by certified mail, return receipt requested, so you will have a record that the letter was received and by whom.

If it is not you but an authorized representative who is filing the claim, that person should refer to the SPD and follow your plan’s claims procedure. Your plan may require you to complete a form to name the representative. If it is an emergency situation, the treating physician can automatically become your authorized representative without you having to complete a form.

When a claim is filed, be sure to keep a copy for your records.

If your claim is denied, the plan administrator must send you a notice, either in writing or electronically, with a detailed explanation of why your claim was denied and a description of the appeal process. In addition, the notice must include the plan rules, guidelines, protocols, or exclusions (such as medical necessity or experimental treatment) used in the decision or provide you with instructions on how you can request a copy from the plan. The notice may also include a specific request for you to provide the plan with additional information in case you wish to appeal your denial.

Claims are denied for various reasons. Perhaps the services you received are not covered by your plan. Or perhaps the plan simply needs more information about your claim. Whatever the reason, you have at least 180 days to file an appeal (check your SPD or claims procedure to see if your plan provides a longer period).

Use the information in your claim denial notice in preparing your appeal. You should also be aware that the plan must provide claimants, on request and free of charge, copies of documents, records, and other information relevant to the claim for benefits. The plan also must identify, on your request, any medical or vocational expert whose advice was obtained by the plan. Be sure to include in your appeal all information related to your claim, particularly any additional information or evidence that you want the plan to consider, and get it to the person specified in the denial notice before the end of the 180-day period.
On appeal, your claim must be reviewed by someone new who looks at all of the information submitted and consults with qualified medical professionals if a medical judgment is involved. This reviewer cannot be a subordinate of the person who made the initial decision and must give no consideration to that decision.

Plans have specific periods of time within which to review your appeal, depending on the type of claim. Be sure to check your SPD or your claims procedure booklet to find out what these times are.

Source: This question and answer subsection utilizes information provided by the U.S. Department of Labor at: http://www.dol.gov/ebsa/publications/filingbenefitsclaim.html.

**Q. 218 I’m enrolled in Medicare Part C (Medicare Advantage), but I can’t access any of my usual providers. What do I do?**

In the event of a major disaster declaration by the President or a Governor, Medicare Advantage plans are expected to: (a) allow Part A/B & supplemental Plan C benefits to be furnished at specified non-contracted facilities, (b) waive in full requirements for gatekeeper referrals where applicable and (c) temporarily reduce out-of-network co-pays to in-network co-pay amounts.

For more information, see: http://www.cms.gov/manuals/downloads/mc86c04.pdf

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10.8  FAQs – Prescriptions

**Q. 219 How can I get my prescriptions filled?**

For information on how to get your prescriptions filled, contact the Texas Department of State Health Services at 512-776-7111, 1-888-963-7111, or 1-800-735-2989. You can also visit their website at http://www.dshs.texas.gov/preparedness/e-prep_public.shtm.

Any evacuee who needs a prescription filled generally must have one of the following:

a) a written prescription from a licensed health care provider;

b) a prescription phoned or faxed in from a licensed health care provider to a licensed pharmacy in Texas;

c) a current prescription bottle indicating a remaining refill; or

d) other proof of an existing prescription.

Evacuees in shelter should check with shelter staff for prescription assistance.

Those eligible for the federal Emergency Prescription Assistance Program (“EPAP”) can receive a one-time fill of up to a 30-day supply of medication. There is no charge or co-pay to the
eligible person. EPAP is a joint program of the U.S. Federal Emergency Management Agency and the U.S. Department of Health and Human Services.

During a disaster, individuals with prescription questions regarding EPAP eligibility, covered drugs and durable medical equipment, and claim submission may call 1-866-935-4135. This number is only active during a declared disaster in which EPAP has been activated.

- The EPAP-covered prescriptions can be filled at almost any pharmacy in Texas.
- The pharmacy is responsible for verifying eligibility for the EPAP program.

Eligibility for the Emergency Prescription Assistance Program:

a) Must be from a county declared as a disaster area. Recipients must demonstrate residence within the covered area. Zip codes of areas determined eligible for EPAP will be posted to the EPAP website (http://www.phe.gov/preparedness) just prior to or during the activation. Identification can be a driver’s license, state issued identification card, current lease, utility bill, or other credible attestation of residence.

b) Must have no prescription insurance coverage.

Medicaid clients who forgot their medication or lost it during the evacuation can get it replaced if their pharmacist approves. If you are on dialysis and need help finding a provider, call 866-407-ESRD for help. Pregnant women, women and girls age 10 to 55, and men and boys 14 and older can get one bottle of mosquito repellent a month from a participating pharmacy if they are in the following programs:

- Medicaid
- Children’s Health Insurance Program
- CHIP-Perinatal
- Healthy Texas Women
- Children with Special Health Care Needs Services Program
- Family Planning Program


Q. 220 I’m enrolled in a Medicare Part D Prescription Drug Plan. How can Medicare help me with my prescriptions?

Until the end of a declared disaster period, Part D sponsors are expected to suspend “refill too soon” restrictions to allow enrollees a necessary supply of drugs. Part D sponsors should also allow an affected enrollee to obtain the maximum extended day supply, if requested and available at the time of refill.
In addition, Part D sponsors are supposed to ensure that enrollees that do not have access to in-network pharmacies are guaranteed adequate access to out-of-network pharmacies to fulfill their prescription needs. Enrollees may have to pay a greater amount for a prescription purchased out-of-network, however, than is usually spent purchasing the prescription in-network.

Pharmacies are also permitted to waive co-pays when a pharmacy determines that individuals cannot pay (waiver is at the discretion of the pharmacy and is not confined to periods of disaster).

For more information, see: https://www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovContra/Downloads/MemoPDBManualChapter5_093011.pdf.

- 50.12 - Pharmacy Access During a Federal Disaster or Other Public Health Emergency Declaration
- 60.1 - Out-of-Network Pharmacy Access
- 30.4 - Pharmacy Waiver/Reduction of Cost-Sharing and Applicability Toward TrOOP

Other helpful links can be found at: http://www.phe.gov/coi/Pages/links.aspx.
11.0 PERSONAL BANKRUPTCY ISSUES

11.1 Overview

The damages and dislocation caused by a disaster often make some storm victims think about filing bankruptcy. Below is a summary of certain applicable sections of the Bankruptcy Code and answers to common questions asked about bankruptcy. This outline is meant to only be a bankruptcy primer.

The current Bankruptcy Code was enacted in 1978 and has been amended a number of times since then. The most significant amendments to the Bankruptcy Code were implemented in 2005 by the Bankruptcy Abuse Prevention and Consumer Protection Act (the “BAPCPA”). The outline below is intended to highlight certain relevant provisions of the Bankruptcy Code and certain of the BAPCPA’s changes to it; however, it is advisable for any storm victim considering bankruptcy to consult a qualified bankruptcy attorney. To the extent that state law is relevant, the emphasis is on Texas law.

11.2 Most Common Issues/Questions

- The bankruptcy process and decision to file
- Pre-requisites or other requirements for filing
- The Federal District for filing
- Types of debts discharged in bankruptcy
- Types of property exempt in bankruptcy
- How marriage, divorce, and child support affect bankruptcy
- The automatic stay

11.3 Summary of the Law

There are four different chapters of the Bankruptcy Code affecting individuals: Chapter 7, Chapter 11, Chapter 12, and Chapter 13. Of these, Chapters 7 and 13 are generally most relevant to individuals.

A Chapter 7 case is sometimes called “liquidation.” In any individual bankruptcy case, certain types of property are exempt from creditors and are kept by the debtor, but in a Chapter 7 case, all of the debt’s assets that aren’t subject to exemption are surrendered and liquidated or distributed in order to pay creditors’ claims. Still, in many individual filings, due to the exemptions, the debtor will keep most or all of his or her property, and once the case is completed, most of the debtor’s debts that existed prior to filing the petition (see the first paragraph of the answer to Q. 221 below) are discharged.
As explained below, eligibility for Chapter 7 is subject to a “means test,” which requires debtors making an income above certain levels to instead file a Chapter 13 case. This section of these materials contemplates debtors who file voluntary bankruptcy petitions. However, Chapter 7 cases may also be involuntarily instituted by a debtor’s creditors.

In Chapter 13, a debtor who has regular income is required to follow a “plan” that obligates the debtor to pay some or all of his or her debts over a 3-5 year period. Chapter 13 is available only to an individual with regular income whose unsecured debts are less than $394,725 and whose secured debts (usually a mortgage) are less than $1,184,200. 11 U.S.C. § 109(e). (Under 11 U.S.C. § 104, the foregoing dollar figures are adjusted periodically; the figures provided throughout this section are current as of September 2017.) A Chapter 13 case must be voluntary.

As noted above, debtors with incomes above a certain threshold (but below the thresholds in the previous paragraph) cannot file Chapter 7 cases and instead must file under Chapter 13. This requirement was implemented as part of the BAPCPA; the rationale was a belief among many of the BAPCPA’s supporters that too many debtors who could afford to repay some or all of their debts were abusing Chapter 7.

Even though a Chapter 13 case requires a repayment plan that lasts several years, Chapter 13 does offer certain benefits compared with Chapter 7. For example, some homeowners who would lose their homes under a Chapter 7 case might be able to keep it under a Chapter 13 case. (With respect to Chapter 7 filings and home ownership, the “homestead” exemption is discussed in the answer to Q. 239 below.) In addition, when the debtor is facing foreclosure under a mortgage, a mortgage lender generally cannot foreclose on a home during the automatic stay that goes into effect after the filing of a petition (the automatic stay is discussed below), and under a Chapter 13 case, missed payments can be cured over the term of the plan (and, in effect, the mortgage is reinstated).

Under both Chapters 7 and 13, certain debts cannot be discharged (these include alimony and support, student loans under most circumstances, or debts relating to death or injury due to the debtor’s drunk driving), but Chapter 13 contains a “super discharge” that allows for discharge of some debts, upon completion of the plan, that would not be dischargeable in a Chapter 7 case (explained below). The Chapter 13 super discharge was much more extensive prior to 2005, when it was narrowed substantially by the BAPCPA, but it still covers certain debts that cannot be discharged under Chapter 7. Chapter 13 also allows the debtor to retain possession of his or her property, even non-exempt property, while making payments under a repayment plan. However, Chapter 13 requires that creditors be paid at least as much as they would receive under Chapter 7, which means that the amount repaid under the plan must equal or exceed the value of the retained non-exempt property.

Chapter 11 is primarily used by businesses that need to reorganize in order to get out from under debt, although individuals may file Chapter 11 also if they otherwise do not qualify under the Chapter 13 debt limits. In Chapter 11, the debtor proposes a plan for paying some or all of his debts, and his creditors get a chance to vote on whether to accept or reject that plan. Chapter 11 may be the only recourse for a consumer debtor with an extremely large mortgage that causes the
debtor’s secured debt to exceed the limit for Chapter 13. Its procedures and requirements are significantly more expensive than in Chapter 13.

Chapter 12 is for “farmers.” The Code defines this to be someone who earns more than 80% of his or her income from farming. 11 U.S.C. § 101(20), (21). There are special provisions for farmer debtors and this will include filing a plan as well and devoting income in the future to pay creditors.

In general, a major benefit of bankruptcy is that an automatic stay is implemented which prevents further collection actions by creditors once the bankruptcy case is filed. 11 U.S.C. § 362. However, the BAPCPA added several new exceptions to the automatic stay. In addition, the BAPCPA imposed several new requirements on debtors, including: (1) increased filing and disclosure requirements, (2) a requirement to complete credit counseling before filing for bankruptcy, and (3) a requirement to complete a personal financial management course before receiving a discharge of debts.

Filing bankruptcy will be reported on credit reports and may affect future credit applications. In addition, a bankruptcy filing could affect a debtor’s eligibility to benefit from the protections of certain provisions under the Bankruptcy Code in the event of a future filing. Therefore, it is important to evaluate how this may affect an individual before proceeding.

Finally, a note about the dollar figures in this section. As of April 1, 2008, and each three-year interval ending on April 1 thereafter, certain dollar amounts in the Bankruptcy Code (such as figures used in the means test) are adjusted. 11 U.S.C. § 104(a). Therefore, if you are looking at the Bankruptcy Code in a printed source or even online, be careful to note that the dollar figures you see might not be up to date, even if the source otherwise contains the current law. This section reflects current dollar figures as of September 2017.

11.4 Relevant Courts/Agencies

Consult the website of U.S. Bankruptcy Court for the Southern District of Texas for updates and information. The Court’s website is http://www.txs.uscourts.gov/. The clerk’s office can be reached by phone at 713-250-5500.

Consult the website of the U.S Bankruptcy Court for the Eastern District of Texas for updates and information. The Court’s website is http://www.txeb.uscourts.gov/.

There are a number of forms that debtors must file as part of the bankruptcy process.

The forms can be found at: http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx.

A particularly useful link can be found at: http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyBasics.aspx, which provides a good summary of the bankruptcy process under the BAPCPA.
Again, although debtors have this information available to them, if at all possible, they should not file bankruptcy without an attorney. Bankruptcy is highly specialized, filled with traps and pitfalls for attorneys, let alone a pro se debtor. It may be difficult for a debtor to fix any mistakes he or she makes when filing for bankruptcy pro se, and it may be harder for an attorney to correct those mistakes if the case is dismissed.

11.5 FAQs

Q. 221 What is involved in the bankruptcy process?

A bankruptcy case begins with the filing of a petition, schedules (forms in which the debtor lists all property, secured claims, unsecured claims, claimed exemptions, and other information), and a statement of financial affairs (which provides personal background information). The debtor must also file a statement of intent with respect to any secured property indicating which such property he or she will surrender, reaffirm, or redeem. If the debtor fails to carry out the statement of intent within the appropriate time, the automatic stay (explained below) may be lifted with respect to this property. 11 U.S.C. §§ 362(h), 521(a)(2).

The BAPCPA imposed a number of new filing requirements on debtors, including copies of all payments received from an employer within 60 days before filing, an itemized statement of monthly net income, a statement disclosing anticipated increases in income or expenditures within the next 12 months, evidence of attendance from a credit counseling agency (discussed below), and a “record” of any interest in an education IRA or tuition savings program. 11 U.S.C. § 521(a)–(c). The debtor must also file a certificate proving that the debtor received certain required notices. 11 U.S.C. § 521(a). The BAPCPA also requires the filing of certain tax returns with the court and the trustee. 11 U.S.C. §§ 521(e), (f). Failure to comply with filing requirements will result in dismissal. 11 U.S.C. § 521(i).

In a Chapter 7 (liquidation) case, the court will appoint a trustee to represent the interests of the creditors. Around a month after filing, the debtor must attend the “Section 341 meeting” of creditors conducted by the trustee to answer questions under oath regarding the debtor’s assets and schedules. Creditors are invited, though in routine bankruptcy cases do not usually appear and ask questions. The Section 341 meeting is usually pretty quick, although a debtor’s lack of compliance with requirements, incomplete information, or responses to questions may result in the hearing lasting longer than usual or being continued. After the Section 341 meeting, the trustee will gather and attempt to sell any non-exempt property. The debtor can sometimes purchase the non-exempt property from the trustee. The trustee may also file lawsuits to recover funds of the bankruptcy estate that are considered to be “preferences” and/or fraudulent transfers or to pursue other claims that a debtor may have. (“Preference” is a term referring to a debtor’s payment or transfer of assets to a creditor shortly before the bankruptcy.) The proceeds from all sales and lawsuits are eventually distributed to the creditors once all such property is administered. As a general matter, the debtor will receive a full discharge of all creditor claims a few months after the Section 341 meeting, while the administration of the bankruptcy case will continue until all assets are administered and the proceeds distributed.
In all bankruptcy cases, the debtor must attend credit counseling classes before filing and a financial management class before a discharge will be granted. 11 U.S.C. § 109(h)(1). The federal government does have the authority to waive this requirement for a district if it determines that “the approved nonprofit budget and credit counseling agencies for such district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling.” 11 U.S.C. § 109(h)(2). The Justice Department exercised this authority in Louisiana and in the Southern District of Mississippi after Hurricane Katrina, but there is no guarantee that any such waiver authority will be exercised in the future.

A Chapter 13 (wage earner) case begins by filing the similar papers as under a Chapter 7. Unlike Chapter 7, where all assets that are not exempt are sold by a trustee, in Chapter 13 the debtor will file a repayment plan. The debtor makes payments under this plan from future income each month directly to the Chapter 13 trustee, who is administrator for the benefit of the creditors. It is extremely important that you check your local rules for any special procedures regarding mortgage payments. The trustee then pays creditors according to the terms of the plan. The debtor typically retains possession of all property during repayment. The plan typically has a three- or five-year term (but the term may not exceed five years). The plan may provide for cure of home mortgage and automobile loan arrearages, and in certain instances for older vehicles might permit a write down of the debt to the value of the automobile as well as a reduction in interest rate. The plan may also strip off a wholly unsecured second lien on a debtor’s homestead. When the debtor has repaid creditors according to the plan, the debtor will be discharged of all debts (with some exemptions), even if the plan did not pay them in full. The percentage paid to creditors will be dependent on the disposable income a debtor has. The amount of personal expenses will be potentially subject to adjustment by the court if excessive, in order to permit disposable income to be allocated to creditors under the plan. The requirements for the plan can be found at 11 U.S.C. § 1321 et seq.

Q. 222 Should I file for bankruptcy?

Filing bankruptcy is a strictly personal decision. The ratio of a debtor’s assets to liabilities is an important factor. The type of debt a debtor has is another factor. A debtor cannot discharge all debts. So, it is very important to determine before any filing whether certain types of your debts may be “non-dischargeable” in a bankruptcy proceeding (see Q. 225 below). The effect bankruptcy might have on your credit rating, ability to borrow in the future, or reputation may be important. The impact bankruptcy might have on prior transfers of money or property may be a factor. The need to cure mortgage debt arrearages might be important. The desire to retain nonexempt property in the future might also be a factor. The decision as to whether and when to file a bankruptcy petition should be based upon the facts of each debtor’s individual case.

Q. 223 Are there any pre-requisites to filing for bankruptcy?

Before an individual debtor can file a bankruptcy petition, he or she (or if filing as spouses, both) must complete an approved credit counseling course within 180 days before filing. 11 U.S.C. § 109(h). Such a course must outline opportunities for credit counseling and provide budget analysis assistance. These courses can be taken online. The debtor must file a certificate of compliance. 11 U.S.C. § 521(b). However, the law provides for a temporary waiver (30 days) of
this requirement if a debtor can show “exigent circumstances” and that he or she requested credit counseling but was unable to receive it within five days of the request. 11 U.S.C. § 109(h)(3)(A)(i), (ii). This is rarely allowed. Case law has consistently held that a pending foreclosure IS NOT an exigent circumstance. The law also provides an exemption if such services are not available in the area where the debtor resides or if the debtor is incapacitated, disabled, or on active military duty. 11 U.S.C. § 109(h)(2), (4). This would only be applicable in very rare circumstances, particularly given the access to online courses. As mentioned above, the Justice Department temporarily exercised authority to suspend the counseling requirement in Louisiana and in the Southern District of Mississippi after Hurricane Katrina, but there is no guarantee that any such waiver authority will be exercised in the future.

Q. 224 How does the “means test” work?

The BAPCPA introduced a new “means test” for Chapter 7 bankruptcies. 11 U.S.C. § 707(b)(2)(A). The purpose of the test is to prevent abuse of Chapter 7. If a Debtor has primarily consumer debt (as opposed to business debt) and does not meet the “means test,” a presumption of abuse arises and a Chapter 7 case may be dismissed or converted to a Chapter 13 case. Debtors must file Official Bankruptcy Form B 122A-2, which contains the “means test” calculation. The form is available at http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx.

The formula for the means test is quite complex, but in short, it works as follows:

First, the debtor’s “current monthly income” must be determined. “Current monthly income” is defined as the average of the last six months income received by the debtor, excluding benefits received under the Social Security Act, payments to victims of war crimes, and payments to victims of international or domestic terrorism. 11 U.S.C. § 101(10A). The debtor’s “current monthly income” (on an annualized basis—i.e., multiplied by 12) must then be compared to the “median family income” for his or her state. The median incomes for each state can be found at http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm. The current median incomes for Texas based on household size are: $46,709 (one person); $61,704 (two people); $65,713 (three people); $76,842 (four people). If the debtor’s current monthly income is lower than the state median, no presumption of abuse arises. 11 U.S.C. § 707(b)(2).

If, however, the debtor’s current monthly income exceeds the state median, the “means test” applies and the debtor must calculate certain expense amounts based on IRS standards in order to determine if the debtor is eligible for a Chapter 7 bankruptcy. These allowed expenses are deducted from the current monthly income and then multiplied by 60 (in other words, the total amount over five years) to arrive at “disposable income.” If disposable income is greater than (1) 25% of the debtor’s nonpriority unsecured debt or $7,700, whichever is greater, or (2) $12,850, a presumption of abuse arises. 11 U.S.C. § 707(b)(2)(A). (Nonpriority unsecured claims include obligations such as credit card and medical-related debts.) Unless this presumption is rebutted, the case may be dismissed or converted to a Chapter 13 case.

It is worth noting that the concept of “current monthly income” also impacts certain calculations for Chapter 13 repayment plans. 11 U.S.C. § 1325(b). For debtors whose annualized “current
monthly income” is less than the applicable state median but who nevertheless file a Chapter 13 bankruptcy, the repayment plan must be no longer than three years (unless there is court approval for a period of up to five years). 11 U.S.C. § 1322(d)(2). If the debtor’s “current monthly income” is equal to or greater than the applicable state median, the plan generally must be for five years. 11 U.S.C. § 1322(d)(1).

As discussed above, median incomes and expense deductions used to calculate the “means test” (as well as other dollar amounts under the Bankruptcy Code) are adjusted periodically. 11 U.S.C. § 104(a).

**Q. 225 Which debts are not discharged in bankruptcy?**

Certain debts are not dischargeable in bankruptcy, meaning bankruptcy does not affect them. Chapter 13 historically allowed for the discharge of more debts than Chapter 7, but the BAPCPA largely eliminated the scope of what debts can be discharged under Chapter 13.

In a Chapter 7, 11, 12, or 13 case, you cannot as a general matter obtain a discharge for, among other things: (1) domestic support obligations, including alimony, child support, and certain property settlements, (2) student loans, absent extreme hardship (if you are going to pursue this option make sure you do extensive case review; in the Fifth Circuit, which covers Texas, this standard is virtually impossible to meet), (3) damages resulting from driving under the influence, (4) court-ordered restitution or a criminal fine included in the sentence for conviction of a crime, (5) taxes that are generally less than three years old or, if older, arising under late or fraudulent tax returns, (6) damages for willful and malicious injury awarded for personal injury or death of another person, (7) debts incurred by fraud, (8) damages for willful and malicious injury to someone else’s person or property, (9) certain taxes and tax penalties, or debts incurred to pay non-dischargeable taxes, (10) debts that were or could have been listed in a prior case in which you waived or were denied a discharge, (11) property settlements in a divorce, (12) condominium or cooperative housing fees and assessments (i.e., HOA dues), (13) court filing fees, or (14) damages resulting from securities fraud. 11 U.S.C. §§ 523, 1328. Note, however, that in Chapter 13 you can restructure the payments under the plan and provide some relief to immediate payment demands for these types of debts.

Notably, the BAPCPA also expanded the non-dischargeability for “luxury goods or services” and cash advances. Consumer debts to a single creditor for luxury goods or services greater than $675 incurred within 90 days before filing are presumed non-dischargeable. 11 U.S.C. § 523(a)(2)(C)(i)(I). Likewise, cash advances greater than $950 obtained within 70 days before filing are also presumed non-dischargeable. 11 U.S.C. § 523(a)(2)(C)(i)(II). Limitations have also been attempted concerning seeking legal advice concerning the incurrence of additional debt.

**Q. 226 Suppose I leave out a debt on my petition?**

If the debt is not listed on your schedules, then you may not get the benefit of the discharge and will have to repay that debt. 11 U.S.C. § 523(a)(3). However, there is some case law to suggest that the debtor may still be able to get the discharge in a no-asset Chapter 7 case, absent any
fraud or intent to hinder a creditor. But if you fail to list the debt with the intent to conceal and defraud, then you may lose your discharge in its entirety.

For more information about listing debts on a bankruptcy petition, visit (note that this is a private, third-party resource and its content has not been reviewed for accuracy in preparing these materials): http://www.nolo.com/legal-encyclopedia/leave-creditor-off-bankruptcy-mailing-matrix.html.

Q. 227 Does a bankruptcy filing stop a wage attachment?

Yes. This is a result of the automatic stay that occurs when you file a bankruptcy petition. However, the stay only applies to debts incurred before you filed the bankruptcy petition. The automatic stay also does not apply to payments for child support or alimony.

Q. 228 What is a discharge in bankruptcy?

A “discharge” in bankruptcy means that the debtor is legally free and clear of any obligation to repay certain debts. The creditor no longer has any right to demand or collect that debt. The debtor no longer has any obligation to repay it. 11 U.S.C. § 727.

For more information on discharge in bankruptcy see: http://www.nolo.com/legal-encyclopedia/what-is-the-bankruptcy-discharge.html.

Q. 229 How can I escape from my student loan debt?

Student loans are dischargeable only on a showing of “undue hardship.” 11 U.S.C. § 523(a)(8). The undue hardship standard is very hard to meet. Unlike practically every other legal liability, student loans never go away—there is currently no statute of limitations for student loan debt. In fact, the BAPCPA expanded the definition of student loans to encompass all types of lenders, including non-governmental lenders. 11 U.S.C. § 523(a)(8).

Q. 230 Can I repay a creditor if I want to, even after bankruptcy?

Voluntarily repaying a debt even if it would be discharged by your bankruptcy is not prohibited, but you should be very careful if you consider pursuing this option. Once a discharge is obtained, the discharge will operate as an injunction against efforts to collect the discharged debt, and creditors cannot force a debtor to pay any amounts that are discharged. In a Chapter 7 case, if you choose to do this, you must use exempt assets (assets you listed on your schedules as being exempt) or post-petition earnings (money you earned after you filed the petition), so it may be wise to wait until the bankruptcy case is closed before making such voluntary payments. See http://www.nolo.com/legal-encyclopedia/what-debts-must-i-continue-pay-during-my-chapter-7-bankruptcy.html.

Q. 231 What is the automatic stay?
The “automatic stay” prevents a creditor from continuing to enforce a claim against a debtor during the pendency of the bankruptcy case. Some examples of actions by a creditor that would violate the stay are these: (1) filing a new lawsuit or continuing to press a lawsuit that had already been filed, (2) sending collection letters, (3) filing a “financing statement” to perfect a security interest, (4) refusing to issue a transcript of school records, or (5) seeking to foreclose on property.

There are a number of exceptions to the automatic stay, however. The automatic stay does not apply to certain proceedings involving certain domestic matters (i.e., paternity, domestic violence, and dissolution of marriage matters), the withholding of income to pay domestic support obligations (i.e., child support, alimony), the restriction or suspension of a driver’s license, and certain pre-existing eviction actions. 11 U.S.C. § 362(b). In addition, the stay now automatically terminates after 30 days if the case is filed by a debtor within one year after he or she had another bankruptcy case dismissed, unless the court finds that the new filing is in good faith. 11 U.S.C. § 362(c)(3). The automatic stay also automatically terminates with regard to secured debt if a statement of intent is not filed timely (within 30 days after the filing of the petition or by the date of the Section 341 meeting, whichever is earlier). 11 U.S.C. § 521(a)(2).

**Q. 232 I’m married. Can I file by myself?**

Yes, but your spouse will still be liable for any joint debts, and all community property will be included in the debtor’s bankruptcy estate. If you file together you will be able to double your exemptions. In some cases where only one spouse has debts, or one spouse has debts that are not dischargeable, then it might be advisable to have only one spouse file. If the spouses have joint debts, the fact that one spouse discharged the debt may show on the other spouse’s credit report.


**Q. 233 Where do I file if I haven’t lived in the same state or district for the last six months?**

Under 28 U.S.C § 1408, the case should be filed where the debtor has lived “for the one hundred and eighty days immediately preceding such commencement, or for a longer portion of such one-hundred-and-eighty-day period.” See also 11 U.S.C. § 522(b)(3)(A). This means that the case should be filed in the bankruptcy district in which the debtor has lived for the greatest portion of the last six months. Typically, your case will be handled within the district in the closest division, and the bankruptcy judges regularly conduct hearings at each of the division’s courts.

**Q. 234 If I am going through a divorce, how will my ex-spouse filing bankruptcy affect our divorce settlement?**

Alimony, maintenance, and/or support are protected from discharge. The exceptions to discharge broadly include “domestic support obligations” as well as property settlements not otherwise covered as “domestic support obligations,” including attorney’s fees. 11 U.S.C. § 523(a)(5), (15). In addition, domestic support obligations are now given the first priority for payment of
unsecured debt. 11 U.S.C. § 507(a)(1)(A). And if the debtor is filing a Chapter 13 case, the debtor cannot receive confirmation of a repayment plan or discharge under Chapter 13 unless the debtor has paid all domestic support obligations coming due after the bankruptcy filing. 11 U.S.C. § 1325(a)(8).

**Q. 235 Will my retirement plan or IRA be protected?**

Generally speaking yes, if the funds are in a qualified account. Retirement plans that are ERISA-qualified are protected under current laws in all jurisdictions and are not included as property of the bankruptcy estate.

However, the exempted assets in an individual retirement account, except for a simple employee pension or a simple retirement account, may not exceed $1,283,025 in a case filed by a debtor who is an individual, except that such amount may be increased if the interest of justice so requires. 11 U.S.C. § 522(n).

**Q. 236 What effect does bankruptcy have on child support?**

Filing bankruptcy does not allow your ex-spouse to discharge past due child support obligations. Any back payments owed for child support cannot be discharged in a bankruptcy proceeding. As noted above, the automatic stay no longer applies to proceedings to establish or modify domestic support obligations or to withholding of income for payment of domestic support. 11 U.S.C. § 523(a)(5), (15).

**Q. 237 What about co-signers on loans?**

If someone has co-signed a loan with you and you file for bankruptcy, the co-signer may have to pay your debt. Chapter 13 extends the automatic stay to co-debtors for consumer debt in most cases pending confirmation of a plan. 11 U.S.C. § 1301. Nevertheless, if the co-signed debt is not fully repaid by a debtor, the co-signer is still liable for the balance.

**Q. 238 Will my filing bankruptcy stop a foreclosure?**

Yes. Filing bankruptcy temporarily stalls your lender’s right to foreclose (the automatic stay, discussed above), until it gets permission to go forward with the foreclosure proceedings. However, a bankruptcy filing won’t stop a foreclosure forever. Eventually, a debtor in bankruptcy will still have to provide “adequate protection” to a secured creditor by making payments on the debt (and/or satisfying certain other criteria), or the automatic stay can be lifted. See 11 U.S.C. §§ 361, 362. Moreover, in order to keep the secured asset, the debtor will have to become current on the mortgage in a Chapter 7 or cure the arrears in a Chapter 13. And note that a modification of the mortgage on a primary home is not permitted during a Chapter 13 case. 11 U.S.C. § 1322(b)(2).

**Q. 239 What property is exempt from the trustee in a Chapter 7 case?**
In a Chapter 7 filing, certain property is exempt from the debtor’s estate, meaning that the trustee and the debtor’s creditors cannot liquidate the property in order to cover on the debtor’s assets. In Texas, a debtor can elect either federal or state property exemptions, 11 U.S.C. § 522(b), assuming the debtor can meet the residency provisions discussed below for relying on state law (see also Q. 233). The federal exemptions are listed at 11 U.S.C. § 522(d). However, because Texas generally has more generous property exemptions than are provided under federal law, most debtors will elect to take state law exemptions.

In order to claim a state’s exemptions, the debtor must have lived in the state for at least 730 days (two years). Otherwise, the debtor can only claim the exemptions of the state in which he or she resided for the largest portion of the 180-day period preceding the last two years. 11 U.S.C. § 522(b)(3)(A). This is intended to prevent a debtor from moving to the state to take advantage of its more generous homestead laws and then immediately filing bankruptcy.

Certain Southern and Western states, including Texas, historically have had generous exemptions for debtor’s personal residences, known as the “homestead exemption.” The BAPCPA imposes a $160,375 cap on filers for any equity interest in a homestead purchased during the approximately 40 months (1,215 days) prior to the bankruptcy filing. 11 U.S.C. § 522(p)(1). Clearly, this has a significant impact on residents who recently moved to Texas. There is no cap on the homestead exemption for property owned for more than 1,215 days. The cap also does not apply to equity rolled over from a prior residence located in the same state if the prior residence was acquired before the 1,215-day period. 11 U.S.C. § 522(p)(2).

The following exemptions are allowed under Texas state law (again, these are available to individuals who meets the residency requirements):

<table>
<thead>
<tr>
<th>ASSET</th>
<th>EXEMPTION</th>
<th>PROVISION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homestead</td>
<td>Urban: 10 acres of land on one or more contiguous lots, along with improvements, used by a single adult or head of a family for purposes of a home or as both a home and a place of business. Rural: 200 acres for a family; 100 acres for a single adult. Note: A person cannot have both a rural and an urban homestead</td>
<td>Tex. Prop. Code § 41.002</td>
</tr>
<tr>
<td>Personal Property Exemption</td>
<td>Overall limit: Single Adult: $50,000 Family: $100,000</td>
<td>Tex. Prop. Code § 42.001</td>
</tr>
<tr>
<td>Exemption (overall)</td>
<td>The following are specifically exempt, which means they are not included as part of the overall limit above:</td>
<td></td>
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</tbody>
</table>
(1) current wages for personal services, except for the enforcement of court-ordered child support payments;

(2) professionally prescribed health aids of a debtor or a dependent of a debtor;

(3) alimony, support, or separate maintenance received or to be received by the debtor for the support of the debtor or a dependent of the debtor; and

(4) a religious bible or other book containing sacred writings of a religion that is seized by a creditor other than a lessor of real property who is exercising the lessor’s contractual or statutory right to seize personal property after a tenant breaches a lease agreement for or abandons the real property.

<table>
<thead>
<tr>
<th>Personal Property Exemption (specific items)</th>
<th>The overall exemption above may include the following (within the aggregate limits above):</th>
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<tbody>
<tr>
<td>(1) home furnishings, including family heirlooms;</td>
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<td>(2) provisions for consumption;</td>
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<tr>
<td>(3) farming or ranching vehicles and implements;</td>
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<tr>
<td>(4) tools, equipment, books, and apparatus, including boats and motor vehicles used in a trade or profession;</td>
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<td>(5) wearing apparel;</td>
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<td>(6) jewelry not to exceed 25 percent of the overall limits above;</td>
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<tr>
<td>(7) two firearms;</td>
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</tr>
</tbody>
</table>

Tex. Prop. Code § 42.002
(8) athletic and sporting equipment, including bicycles;

(9) a two-wheeled, three-wheeled or four-wheeled motor vehicle for each member of a family or single adult who holds a driver’s license or who does not hold a driver’s license but who relies on another person to operate the vehicle for the benefit of the non-licensed person;

(10) the following animals and forage on hand for their consumption:

(A) two horses, mules, or donkeys and a saddle, blanket, and bridle for each;

(B) 12 head of cattle;

(C) 60 head of other types of livestock; and

(D) 120 fowl; and

(11) household pets.

| Insurance | Any policy proceeds or cash values under an insurance policy issued by a life, health, or accident insurance company or an annuity plan used by an employer. | Tex. Ins. Code § 1108.051 |
| Retirement Accounts | Right to assets or payments, whether vested or not, in stock bonus, pension, annuity, IRAs, and other plans if qualified under Internal Revenue Code of 1986. | Tex. Prop. Code § 42.0021 |
| College Savings Plans | All tuition savings plans authorized by Texas Education Code or IRS. | Tex. Prop. Code § 42.0022 |
Worker's Compensation  
Worker’s compensation and death benefits.  
Tex. Lab. Code § 408.201

Unemployment Benefits  
Benefits received are exempt if not mingled; right to future benefits is exempt  
Tex. Lab. Code § 207.075(b), (c)

Q. 240 What if I cannot afford to hire a lawyer to file a bankruptcy case?

Bankruptcy is a complex process and there are many legal and factual matters to consider in deciding whether a bankruptcy case should be filed. While a person can file an individual case pro se, the procedural rules and requirements and the substantive legal issues make any such case extremely hard to complete and to permit a discharge to be obtained. If you cannot afford to hire an attorney, you may be able to obtain assistance in certain circumstances, and if you qualify, by contacting the following:

**Houston Volunteer Lawyers (“HVL”)**  
(Primarily Harris County)  
712 Main, Suite 2700  
Houston, Texas 77002  
(713) 228-0732

**Lone Star Legal Aid**  
1415 Fannin  
Houston, Texas 77002  
(713) 652-0077

**Dallas Volunteer Attorney Program**  
1515 Main St.  
Dallas, TX. 75201  
(214) 243-2236

**Volunteer Attorneys Texas (other areas)**  
1314 Texas St., Suite 609  
Houston, TX. 77002  
(713) 239-5200

The person should reference the “Bankruptcy Assistance” program when he/she calls.

Q. 241 What about obtaining payment from my company or someone I did business with before the disaster who are now out of business?

If you have a claim for payment you might contact a lawyer for assistance in collecting the debt or seek relief in a Justice of the Peace small claims court.

Q. 242 Virtually all my property and my apartment were destroyed in the disaster. Should I file bankruptcy?

If you only have property that is exempt from creditors then there would appear to be no immediate need as a general matter to file a bankruptcy case. As a general matter, exempt property cannot be taken from debtors except by creditors that have obtained a lien on the property when it was bought, or for unpaid taxes. However, the decision whether to file is something an individual debtor should evaluate, looking at all the facts and circumstances of his or her situation and future.
Q. 243 My business was affected by the disaster. Can it file bankruptcy?

Businesses can file bankruptcy cases. Many businesses can file Chapter 7 and Chapter 11 cases but only individuals can file Chapter 13 cases. If your business is unincorporated and a “dba”, then any bankruptcy by the business will place you into bankruptcy as well. To avoid being personally liable for business debts for unincorporated businesses, many business owners file both a business bankruptcy and a personal bankruptcy, because the business bankruptcy does not protect the owners from personal liability for the business debts. These matters should be reviewed with an attorney.
12.0 REPLACING LOST DOCUMENTS

This outline provides information on how to go about replacing documents lost, destroyed, or damaged during a disaster.

12.1 U.S. Mail Service

Evacuees can call 800-ASK-USPS (275-8777) for assistance, which is also the number to call for mail or identity theft.

TDD/TTY Relay: Call 1-800-877-8339. Ask for 1-800-275-8777.

12.2 Bank and Investments Accounts

If you don’t have an ATM card or your bank has been destroyed, the first step should be to contact a branch of your bank. For additional information, visit http://www.fdic.gov.

12.3 Credit Cards

If you find that your credit cards were lost or left behind, your best option is to call the bank that issued the card and get a new one as soon as possible. Many issuers are bending the rules and waiving payments, late fees, and over limit fees. When personal documents and credit cards are floating around, authorities suggest that people should be on guard against identity theft. One of the steps people can take is to put a fraud alert on their credit report. Call TransUnion: 800-680-7289 (https://www.transunion.com/fraud-victim-resource/place-fraud-alert), Experian: 888-397-3742 (https://www.experian.com/fraud/center.html), or Equifax: 800-525-6285 (https://www.alerts.equifax.com).

See also https://www.consumer.ftc.gov/articles/0275-place-fraud-alert.

12.4 Children’s Immunization Records (Texas)

The statewide immunization registry, known as ImmTrac2, will keep an electronic immunization record for those children that have registered. Some information contained in the registry is the child’s name, date-of-birth, address, the name of the parent or guardian, information on the shots given, and who gave them. Optional information stored in ImmTrac2 is the child’s Social Security number and mother’s maiden name. This optional information helps prevent duplicate records from being created.

Immunization information is available only to persons authorized by law to see it. Only doctors, schools, childcare centers, and public health providers with ImmTrac2-issued identification numbers and passwords may view the information. More information can be found at:

Immunization Branch
Department of State Health Services
Immunization Branch (MC 1946)
P.O. Box 149347
12.5 **Deeds and Mortgages**

These records are maintained by the Clerk of Court for the county where the property is located. If the deed or mortgage was filed for record, it will be accessible here.

For example, for Houston (Harris County), see [http://www.hcdistrictclerk.com/Common/Default.aspx](http://www.hcdistrictclerk.com/Common/Default.aspx).

12.6 **Driver’s License**

To replace your Texas driver’s license, you must: (1) visit any Texas Driver’s License office, (2) submit a completed Application for Renewal/Replacement/Change (Form DL-43: [http://www.dps.texas.gov/internetforms/Forms/DL-43.pdf](http://www.dps.texas.gov/internetforms/Forms/DL-43.pdf)), (3) present proof of identity (1 primary document (e.g., passport, military ID) and 1 secondary form (e.g., birth certificate issued by Department of Health, see [http://www.dps.texas.gov/DriverLicense/identificationrequirements.htm](http://www.dps.texas.gov/DriverLicense/identificationrequirements.htm)), (4) present proof of lawful presence in the U.S., if not a U.S. citizen or lawful permanent resident, (5) present proof of Social Security number, and (6) pay the required fee ($11).

Information on replacing your Texas driver’s license can be found on the following website: [http://www.dmv.org/tx-texas/replace-license.php](http://www.dmv.org/tx-texas/replace-license.php).

12.7 **Food Stamps/ SNAP Benefits, ATP Card, and EBT Card**

The Federal Food Stamp Program is the Supplemental Nutrition Assistance Program (SNAP); see [https://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program-snap](https://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program-snap).

USDA can authorize the issuance of emergency SNAP benefits when there is a presidentially declared emergency or when grocery stores or other regular commercial food supply channels have been restored following a disaster. The D-SNAP (Disaster SNAP) system operates under a different set of eligibility and benefit delivery requirements than the regular SNAP. People who might not ordinarily qualify for SNAP benefits may be eligible under the disaster Supplemental Nutrition Assistance Program if they have had disaster damage to their homes, or expenses related to protecting their homes, or if they have lost income as a result of the disaster, or do not have access to bank accounts or other resources.
For Food Assistance directly related to Hurricane Harvey, see https://www.fns.usda.gov/disaster/texas-disaster-nutrition-assistance and https://fns-prod.azureedge.net/sites/default/files/disaster/TX-Hot-Foods-Notice.pdf, which summarizes Special Disaster Rules for Accepting SNAP EBT Benefits for Hot Food Purchases.

For further information regarding the SNAP program as administered in Texas, visit http://yourtexasbenefits.hhsc.texas.gov/programs/snap/ or call 2-1-1. For Texas D-SNAP information, visit https://www.disasterassistance.gov/disaster-assistance/forms-of-assistance/5778/1/2.

12.8 Immigration Documents

If you are a permanent resident who needs to replace your (green) card, or a conditional resident who needs to replace your two-year card that has been lost or destroyed, you may apply for a replacement card by filing a USCIS Form I-90 (https://www.uscis.gov/i-90, or for e-filing, https://www.uscis.gov/file-online/file-form-i-90-online). For further assistance, visit https://www.uscis.gov/green-card/after-green-card-granted/replace-green-card and click on the “Forms” tab.

12.9 Insurance Documents

Contact your insurance agency. Concerning flood insurance issued by the National Flood Insurance Program, see https://www.fema.gov/national-flood-insurance-program.

12.10 Medicare/Medicaid Cards

For Medicare cards, visit the Social Security Administration office and request a replacement card or access the Social Security website at https://faq.ssa.gov/ics/support/kbanswer.asp?deptID=34019&task=knowledge&questionID=3708.

You may also call the National Social Security Hotline at 1-800-772-1213.

For Medicaid cards, contact the state Medicaid office by visiting https://hhs.texas.gov/services/health/medicaid-chip/programs/your-texas-benefits-medicaid-id-card or calling 2-1-1.


12.11 Social Security Cards and Payments

If you depend on Social Security benefits, you will need to contact the Social Security Administration to verify your Social Security number. It’s not always necessary to have your
Social Security card with you to verify your identity. There’s a form that people must fill out with their background information.

Social Security checks should be direct deposited or put on your SSA issued credit card. If you have a payment problem, go to the nearest office of the Social Security Administration. To find those locations, call 800-772-1213 (TTY 800-325-0778) or visit https://secure.ssa.gov/ICON/main.jsp. You will be able to get emergency payments if necessary. The Houston office is located at: 8989 Lakes at 610 Dr, Houston TX 77054, or 5414 Aldine Mail Rte Rd, Houston TX 77039, or 10703 Stancliff Rd, Houston, TX 77099. For more information, log onto www.socialsecurity.gov/emergency.

12.12 Passports

Passports may be obtained by calling 1-877-487-2778 (TTY 1-888-874-7793) or through https://travel.state.gov/content/passports/en/passports.html.

12.13 Wills or Other Estate Planning Documents

In Texas, if a testator has lost his original will, he should execute a new will, even when copies are available, because Texas law imposes many burdens on those trying to probate a lost original will. If someone has lost the original will, a copy can be submitted to probate. To probate a lost will, three things must be proved: (1) due execution (e.g., witness testifies that testator appropriately executed the will), (2) cause of the will’s nonproduction, which overcomes the presumption of revocation (e.g., witness testifies that the will was last seen in the house that was destroyed), and (3) contents of the will, either with a copy or by a witness who is familiar with the contents. If there are no originals or copies now in existence, then a new will should be executed. Under Texas law, if a person dies and his/her will cannot be proved, the person is considered to have died intestate.

As a practical matter, it may be necessary to draft a new will due to the dramatic change in property value/ownership due to a disaster. Specific bequests may fail if property has been destroyed. The prior will may not adequately deal with insurance proceeds as replacement for specific bequests.
13.0 FAMILY LAW ISSUES

13.1 FAQs

Q. 244 I’ve had to evacuate my home. Where do I go to modify my child’s custody or support order?

After a Texas state court has made a custody determination, that same court maintains exclusive continuing jurisdiction, under Tex. Fam. Code § 152.202, for all future modifications and determinations surrounding a child, unless the child and both parents leave the state or neither the child nor one parent maintain a significant connection with the state. Under Tex. Fam. Code § 155.201, if a child has resided in another Texas county for at least six months, the previous county of continuing jurisdiction must transfer any suit affecting the parent-child relationship to the county where the child now resides, upon a timely motion of a party.

Q. 245 During the disaster my child’s other parent evacuated with my child and will not give him back. What do I do?

Under Tex. Fam. Code § 157.371 et seq., if a child has been taken in contravention of a custody order, a parent may file a petition for writ of habeas corpus in the court of exclusive continuing jurisdiction or a family court located in the county where the child is found. A presiding court in a habeas proceeding must compel the return of the child to the petitioner, if the person is entitled to possession under a court order.

Tex. Fam. Code § 42.002 also allows damages against any person who takes a child, retains possession of a child or conceals a child’s whereabouts in violation of another person’s possessory right to that child. Damages can include the costs and expenses of locating the child and mental suffering and anguish, as well as exemplary damages if the person acted with malice or intent to harm. You should consult an attorney to pursue any such action.
14.0 RESOURCE & REFERRAL GUIDE

At times, a referral to an attorney is not the best course of action. In your search for assistance, you may find that private community organizations or one or more local, state, or federal agencies can help you. In addition to providing emergency information, this guide lists resources, community service organizations, and government agencies with offices located in the areas where the people are being temporarily housed. It also includes the toll-free numbers for many state and federal agencies.

14.1 Federal Disaster Assistance

<table>
<thead>
<tr>
<th>General Assistance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Disaster Assistance</strong></td>
</tr>
<tr>
<td>The Disaster Assistance Improvement Program (DAIP) provides disaster survivors with information, support, services, and a means to access and apply for disaster assistance through joint data-sharing efforts between federal, tribal, state, local, and private sector partners.</td>
</tr>
<tr>
<td>The site allows individuals to:</td>
</tr>
<tr>
<td>- Find disaster assistance that meets the needs of an individual’s particular circumstances</td>
</tr>
<tr>
<td>- Apply for disaster assistance and reduce the number of forms required to be completed</td>
</tr>
<tr>
<td>- Check the status of applications</td>
</tr>
<tr>
<td>- Find a FEMA Disaster Recovery Center nearby</td>
</tr>
<tr>
<td>- Find a hotel or a new place to live</td>
</tr>
<tr>
<td>- Find programs to help with food and nutrition needs</td>
</tr>
<tr>
<td>- Change address for Social Security, VA, or other federal benefits, and</td>
</tr>
<tr>
<td>- Learn about Small Business Administration (SBA) loans for homeowners, renters, and businesses.</td>
</tr>
</tbody>
</table>

https://www.disasterassistance.gov/

<table>
<thead>
<tr>
<th>FEMA Assistance</th>
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<tbody>
<tr>
<td><strong>FEMA Helpline</strong></td>
</tr>
<tr>
<td>Call 7 a.m. to 11 p.m. ET, 7 days a week:</td>
</tr>
<tr>
<td>1-800-621-FEMA (1-800-621-3362)</td>
</tr>
<tr>
<td>TTY 1-800-462-7585</td>
</tr>
<tr>
<td>711 or VRS 1-800-621-3362</td>
</tr>
<tr>
<td>Or write to:</td>
</tr>
<tr>
<td>FEMA</td>
</tr>
<tr>
<td>P.O. Box 10055</td>
</tr>
<tr>
<td>Hyattsville, MD 20782-8055</td>
</tr>
</tbody>
</table>

**FEMA Internet Help Desk**

Call 24 hours a day, 7 days a week:
1-800-745-0243

**FEMA Disaster Recovery Centers**

FEMA Disaster Recovery Centers (DRC) are accessible meeting places set up after a disaster. The services
offered at each DRC may vary. There are two ways to find a DRC nearby:

1. Use the DRC locator found at http://asd.fema.gov/inter/locator/home.htm.

2. Text DRC and a Zip Code to 4FEMA (43362). Example: “DRC 77001”. Using this option does not add you to any messaging service.

Crisis Counseling Assistance

FEMA’s Crisis Counseling Assistance and Training Program (CCP) assists individuals and communities in recovering from the effects of a Presidentially-declared major disaster through community-based outreach and psycho-educational services.

For more details, call the FEMA Helpline at 1-800-621-3362, TTY 1-800-985-5990.

For more information: www.samhsa.gov/dtac/ccp

Emergency Housing

General

Search for open shelters near you by texting SHELTER and a Zip Code to 4FEMA (43362). Example: “SHELTER 77001”. Using this option does not add you to any messaging service.

FEMA Evacuee Hotel List

If you are eligible for Transitional Sheltering Assistance, FEMA will pay for the cost to stay in certain hotels and motels for a limited period of time. For a list of participating locations, please visit:

http://www.femaevachotels.com/

American Red Cross

You can find shelters by:

- Visiting redcross.org
- Downloading the “Red Cross Emergency” app
- Calling 1-800-REDCROSS (1-800-733-2767)

Salvation Army

Enter your zip code to find your nearest Salvation Army location:

http://www.salvationarmyusa.org/usn/help-disaster-survivors

Family Locators

Safe and Well

The American Red Cross maintains Safe and Well, a web-based system that helps reunite friends and family displaced by a disaster.

https://safeandwell.communityos.org/cms/index.php

National Emergency Family Registry and Locator System

FEMA’s National Emergency Family Registry and Locator System (NEFRLS) helps reunite families separated during a
<table>
<thead>
<tr>
<th>Service</th>
<th>Description</th>
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<tbody>
<tr>
<td>(service is not available. If you are looking for information regarding missing adult, please contact your local authorities for assistance.)</td>
<td>disaster. It allows displaced individuals to register and provide information about their current location and situation. Please note: the system is only activated at the request of a State to support Presidentially-declared disasters. Individuals and families can register online at <a href="http://www.fema.gov">www.fema.gov</a> or by phone at 1-800-588-9822.</td>
</tr>
<tr>
<td>National Center for Missing &amp; Exploited Children</td>
<td>FEMA also works in collaboration with the National Center for Missing &amp; Exploited Children (NCMEC) to support the reunification of children under 21 years of age with their parent or guardian. Please note: the system is only activated at the request of a State to support Presidentially-declared disasters. Individuals reporting or searching for a child missing as a result of a disaster should call the NEMEC National Emergency Child Locator Center at 1-800-THE-LOST/ 1-800-843-5678.</td>
</tr>
<tr>
<td>Next of Kin Registry</td>
<td>The Next of Kin Registry (NOKR) is a free tool for daily emergencies and national disasters. NOKR is your emergency contact system to help if you or your family member is missing, injured, or deceased. <a href="http://www.nokr.org">www.nokr.org</a></td>
</tr>
<tr>
<td>Other</td>
<td>USA.gov also offers other sources for locating family. <a href="https://www.usa.gov/after-disaster">https://www.usa.gov/after-disaster</a></td>
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</table>

### Finding and Caring for Pets

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<thead>
<tr>
<th>Service</th>
<th>Description</th>
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<tbody>
<tr>
<td>Missing Pet Network</td>
<td><a href="http://www.missingpet.net/anlost.html">http://www.missingpet.net/anlost.html</a></td>
</tr>
<tr>
<td>Pet-Friendly Hotels</td>
<td>For a list of pet-friendly hotels, please visit: <a href="https://www.gopetfriendly.com/">https://www.gopetfriendly.com/</a></td>
</tr>
</tbody>
</table>
| Animal Assistance Organizations | Humane Society
1-866-720-2676
[www.humanesociety.org](http://www.humanesociety.org)

Wings of Rescue

Wings of Rescue is a 501(c)3 charity founded in 2012 by Cindy Smith that flies endangered pets from high-intake and/or high-kill shelters to no-kill shelters, from which they can be adopted into loving homes.

[https://www.wingsofrescue.org/](https://www.wingsofrescue.org/)

ASPCA

[https://www.aspca.org/](https://www.aspca.org/) |
<table>
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<tr>
<th>Legal Services Hotlines</th>
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<tbody>
<tr>
<td><strong>Disaster Legal Services Program</strong></td>
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<tr>
<td><strong>Harvey Hotlines:</strong></td>
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<tr>
<td><strong>National Disaster Legal Aid</strong></td>
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<tr>
<td><strong>State Bar Associations</strong></td>
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</table>
### International Evacuees

<table>
<thead>
<tr>
<th>General Consulate Information</th>
<th><a href="http://www.usembassy.gov">www.usembassy.gov</a></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Select Embassy Information</strong></td>
<td></td>
</tr>
<tr>
<td>Canada</td>
<td>1-713-821-1440</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>1-713-266-0484</td>
</tr>
<tr>
<td>El Salvador</td>
<td>1-346-571-5198</td>
</tr>
<tr>
<td>France</td>
<td>1-713-572-2799</td>
</tr>
<tr>
<td>Guatemala</td>
<td>1-713-953-9531</td>
</tr>
<tr>
<td>Honduras</td>
<td>1-281-377-5127</td>
</tr>
<tr>
<td>Mexico</td>
<td>1-346-201-6711</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>1-713-789-2762</td>
</tr>
<tr>
<td>Panama</td>
<td>1-713-622-4451</td>
</tr>
<tr>
<td>Vietnam</td>
<td>1-713-850-1233/ 1-713-840-0096</td>
</tr>
</tbody>
</table>

### Insurance Information

<table>
<thead>
<tr>
<th>National Flood Insurance Program (NFIP)</th>
<th>The National Flood Insurance Program aims to reduce the impact of flooding on private and public structures. It does so by providing affordable insurance to property owners and by encouraging communities to adopt and enforce floodplain management regulations. <a href="https://www.fema.gov/national-flood-insurance-program">https://www.fema.gov/national-flood-insurance-program</a></th>
</tr>
</thead>
<tbody>
<tr>
<td>National Association of Insurance Commissioners</td>
<td>(816) 783-8500</td>
</tr>
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### Charitable Organizations

<table>
<thead>
<tr>
<th>(Recommended by FEMA)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>American Red Cross Disaster Donations</td>
<td>1-800-435-7669/Donate by phone</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.redcross.org">www.redcross.org</a></td>
</tr>
<tr>
<td>Red Cross of Houston</td>
<td>713-526-8300; 2700 Southwest Fwy.</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.houstonredcross.org">www.houstonredcross.org</a></td>
</tr>
<tr>
<td>Catholic Charities in Houston</td>
<td>713-526-4611; 2900 Louisiana St. 713-227-9981; 326 S. Jensen Dr. 713-5266-4611; 2615 Fannin St.</td>
</tr>
<tr>
<td><strong>Salvation Army Disaster Relief</strong></td>
<td>(713) 752-0677; 1500 Austin St.</td>
</tr>
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</tbody>
</table>

**Federal Agencies and Resources**

<table>
<thead>
<tr>
<th><strong>U.S. Government’s Official Web Portal</strong></th>
<th>This web portal has links to many agencies and programs.</th>
<th>1-844-USA-GOV1 (1-844-872-4681)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td><a href="http://www.usa.gov/">http://www.usa.gov/</a></td>
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<tr>
<th><strong>Equal Employment Opportunity Commission</strong></th>
<th>1-800-669-4000</th>
<th>Hearing Impaired: 1-800-669-6820</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><a href="mailto:info@ask.eeoc.gov">info@ask.eeoc.gov</a> (include zip code and/or city and state so that your email will be sent to the appropriate office)</td>
<td><a href="http://www.eeoc.gov">www.eeoc.gov</a></td>
</tr>
</tbody>
</table>

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<thead>
<tr>
<th><strong>Social Security Administration</strong></th>
<th>1-800-772-1213</th>
<th>TTY 1-800-325-0778</th>
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</thead>
<tbody>
<tr>
<td></td>
<td><a href="http://www.ssa.gov">www.ssa.gov</a></td>
<td>Hurricane Harvey: Beginning Sept. 1, customers in Houston and Rio Grande districts who receive Treasury checks via U.S. Mail — including checks from the Social Security Administration, Veterans Administration, and other agencies — can pick up these checks at the Post Office location nearest to their ZIP Code.</td>
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<tbody>
<tr>
<td></td>
<td>USPS is reminding customers to complete change-of-address requests, especially if they expect to be out of their homes for extended periods.</td>
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<table>
<thead>
<tr>
<th><strong>U.S. Department of Health &amp; Human Services (Medicare)</strong></th>
<th>1-800-MEDICARE (633-4227)</th>
<th>TTY: 1-877-486-2048</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><a href="http://www.cms.gov/">http://www.cms.gov/</a></td>
<td></td>
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<tr>
<th><strong>Veterans Affairs</strong></th>
<th>1-844-MyVA311 (1-844-698-2311)</th>
<th><a href="http://www.va.gov">www.va.gov</a></th>
</tr>
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<tr>
<th><strong>Department of Education</strong></th>
<th>1-800-872-5327</th>
<th><a href="http://www.ed.gov">www.ed.gov</a></th>
</tr>
</thead>
</table>

| **U.S. Department of Housing and Urban Development (HUD)** | Fraud Line: 1-800-347-3735 | Fair Housing: 1-800-347-3739 |
| **Small Business Administration** | The Small Business Administration (SBA) offers low-interest, long-term disaster loans to small businesses of all sizes, private non-profit organizations, homeowners, and renters to repair or replace uninsured/underinsured disaster damaged property. Loan amounts and terms are set by SBA and are based on each applicant's financial condition. Apply online at [www.sba.gov](http://www.sba.gov), in person at a FEMA Disaster Recovery Center, or by mail. [www.sba.gov](http://www.sba.gov) [https://disasterloan.sba.gov](https://disasterloan.sba.gov) Call 1-800-659-2955 or email [disastercustomerservice@sba.gov](mailto:disastercustomerservice@sba.gov) |
| **Federal Citizen Information Center (f/k/a Federal Consumer Information Center)** | The U.S. Government Publishing Office Pueblo Distribution Center is a trusted one-stop source for answers to questions about consumer problems and government services. The Pueblo.GPO.gov website is where consumers can go to find information and order publications on a variety of topics from the federal government. Order Line: 1-888-878-3256 Questions Only: 719-295-2675 [https://pueblo.gpo.gov](https://pueblo.gpo.gov) |
| **Internal Revenue Service** | 1-800-829-1040 [www.irs.gov](http://www.irs.gov) |

| **Internal Revenue Service** | 1-800-829-1040 [www.irs.gov](http://www.irs.gov) |
| **Federal Citizen Information Center (f/k/a Federal Consumer Information Center)** | The U.S. Government Publishing Office Pueblo Distribution Center is a trusted one-stop source for answers to questions about consumer problems and government services. The Pueblo.GPO.gov website is where consumers can go to find information and order publications on a variety of topics from the federal government. Order Line: 1-888-878-3256 Questions Only: 719-295-2675 [https://pueblo.gpo.gov](https://pueblo.gpo.gov) |
| **Small Business Administration** | The Small Business Administration (SBA) offers low-interest, long-term disaster loans to small businesses of all sizes, private non-profit organizations, homeowners, and renters to repair or replace uninsured/underinsured disaster damaged property. Loan amounts and terms are set by SBA and are based on each applicant's financial condition. Apply online at [www.sba.gov](http://www.sba.gov), in person at a FEMA Disaster Recovery Center, or by mail. [www.sba.gov](http://www.sba.gov) [https://disasterloan.sba.gov](https://disasterloan.sba.gov) Call 1-800-659-2955 or email [disastercustomerservice@sba.gov](mailto:disastercustomerservice@sba.gov) |
### Credit Bureaus

<table>
<thead>
<tr>
<th>Credit Bureau</th>
<th>Phone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equifax</td>
<td>1-800-685-1111</td>
</tr>
<tr>
<td>Trans Union Credit</td>
<td>1-800-916-8800</td>
</tr>
</tbody>
</table>

### 14.2 Texas Disaster Assistance

#### General Assistance

<table>
<thead>
<tr>
<th>Service</th>
<th>Phone Number</th>
<th>Website</th>
</tr>
</thead>
<tbody>
<tr>
<td>Texas Hurricane Center</td>
<td><a href="https://gov.texas.gov/hurricane">https://gov.texas.gov/hurricane</a></td>
<td></td>
</tr>
<tr>
<td>Houston Emergency Updates</td>
<td>Call 3-1-1 or 1-713-884-3131</td>
<td></td>
</tr>
<tr>
<td>Road Conditions</td>
<td>1-800-452-9292</td>
<td><a href="https://drivetexas.org">https://drivetexas.org</a></td>
</tr>
<tr>
<td>Roadside Assistance</td>
<td>1-800-525-5555</td>
<td></td>
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</tbody>
</table>

#### Emergency Housing

<table>
<thead>
<tr>
<th>Service</th>
<th>Phone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Texas Department of Housing &amp; Community Affairs (search low income housing by city or county)</td>
<td>Disaster Relief 1-877-541-7905</td>
</tr>
<tr>
<td></td>
<td>Emergency &amp; Homeless Services (short term rent help, eviction relief, and legal aid services) 1-800-525-0657</td>
</tr>
<tr>
<td></td>
<td>Foreclosure Mitigation 1-888-995-4673</td>
</tr>
<tr>
<td></td>
<td>Home Repair Assistance 1-800-525-0657</td>
</tr>
<tr>
<td></td>
<td>Loan Servicing 1-800-298-4013</td>
</tr>
<tr>
<td></td>
<td>Manufactured Housing 1-800-500-7074</td>
</tr>
<tr>
<td></td>
<td>Reduced Rent Apartments 1-800-525-0657</td>
</tr>
<tr>
<td></td>
<td>Utility Bill Payment Help 1-877-399-8939 1-877-541-7905</td>
</tr>
<tr>
<td>Other Help</td>
<td>1-877-541-7905</td>
</tr>
</tbody>
</table>

**Headquarters:**
- Call weekdays 8 a.m. to 5 p.m.
  - 1-512-475-3800
  - 1-800-525-0657

[info@tdhca.state.tx.us](mailto:info@tdhca.state.tx.us)
## Child Support Checks

<table>
<thead>
<tr>
<th>Texas</th>
<th>Texas Attorney General</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1-800-252-8014</td>
</tr>
</tbody>
</table>

## Unemployment Assistance

**Disaster Unemployment Assistance (DUA)**

Disaster Unemployment Assistance (DUA) provides unemployment benefits for individuals who lost their jobs or self-employment or who are no longer working as a **direct result** of a major disaster or for which a disaster assistance period is declared, and who applied but are not eligible for regular unemployment benefits.

[http://www.twc.state.tx.us/jobseekers/disaster-unemployment-assistance](http://www.twc.state.tx.us/jobseekers/disaster-unemployment-assistance)

Texas Workforce Commission Tele-Center:  
Call weekdays 8 a.m. to 5 p.m.  
1-800-939-6631

## Insurance Information

**Texas Department of Insurance**

Texas Department of Insurance Consumer Help Line  
Call 8 a.m. to 5 p.m  
1-800-252-3439  

[www.tdi.state.tx.us](http://www.tdi.state.tx.us)

Hurricane Harvey relief:  

**Texas Windstorm Insurance Association**

Available 24/7  
English: 1-877-281-1431  
Espanol: 1-866-443-3144  

[https://www.twia.org/](https://www.twia.org/)

## Legal Services

**State Bar of Texas**

Main Switchboard: 1-800-204-2222  

[https://www.texasbar.com/](https://www.texasbar.com/)

Legal Hotline: 1-800-504-7030  

Lawyer Referral:  
Call weekdays 8:30 a.m. to 4:30 p.m.  
1-800-252-9690
<table>
<thead>
<tr>
<th>Organization</th>
<th>Service Area</th>
<th>Contact Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Houston Bar Association</td>
<td>LegalLine</td>
<td>1-713-759-1133&lt;br&gt;1-866-959-1133&lt;br&gt;Beginning Sept 5 – Sept 29, HBA’s LegalLine will have volunteer attorneys answering calls from 3 p.m. to 5 p.m., Monday through Friday.&lt;br&gt;Extended LegalLine hours will be available from 5 p.m. to 9 p.m. on Sept 6th and Sept 20th.</td>
</tr>
<tr>
<td>Lone Star Legal Aid</td>
<td>Lone Star Legal Aid serves 72 counties in Texas and four in Arkansas, an area that covers one-third of the state of Texas, including almost 60,000 square miles from Texarkana to the Louisiana-Texas Gulf Coast state-line, down to Matagorda Bay, and four counties in southwest Arkansas.&lt;br&gt;<a href="http://www.lonestarlegal.org/">http://www.lonestarlegal.org/</a>&lt;br&gt;Houston Office: 1-713-652-0077; 1-800-733-8394&lt;br&gt;Beaumont Office: 1-409-835-4971; 1-800-365-1861&lt;br&gt;Galveston Office: 1-409-763-0381; 1-800-551-3712</td>
<td></td>
</tr>
<tr>
<td>Texas Rio Grande Legal Aid</td>
<td>Servicing South, Central, and West Texas.</td>
<td>1-866-757-1570&lt;br&gt;<a href="http://www.trla.org/">http://www.trla.org/</a></td>
</tr>
<tr>
<td>Legal Aid of North West Texas</td>
<td>Individuals and families affected by Hurricane Harvey and who have experienced damage to apartments, homes, cars and personal property may be eligible for free legal assistance. Services Northern Texas.&lt;br&gt;1-855-548-8457&lt;br&gt;<a href="https://internet.lanwt.org/en-us">https://internet.lanwt.org/en-us</a></td>
<td></td>
</tr>
<tr>
<td>Disability Rights Texas</td>
<td>1-800-252-9108&lt;br&gt;<a href="http://www.disabilityrightstx.org/">http://www.disabilityrightstx.org/</a></td>
<td></td>
</tr>
<tr>
<td>Aid to Victims of Domestic Abuse</td>
<td>713-224-9911&lt;br&gt;<a href="http://avda-tx.org/">http://avda-tx.org/</a></td>
<td></td>
</tr>
<tr>
<td>American Civil Liberties Union (Houston)</td>
<td>713-942-8146&lt;br&gt;<a href="http://avda-tx.org/">http://avda-tx.org/</a></td>
<td></td>
</tr>
<tr>
<td>American Civil Liberties Union (Austin)</td>
<td>512-478-7300&lt;br&gt;<a href="http://avda-tx.org/">http://avda-tx.org/</a></td>
<td></td>
</tr>
<tr>
<td><strong>Family Violence Legal Hotline</strong></td>
<td>1-800-374-HOPE (4673)</td>
<td></td>
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<td></td>
<td><a href="http://www.texasadvocacyproject.org/">http://www.texasadvocacyproject.org/</a></td>
<td></td>
</tr>
<tr>
<td><strong>Legal Services (Bexar County)</strong></td>
<td><strong>San Antonio Bar Association</strong></td>
<td>(210) 227-8822</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.sanantoniobar.org/">http://www.sanantoniobar.org/</a></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>San Antonio Young Lawyers Association</strong></td>
<td><a href="http://www.sayla.org">www.sayla.org</a></td>
</tr>
<tr>
<td><strong>Legal Services (Collin County)</strong></td>
<td><strong>Plano Bar Association</strong></td>
<td>972-424-6113</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.planobar.com">www.planobar.com</a></td>
<td></td>
</tr>
<tr>
<td><strong>Legal Services (Dallas County)</strong></td>
<td><strong>Dallas Bar Association</strong></td>
<td>(214) 220-7400</td>
</tr>
<tr>
<td></td>
<td><strong>Dallas Association of Young Lawyers</strong></td>
<td>214-220-7420</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.dayl.com">www.dayl.com</a></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>North Dallas Bar Association</strong></td>
<td>972-980-0472</td>
</tr>
<tr>
<td><strong>Legal Services (El Paso County)</strong></td>
<td><strong>El Paso County Bar Association</strong></td>
<td>719-636-1532</td>
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<tr>
<td></td>
<td><a href="http://www.elpasocountybar.org">www.elpasocountybar.org</a></td>
<td></td>
</tr>
<tr>
<td><strong>Harris County</strong></td>
<td><strong>Houston Bar Association</strong></td>
<td>713-759-1133</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.hba.org">www.hba.org</a></td>
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<tr>
<td></td>
<td><strong>Houston Young Lawyers Association</strong></td>
<td>713-224-4952</td>
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<td><a href="http://www.hyla.org">www.hyla.org</a></td>
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<tr>
<td>Organization</td>
<td>Phone Numbers</td>
<td>Website URLs</td>
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<tr>
<td>------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Houston Bar Lawyer Referral Service</td>
<td>713-237-9429/1-800-289-4577</td>
<td><a href="https://hlrs.org/">https://hlrs.org/</a></td>
</tr>
<tr>
<td>Harris County Criminal Lawyers Association</td>
<td>713-227-2404</td>
<td><a href="http://www.hccla.org">www.hccla.org</a></td>
</tr>
<tr>
<td>Harris County Domestic Relations</td>
<td>713-274-7300</td>
<td><a href="http://www.hctx.net/">http://www.hctx.net/</a></td>
</tr>
<tr>
<td>Harris County DA’s Office</td>
<td>Main: 713-755-5800</td>
<td><a href="http://app.dao.hctx.net/">http://app.dao.hctx.net/</a></td>
</tr>
<tr>
<td></td>
<td>Consumer Fraud 713-755-5800 (main)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Family Violence Unit 713-755-5888</td>
<td></td>
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<td></td>
<td>General Intake and Information 713-755-5800</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Public Services Bureau 713-274-5828</td>
<td></td>
</tr>
<tr>
<td>South Texas College of Law Legal Clinic</td>
<td>713-646-2990</td>
<td><a href="https://www.stcl.edu/lawclinics/index.html">https://www.stcl.edu/lawclinics/index.html</a></td>
</tr>
<tr>
<td>Texas Southern University</td>
<td>Thurgood Marshall School of Law Legal Clinic</td>
<td></td>
</tr>
<tr>
<td></td>
<td>713-313-4455</td>
<td><a href="http://www.tsulaw.edu/clinic/">http://www.tsulaw.edu/clinic/</a></td>
</tr>
<tr>
<td></td>
<td>The Earl Carl Institute for Legal and Social Policy, Inc.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>713-313-1139</td>
<td><a href="http://www.tsulaw.edu/centers/ECI/">http://www.tsulaw.edu/centers/ECI/</a></td>
</tr>
<tr>
<td>University of Houston Legal Aid Clinic</td>
<td>713-743-2094</td>
<td><a href="http://www.law.uh.edu/clinic/">http://www.law.uh.edu/clinic/</a></td>
</tr>
<tr>
<td>Legal Services (Jefferson County)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jefferson County Bar Association</td>
<td>1-409-719-5999</td>
<td><a href="http://www.jcba.org">www.jcba.org</a></td>
</tr>
<tr>
<td>Legal Services (Nueces County)</td>
<td></td>
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</tr>
<tr>
<td>Corpus Christi Bar Association</td>
<td>1-361-883-4022</td>
<td></td>
</tr>
<tr>
<td>Legal Services (Tarrant County)</td>
<td></td>
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</tr>
</tbody>
</table>
| **Tarrant County Bar Association** | 817-338-4092  
| | www.tarrantbar.org  
| | LegalLine  
| | Call weekdays 6 p.m. to 8 p.m.  
| | 1-817-335-1239  
| **Arlington Bar Association** | 817-277-3113  
| | http://arlingtonbarassociation.org/  
| **Texas Legal Services Center (Elderly Issues)** | 1-800-622-2520  
| | http://www.tlsc.org/ |

<table>
<thead>
<tr>
<th>Legal Services (Travis County)</th>
</tr>
</thead>
</table>
| **Austin Bar Association** | 512-472-0279  
| | www.austinbar.org  
| **Lawyer Referral Service of Central Texas** | 512-472-8303  
| | http://www.austinlrs.com/index.html |

<table>
<thead>
<tr>
<th>Texas Attorney General</th>
</tr>
</thead>
</table>
| **Main Agency Switchboard** | 512-463-2100  
| | www.oag.state.tx.us  
| **Consumer Complaints (e.g., price gouging)** | 1-800-621-0508  
| **Public Information & Assistance** | 1-800-252-8011 or 512-475-4413  
| **Consumer protection hotline** | 1-800-621-0508  
| **Child Support (to apply for services)** | 1-800-252-8014 or 512-460-6000 |

<table>
<thead>
<tr>
<th>Other State Agencies &amp; Resources</th>
</tr>
</thead>
</table>
| **Texas Department of Assistive & Rehabilitative Services** | 1-800-628-5115  
| | http://www.dars.state.tx.us/ |
### 14.3 Services by Affinity Group

<table>
<thead>
<tr>
<th>Authentication</th>
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<tbody>
<tr>
<td><strong>Alcoholics Anonymous</strong></td>
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</tr>
<tr>
<td>Houston Office</td>
<td>713-686-6300</td>
</tr>
<tr>
<td>Austin Office</td>
<td>512-444-0071</td>
</tr>
<tr>
<td>Dallas Office &amp; Help Line</td>
<td>214-887-6699</td>
</tr>
<tr>
<td>San Antonio Office &amp; Help Line</td>
<td>210-828-6235</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Immigration Services</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Catholic Charities of the Archdioceses of Galveston-Houston</td>
<td>713-526-4611</td>
</tr>
<tr>
<td>Organization</td>
<td>Phone Number</td>
</tr>
<tr>
<td>---------------------------------------------------</td>
<td>--------------------</td>
</tr>
<tr>
<td>Central American Refugee Center</td>
<td>713-665-1284</td>
</tr>
<tr>
<td>Casa Juan Diego</td>
<td>713-869-7376</td>
</tr>
<tr>
<td>Immigration Counseling Center</td>
<td>713-953-0047</td>
</tr>
<tr>
<td><strong>Family, Women, and Youth Services</strong></td>
<td></td>
</tr>
<tr>
<td>Al-Anon (families coping with alcoholism)</td>
<td>713-683-7227</td>
</tr>
<tr>
<td>Association for the Advancement of Mexican-Americans, Inc.</td>
<td>713-967-6700</td>
</tr>
<tr>
<td>Big Brothers Big Sisters of Greater Houston</td>
<td>713-271-5683</td>
</tr>
<tr>
<td>Casa de Esperanza/Bilingual</td>
<td>713-529-0639</td>
</tr>
<tr>
<td>Community Family Center/Bilingual</td>
<td>713-923-2316</td>
</tr>
<tr>
<td>Child Advocates, Inc.</td>
<td>713-529-1396</td>
</tr>
<tr>
<td>Children’s Assessment Center</td>
<td>713-986-3300</td>
</tr>
<tr>
<td>Children's Protective Services</td>
<td>713-394-4000</td>
</tr>
<tr>
<td>Covenant House</td>
<td>713-523-2231</td>
</tr>
<tr>
<td>Organization</td>
<td>Phone</td>
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<td>---------------------------------------------</td>
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</tr>
<tr>
<td>DePelchin Children's Center</td>
<td>713-730-2335</td>
</tr>
<tr>
<td>Escape Family Resource Center</td>
<td>713-942-9500</td>
</tr>
<tr>
<td>Family Life Ministry</td>
<td>713-741-8730</td>
</tr>
<tr>
<td>Family Services of Greater Houston</td>
<td>713-861-4849</td>
</tr>
<tr>
<td>Family Time Crisis Hotline</td>
<td>281-446-2615</td>
</tr>
<tr>
<td>Healthy Family Initiatives</td>
<td>713-270-8849</td>
</tr>
<tr>
<td>Jewish Community Center</td>
<td>713-729-3200</td>
</tr>
<tr>
<td>Jewish Family Service</td>
<td>713-667-9336</td>
</tr>
<tr>
<td>Justice for Children</td>
<td>713-225-4357</td>
</tr>
<tr>
<td>Learning Support Center at Texas Children's Hospital</td>
<td>713-770-3700</td>
</tr>
<tr>
<td>Northwest Assistance Ministries</td>
<td>281-885-4555</td>
</tr>
<tr>
<td>Aids to Victims of Domestic Abuse</td>
<td>713-521-0629</td>
</tr>
<tr>
<td>S.H.A.P.E. Community Center</td>
<td>713-521-0641</td>
</tr>
<tr>
<td>University of Texas Psychiatric Services</td>
<td>713-741-5000</td>
</tr>
<tr>
<td>University of Houston-Parent Education Project</td>
<td>713-743-5491</td>
</tr>
<tr>
<td>-----------------------------------------------</td>
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<tr>
<td></td>
<td><a href="http://www.coe.uh.edu/pep/">http://www.coe.uh.edu/pep/</a></td>
</tr>
<tr>
<td>University of Houston-Psychology Research &amp; Services Center</td>
<td>713-743-8600</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.uh.edu/">http://www.uh.edu/</a></td>
</tr>
<tr>
<td>Victim's Assistance Center</td>
<td>713-274-7391</td>
</tr>
<tr>
<td></td>
<td><a href="http://safesupervised.com/">http://safesupervised.com/</a></td>
</tr>
<tr>
<td>Texas Crime Victims Clearinghouse</td>
<td>1-800-848-4284</td>
</tr>
<tr>
<td></td>
<td><a href="https://www.tdcj.state.tx.us/divisions/vs/index.html">https://www.tdcj.state.tx.us/divisions/vs/index.html</a></td>
</tr>
<tr>
<td>Women's Hospital of Texas Education Department</td>
<td>713-790-1234</td>
</tr>
<tr>
<td></td>
<td><a href="http://womanshospital.com/">http://womanshospital.com/</a></td>
</tr>
<tr>
<td>Bay Area Turning Point</td>
<td>281-286-2525</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.bayareaturningpoint.org/">http://www.bayareaturningpoint.org/</a></td>
</tr>
<tr>
<td>The Bridge Crisis Center</td>
<td>713-473-2801/ Phone down due to Harvey temporary number: 713-494-8465</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.thebridgeovertroubledwaters.org/">http://www.thebridgeovertroubledwaters.org/</a></td>
</tr>
<tr>
<td>Brazoria County Women’s Center</td>
<td>979-849-9553</td>
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<tr>
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<td><a href="http://www.womenscenterbc.com/">http://www.womenscenterbc.com/</a></td>
</tr>
<tr>
<td>Fort Bend County Women’s Center</td>
<td>281-344-5750/ Crises hotline: 281-342-4357</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.fortbendwomenscenter.org/">http://www.fortbendwomenscenter.org/</a></td>
</tr>
<tr>
<td>Houston Area Women’s Center</td>
<td>713-528-6798/ Domestic Violence Hot Line: 713-528-2121/Sexual Assault Hotline: 713-528-7273</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.hawc.org/">http://www.hawc.org/</a></td>
</tr>
<tr>
<td>Montgomery County Women’s Center</td>
<td>936-441-7273</td>
</tr>
<tr>
<td></td>
<td><a href="http://mcwctx.org/">http://mcwctx.org/</a></td>
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</tbody>
</table>

**Senior Services**

<table>
<thead>
<tr>
<th>Alzheimer’s Association-Houston and Southeast Texas Chapter</th>
<th>713-314-1313 / 24 hour helpline: 800-272-3900</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><a href="http://www.alz.org/texas/">http://www.alz.org/texas/</a></td>
</tr>
<tr>
<td>AARP</td>
<td>1-888-687-2277</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.aarp.org/">http://www.aarp.org/</a></td>
</tr>
<tr>
<td>Organization</td>
<td>Phone Numbers</td>
</tr>
<tr>
<td>--------------------------------------------------</td>
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</tr>
<tr>
<td>American Cancer Society</td>
<td>1-800-227-2345</td>
</tr>
<tr>
<td>American Heart Association</td>
<td>1-800-242-8721</td>
</tr>
<tr>
<td>Houston/Harris County Area Agency on Aging</td>
<td>832-393-4301</td>
</tr>
<tr>
<td>Interfaith Ministries</td>
<td>713-533-4900</td>
</tr>
<tr>
<td>New Lifestyles</td>
<td>1-800-869-9549</td>
</tr>
<tr>
<td>Salvation Army Family Shelter</td>
<td></td>
</tr>
<tr>
<td>Salvation Army Social Services</td>
<td></td>
</tr>
<tr>
<td>West University Senior Services</td>
<td>713-662-5895</td>
</tr>
</tbody>
</table>
## 14.4 Houston Area Helpful Numbers

<table>
<thead>
<tr>
<th>Houston Area Helpful Numbers</th>
<th>Phone Number</th>
<th>Website</th>
</tr>
</thead>
<tbody>
<tr>
<td>Houston City Hall</td>
<td>713-837-0311</td>
<td><a href="http://www.houstontx.gov/events/cityhall.html">http://www.houstontx.gov/events/cityhall.html</a></td>
</tr>
<tr>
<td>City of Houston Department of Health &amp; Human Services</td>
<td>832-393-5169</td>
<td><a href="http://www.houstontx.gov/health/">http://www.houstontx.gov/health/</a></td>
</tr>
<tr>
<td>Automobile Registration (Harris County)</td>
<td>713-274-8000</td>
<td><a href="http://www.hctax.net/">http://www.hctax.net/</a></td>
</tr>
<tr>
<td>County Clerk (Harris County)</td>
<td>713-755-6411</td>
<td><a href="http://www.cclerk.hctx.net/">http://www.cclerk.hctx.net/</a></td>
</tr>
<tr>
<td>Child Support Customer Service Center</td>
<td>1-800-252-8014</td>
<td><a href="https://www.texasattorneygeneral.gov/cs/contact-the-child-support-division">https://www.texasattorneygeneral.gov/cs/contact-the-child-support-division</a></td>
</tr>
<tr>
<td>Marriage License</td>
<td>713-755-6411</td>
<td><a href="http://www.cclerk.hctx.net/Personal_Rec/Marriage_License_Information.aspx">http://www.cclerk.hctx.net/Personal_Rec/Marriage_License_Information.aspx</a></td>
</tr>
<tr>
<td>Probate Clerk's Office</td>
<td></td>
<td>Visit <a href="http://www.co.harris.tx.us/probate/">http://www.co.harris.tx.us/probate/</a> to determine the appropriate probate court</td>
</tr>
<tr>
<td>Agency</td>
<td>Phone Numbers</td>
<td>Website</td>
</tr>
<tr>
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</tr>
<tr>
<td>Harris County Veterans Services Office</td>
<td>281-876-6600</td>
<td><a href="http://www.vso.hctx.net/">http://www.vso.hctx.net/</a></td>
</tr>
<tr>
<td>Texas Department of State Health Services (including mental health)</td>
<td>1-888-963-7111</td>
<td><a href="http://www.dshs.state.tx.us/mental-health/">http://www.dshs.state.tx.us/mental-health/</a></td>
</tr>
<tr>
<td>Texas Department of Insurance</td>
<td>1-800-578-4677/512-676-6000</td>
<td><a href="http://www.tdi.texas.gov/">http://www.tdi.texas.gov/</a></td>
</tr>
<tr>
<td>Texas Workforce Commission (Houston Office)</td>
<td>713-576-2580</td>
<td><a href="http://www.twc.state.tx.us/">http://www.twc.state.tx.us/</a></td>
</tr>
<tr>
<td>Texas Department of Assistive &amp; Rehabilitative Services</td>
<td>1-800-628-5115</td>
<td><a href="http://www.dars.state.tx.us/">http://www.dars.state.tx.us/</a></td>
</tr>
<tr>
<td>Texas Department of Insurance – Division of Worker’s Compensation</td>
<td>1-800-252-7031</td>
<td><a href="http://www.tdi.texas.gov/wc/indexwc.html">http://www.tdi.texas.gov/wc/indexwc.html</a></td>
</tr>
<tr>
<td>Texas Veteran’s Commission</td>
<td>1-800-252-VETS (8387)</td>
<td><a href="http://www.tvc.state.tx.us/">http://www.tvc.state.tx.us/</a></td>
</tr>
<tr>
<td>Workforce Solutions</td>
<td>1-888-469-JOBS (5627)</td>
<td><a href="http://legacy.wrksolutions.com/">http://legacy.wrksolutions.com/</a></td>
</tr>
<tr>
<td>Small Claims Courts</td>
<td>Visit <a href="http://www.jp.hctx.net/default.htm">http://www.jp.hctx.net/default.htm</a> to determine the appropriate justice of the peace court.</td>
<td></td>
</tr>
<tr>
<td>Service</td>
<td>Phone Number</td>
<td>Website Link</td>
</tr>
<tr>
<td>--------------------------------------------------------------</td>
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<td>---------------------------------------------------</td>
</tr>
<tr>
<td>Non-Emergency number (Harris County Sheriff)</td>
<td>713-221-6000</td>
<td><a href="http://www.harriscountyso.org/#">http://www.harriscountyso.org/#</a></td>
</tr>
<tr>
<td>Texas Department of Criminal Justice</td>
<td>512-463-9988 (Austin)</td>
<td>Visit <a href="http://www.tdcj.state.tx.us/">http://www.tdcj.state.tx.us/</a> to determine the appropriate division.</td>
</tr>
<tr>
<td>Harris County Community Supervision &amp; Corrections Department</td>
<td>713-755-2700</td>
<td><a href="http://www.harriscountytx.gov/cscd/">http://www.harriscountytx.gov/cscd/</a></td>
</tr>
<tr>
<td>Bankruptcy Court, Southern District of Texas</td>
<td>713-250-5500</td>
<td><a href="http://www.tx.uscourts.gov/offices/houston-division">http://www.tx.uscourts.gov/offices/houston-division</a></td>
</tr>
<tr>
<td>Better Business Bureau (Houston)</td>
<td>713-868-9500</td>
<td><a href="http://www.bbb.org/houston/">http://www.bbb.org/houston/</a></td>
</tr>
<tr>
<td>Texas Department of Insurance Consumer Help Line</td>
<td>1-800-252-3439</td>
<td><a href="http://www.tdi.texas.gov/pubs/consumer/cb022.html">http://www.tdi.texas.gov/pubs/consumer/cb022.html</a></td>
</tr>
</tbody>
</table>

**Emergency and Crisis Intervention Services**

<table>
<thead>
<tr>
<th>Service</th>
<th>Phone Number</th>
<th>Website Link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crime Stoppers</td>
<td>713-222-TIPS (8477)</td>
<td><a href="http://www.criminal-stoppers.org/">http://www.criminal-stoppers.org/</a></td>
</tr>
<tr>
<td>Additional Assistance</td>
<td>Phone Number</td>
<td>Website Link</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------------</td>
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<td>--------------------------------------------------</td>
</tr>
<tr>
<td>Certified Public Accountant Referral (Houston CPA Society)</td>
<td>713-622-7733</td>
<td><a href="https://www.houstoncpa.org/">https://www.houstoncpa.org/</a></td>
</tr>
<tr>
<td>Chamber of Commerce, Greater Houston Partnership</td>
<td>713-844-3600</td>
<td><a href="https://www.houston.org/">https://www.houston.org/</a></td>
</tr>
<tr>
<td>Greater Houston Fair Housing Center Bilingual Intake for housing discrimination matter</td>
<td>713-641-3247</td>
<td><a href="http://greaterhoustonfairhousingcenter.cfsites.org/index.php">http://greaterhoustonfairhousingcenter.cfsites.org/index.php</a></td>
</tr>
<tr>
<td>Harris County Medical Society</td>
<td>713-524-4267</td>
<td><a href="http://www.hcms.org/home/">http://www.hcms.org/home/</a></td>
</tr>
<tr>
<td>Houston Apartment Association</td>
<td>713-595-0300</td>
<td><a href="https://www.haaonline.org/">https://www.haaonline.org/</a></td>
</tr>
<tr>
<td>Houston Association of Realtors</td>
<td>713-629-1900</td>
<td><a href="http://www.har.com/">http://www.har.com/</a></td>
</tr>
<tr>
<td>Univision, KXLN-TV Spanish News Station</td>
<td>713-662-4545</td>
<td><a href="http://www.univision.com/">http://www.univision.com/</a></td>
</tr>
<tr>
<td>Library Public Houston (General)</td>
<td>832-393-1313</td>
<td><a href="http://houstonlibrary.org/">http://houstonlibrary.org/</a></td>
</tr>
<tr>
<td>Harris County Law Library</td>
<td>713-755-5183</td>
<td><a href="http://www.harriscountylawlibrary.org/">http://www.harriscountylawlibrary.org/</a></td>
</tr>
<tr>
<td>Harris County Tax Assessor &amp; Collector</td>
<td>713-274-8000</td>
<td><a href="http://www.hctax.net/">http://www.hctax.net/</a></td>
</tr>
</tbody>
</table>
## Beaumont Area Helpful Numbers

<table>
<thead>
<tr>
<th>Organization</th>
<th>Phone Number</th>
<th>Website</th>
</tr>
</thead>
<tbody>
<tr>
<td>Communities In Schools, Southeast Texas, Inc.</td>
<td>409-951-1810</td>
<td><a href="http://cisset.org/">http://cisset.org/</a></td>
</tr>
<tr>
<td>Some Other Place</td>
<td>409-832-7976</td>
<td><a href="http://www.someotherplacebeaumont.com/">http://www.someotherplacebeaumont.com/</a></td>
</tr>
<tr>
<td>Blood and Plasma Research, Inc.</td>
<td>409-835-7268</td>
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<td></td>
</tr>
<tr>
<td>LifeShare Blood Centers</td>
<td>409-838-5289</td>
<td></td>
</tr>
</tbody>
</table>