RESOURCE MATERIALS FOR RESPONDING TO LEGAL QUESTIONS FROM THOSE AFFECTED BY DISASTERS

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Updated 2011 by
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Updated 2013 and 2016 by
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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).

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HELPFUL DISASTER RELIEF WEBSITES
(2016)

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.

Federal Emergency Management Agency

Houston Bar Association

Houston Volunteer Lawyers Program

Insurance Information Institute

LawHelp – Texas

Legal Aid of NorthWest Texas

Lone Star Legal Aid

National Disaster Legal Aid

Probono.net

Social Security Administration

State Bar of Texas

Texas Governor’s Office

Texas Legal Services Center

Texas RioGrande Legal Aid

U.S. Health & Human Services

U.S. Internal Revenue Service

U.S. Postal Service

www.fema.gov

www.hba.org

www.makejusticenhappen.org

http://www.iii.org

www.TexasLawHelp.org

www.lanwt.org

www.lonestarlegal.org/

www.disasterlegalaid.org

www.probono.net

www.ssa.gov/emergency

www.texasbar.com

www.governor.state.tx.us/

www.tlsc.org

www.trla.org

www.hhs.gov

www.irs.gov/newsroom/article/0,,id=108362,00.html

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 natural disasters and other disasters. Please understand that this document is a starting point and is not intended to be the sole resource for you to rely upon 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 upon 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 48 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 1. Listing of Legal Services Providers

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<tr>
<td>Lone Star Legal Aid</td>
<td>Houston Volunteer Lawyers</td>
</tr>
<tr>
<td>(800) 733-8394</td>
<td>712 Main, Suite 2700</td>
</tr>
<tr>
<td><a href="http://www.lonestarlegal.org/">www.lonestarlegal.org/</a></td>
<td>Houston Texas 77002</td>
</tr>
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<td></td>
<td>(713) 228-0735</td>
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<tr>
<td></td>
<td>East Texas (from Galveston to Texarkana, including Houston and the greater Houston area)</td>
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<tr>
<td></td>
<td>Legal Aid of NorthWest Texas</td>
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<tr>
<td></td>
<td>(888) 529-5277</td>
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<td></td>
<td><a href="http://www.lanwt.org/">www.lanwt.org/</a></td>
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<td></td>
<td>Texas RioGrande Legal Aid</td>
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<td></td>
<td>(888) 988-9996</td>
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<td><a href="http://www.trla.org/">www.trla.org/</a></td>
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<td></td>
<td>Legal Aid and Bar Associations</td>
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<tr>
<td></td>
<td>Texas Access to Justice Commission</td>
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<tr>
<td></td>
<td>1414 Colorado Street</td>
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<td></td>
<td>Austin, TX 78701-1627</td>
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<td></td>
<td>(512) 427-1855, ext. 1855</td>
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<td>(800) 204-2222, ext. 1855</td>
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<td></td>
<td><a href="http://www.texasbar.com">www.texasbar.com</a></td>
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<td></td>
<td>email: <a href="mailto:atjmail@texasbar.com">mailto:atjmail@texasbar.com</a></td>
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<tr>
<td></td>
<td>Disability Rights Texas</td>
</tr>
<tr>
<td></td>
<td>7800 Shoal Creek Blvd. #171-E</td>
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<tr>
<td></td>
<td>Austin, TX 78757-1024</td>
</tr>
<tr>
<td></td>
<td>512-454-4816 (V/TDD)</td>
</tr>
<tr>
<td></td>
<td>512-323-0902 (Fax)</td>
</tr>
<tr>
<td></td>
<td>1-800-252-9108 (V/TDD)</td>
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<tr>
<td></td>
<td>Volunteer Legal Services of Central Texas</td>
</tr>
<tr>
<td></td>
<td>1033 La Posada Drive, Suite 374</td>
</tr>
<tr>
<td></td>
<td>Austin, Texas 78752</td>
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<tr>
<td></td>
<td>(512) 476-5550</td>
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<td><a href="http://www.vlsocct.org">www.vlsocct.org</a></td>
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<tr>
<td></td>
<td>Fort Bend Lawyers Care</td>
</tr>
<tr>
<td></td>
<td>1405 A Main Street</td>
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<tr>
<td></td>
<td>Richmond, TX 77469</td>
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<tr>
<td></td>
<td>(281) 239-0015</td>
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<tr>
<td></td>
<td><a href="http://www.FortBendLawyersCARE.org">www.FortBendLawyersCARE.org</a></td>
</tr>
</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, 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 non-cash 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 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 60 days of the declaration of the disaster. The FEMA publication entitled “Help after a Disaster – Applicant’s Guide to the Individuals and Households Program,” 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 http://www.fema.gov/help-after-disaster.

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 CFR 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 18 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 pre-disaster 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 60 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 US Citizen. Certain qualified legal immigrants may also receive assistance. If you or your spouse are not a US Citizen or qualified legal immigrant, but your child is, then you can apply on his or her behalf.
• Other Needs Assistance includes:
   a. Disaster-related medical and dental costs
   b. Disaster-related funeral and burial cost
   c. 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)
   h. Other necessary expenses or serious needs as determined by FEMA
   i. Other expenses that are authorized by law http://www.dads.state.tx.us/handbooks/ihp-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 CFR 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 26 weeks after the Presidential declaration date. These benefits are 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% 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 the links below:
    - [http://www.twc.state.tx.us/jobseekers/disaster-unemployment-assistance](http://www.twc.state.tx.us/jobseekers/disaster-unemployment-assistance)
    - [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.
  - Also, SAMHSA runs a disaster helpline 800.985.5990 [http://www.samhsa.gov/find-help/disaster-distress-helpline](http://www.samhsa.gov/find-help/disaster-distress-helpline)
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. 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 pre-disaster 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 and a copy of “Help After a Disaster: Applicant’s Guide to the Individuals and Households Program” that will answer many of your questions. The Applicant’s Guide is also available online at [http://www.fema.gov/help-after-disaster](http://www.fema.gov/help-after-disaster). Many language versions are available.

- If your home or its contents are damaged and you do not have insurance, an inspector should contact you within 10 to 14 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 10 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 60 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 to you FEMA’s Individual and Household 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.

NOTE TO VOLUNTEERS: PLEASE ALSO REFER TO ANSWERS TO QUESTIONS 22 & 27 BELOW BEFORE RESPONDING TO THIS QUESTION.

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 any decision within 60 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 9-10 of the Applicant's Guide http://www.fema.gov/help-after-disaster.

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.
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 10 to 14 days of applying to set up an appointment to assess you disaster damages. Typically, within about 10 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, 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

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: DisasterAssistance.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, non-citizen national, or a qualified alien in order to be eligible for FEMA cash assistance programs: Individuals and Households Program Assistance and Disaster Unemployment Assistance. However, undocumented individuals can apply on behalf of their minor child who is a citizen and has a Social Security number. 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.

The undocumented individual does not have to be a U.S. citizen, non-citizen national 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** Are aliens eligible for disaster assistance? Who is eligible for disaster assistance?

To be eligible for cash assistance from FEMA you must be a qualified alien. A qualified alien generally includes individuals who are lawful permanent residents (possessing an alien registration receipt card) or those with legal status due to asylum, refugee, parole (admission into the U.S. for humanitarian purposes), withholding of deportation, or domestic violence. Applicants should consult an immigration expert concerning whether or not their immigration status falls within the qualified alien category.

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.

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 on page 15 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 on page 15 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.

PLEASE REFER TO WWW.FEMA.GOV FOR THE MOST UP TO DATE INFORMATION ON THIS OR A FUTURE FEDERAL DISASTER IN YOUR AREA.

TWC has deployed Mobile Workforce Units in the past.
Applicants must mail in or fax all required documentation within 21 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.

Version: June 27, 2013
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 file your inspection report, but do not 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 CFR 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](http://asd.fema.gov/inter/hportal/home.htm)

NOTE TO VOLUNTEERS: PLEASE ALSO REFER TO ANSWERS TO QUESTIONS 2 & 27 ABOVE AND BELOW BEFORE RESPONDING TO THEIS QUESTION.

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 30 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 60 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 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](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 and / 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/](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 and/or 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: mailto: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 18 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
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: http://www.fema.gov/media-library-data/1392312125767-5abeca185f7a96b60e4e243ae5b90bb2/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: http://www.disasterassistance.gov/. Click “Check Status”, and log into your account.

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. Be sure to read “Help After a Disaster: Applicant’s Guide to the Individuals and Households Program,” the booklet included with your letter for additional information. The Applicant’s Guide is also available online at http://www.fema.gov/help-after-disaster.

Q. 50  **Can I get more information about disaster assistance on the Internet?**

Yes. The best place to start is http://www.fema.gov or http://www.fema.gov/help-after-disaster. There you can download a booklet called “Help After a Disaster: Applicant’s Guide to the Individuals and Households Program.” If you have already applied to FEMA, you should have received the same booklet in the mail. This is a very useful publication that explains how FEMA’s disaster assistance program works; describes additional kinds of help you may qualify for from other Federal, State and voluntary agencies; and gives you many important tips on how to best make all these programs work for you.

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 and pp 20-22 of the “Help After a Disaster,” which was mailed to you after you applied. This book explains the reasons for denial. 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 60 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

Damages from the heavy rains and ferociously high winds of disasters manifest themselves in a number of ways. Not uncommonly, problems including objects such as unsecured 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 or heavy rains cause damage to persons or property from things such as flying tree limbs, or other like objects, and uprooted trees.

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 hit 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; and I’m worried about the next storm; that tree looks awful. What can I do?

- Can I make my neighbor trim the branches of his tree that hang onto my property?

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

- 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 losses or harm suffered as a result of an act of God, which includes disasters. As one court put it, “[D]amages resulting from an act of God are not ordinarily chargeable to anyone.”\(^1\) There are however, at least two situations in which that general rule may not come into play.

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First, damages suffered by a homeowner or tenant due to high winds or rain may be covered by an insurance policy. The first question, then, is whether the homeowner or tenant has a 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 all together, 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.2

Second, the “act of God” doctrine applies only where the disaster or similar act of God is the sole or exclusive cause of the damages.3 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 1983’s Disaster Alicia,

> Conditions 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.4

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 Disaster Alicia had been foreseeable. In that regard, a failure to secure furniture or other 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.

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3 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.”).
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.

Generally, FEMA requires private property owners to use their own resources to clean up debris from their property. There must be an immediate threat to life, public health, and safety to justify a public entity’s removal of debris. Additionally, the removal must be expressly authorized by State or local authorities. However, disaster-related debris from private property brought to the curb-side for public pickup is usually covered. 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: [http://www.ct.gov/deep/lib/deep/waste_management_and_disposal/debris_management/debris_management_brochure.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 post-disaster claims handling. Insurance-related complaints can be made to TDI via their website email 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.state.tx.us/consumer/storms/].

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 latest information, on this an other topics.

Solid Waste Management Department - Solid Waste Management is responsible for storm debris collection in the City of Houston. Visit [http://www.houstonsolidwaste.org] or call 3-1-1 for debris drop-off locations and pick-up information.
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, then 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, then you can hold him liable for damages. In this case, your neighbor was negligent in maintaining the tree. In that case, the tree would have posed an unreasonable risk of harm and your neighbor would have 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 hit 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, then your neighbor should have had the tree removed or taken other reasonable measures to have the tree removed prior to the storm. The dispute is likely one over home insurance—if your neighbor is not responsible, then your insurance should cover; if it was his responsibility, then 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 neighbor the dangerous condition of the tree and request that he address the problem. If he fails 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 the Neighborhood Protection Corps. If the city determines that the tree is dangerous, they will issue a notice requiring removal within 10 days. If the tree
is not removed, the neighbor can be fined up to $500 and the tree removed at his or her expense.
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 branches of his tree that hang
onto my property?**

No. You can trim them, but you cannot make him 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 only trim the branches up to the 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. If the City determines
that the tree is dangerous, they will issue a notice requiring removal within 10 days. If the tree
is not removed, the neighbor can be fined up to $500 and the tree removed at his or her expense.
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 he wants to cut down all of
his trees. They provide the only shade in my yard. Can I stop him?**

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 they are your shade or if the tree’s 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 between the hours of **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)(2011).** But there is an
exception for “emergency work,” which is defined as

a. “work performed for the purpose of preventing or alleviating the physical
trauma or property damage threatened or caused by an emergency,
b. restoring property to a safe condition following a fire, accident, or natural
disaster,
c. protecting persons or property from exposure to danger, or
d. restoring public utilities.” **Houston, Tex., Code of Ordinances, Ch. 30, §30.16(1-3).**
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 other similar device” used between the hours of **7 a.m. and 8 p.m.**, provided the device does not produce a sound exceeding 85 dB(A) when measured from your property line. See Section 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 he 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, the Neighborhood Protection Corps, to see if they 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 between your and your neighbor’s property. Nor can you compel your neighbor to fix the fence. 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 just in the same way you can move trees and limbs.

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/replaceing 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. The information provided herein reflects current Texas law. 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 unusable 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 (the Code). Issues not covered by the Code are covered by the common law. The 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 Code, Repair or Closing of Leasehold, contains many of the provisions relevant to dealing with a disaster situation.

The Code is very lengthy and complex. Callers should be strongly discouraged from taking actions based on what they think their rights are under the Code, especially as it relates to withholding rent and/or terminating the lease. If the provisions of the 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
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, the starting point in answering any landlord-tenant question is the lease between the parties.

Commercial leases are governed primarily by the common law (although Section 93 of the 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 and 2013 Texas Legislative Sessions has made some changes to the landlord-tenant sections of the Property Code.

**Appeals from Eviction for Nonpayment of Rent**

*Texas Property Code § 24.0053 and § 24.0054* The justice court sets a bond for tenant appealing a suit for eviction for nonpayment of rent and the tenant must pay the filing fees and bond, within five days of the court’s ruling if he wants to appeal. If he can’t afford the bond, the tenant can file a pauper’s affidavit, but he must still pay one month’s rent into the court within five days of the appeal. *Texas Rules of Civil Procedure § 749b(1)*) If a tenant doesn’t pay the rent into the court, 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. This could result in a loss of their possessions because many people will not be able to redeem the property from the storage facility.

**Tenant’s Remedies Regarding Revocation of Certificate of Occupancy**

*Texas Property 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**

*Texas Property Code § 92.0563* sets 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 and assess damages of up to $10,000.00, 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 *Texas Property 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 (Gov. Code, § 21.002), punishable by a fine and confinement in county jail. 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 Texas Property Code 92.008.

**Landlord’s Duty to Name all Occupants in an Eviction Suit.** Landlords may no longer file eviction suits in the name of Main Tenant et al. They must name each person who is living in a unit, who is obligated under the lease, or that person is not evicted and a Writ of Execution cannot be brought against them. Section 510.3(c) of the Texas Rule of Civil Procedure.

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
- Identity theft (Equifax) 1-800-525-6285
- Identity theft (TransUnion): 1-800-680-7289
- Identity theft (Texas Department of Public Safety) 512-424-7256
- Identity theft (Texas Legal Services Center hotline) 1-888-343-4414
- Medicare/Medicaid (Replacement cards) 1-800-772-1213
- Social Security (Form SS-5/Replacement) 1-800-722-1213
- 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, 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. In addition, under Sec. 92.055 of the Code, the landlord may “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. Upon proper notice, the tenant must move out. 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. Also, the landlord, as stated above, may terminate the lease pursuant to Sec. 92.054(b).

In the event the landlord closes the rental premises, the tenant may be entitled to some of the remedies in Chapter 92. However, if the landlord closes the premises prior to receiving a repair notice from the tenant, it is unclear whether the Code provides for a refund of rent. In this situation the tenant is most likely entitled to the refund of pro rata portion of the rent under the common law, as well as return of any security deposit to which the tenant is entitled. (Secs. 92.055(c)(1), 92.0563(a)(3-5)).

If the landlord closes the rental unit after the tenant gives the landlord a notice to repair, and the tenant moves out on or before the end of the rental term, the landlord must pay the tenant's actual and reasonable moving expenses, refund a pro rata portion of the tenant's rent from the date the tenant moves out, and, if otherwise required by law, return the tenant's security deposit. In addition, (when the landlord closes the premises after a repair notice), the tenant may be entitled to a judgment against the landlord for a civil penalty of one month's rent plus $500, a judgment against the landlord for the amount of the tenant's actual damages, and court costs and attorney's fees (excluding any attorney's fees for a cause of action for damages relating to a personal injury). (Secs. 92.055(c)(2), 92.0563(a)(3-5)).
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, only by getting a judgment in a county or district court, or by agreement with the landlord. Sec. 92.054(c) of the 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.

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 attempting to withhold rent or otherwise effectuating the remedies without the advice of counsel and/or a very thorough understanding of Secs. 92.056, 92.0561, and 92.0563 of the Code. The discussion below only outlines some of the most prominent provisions.

Yes, but only under certain, very specific and limited circumstances. The 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 Sec. 92.056 of the 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 (although not required in all cases, the notice should be in writing and sent by certified mail, return receipt requested, or by registered mail); 2) the condition must materially affect the physical health or safety of an ordinary tenant (a minor leak in a back bedroom probably does not meet this requirement but a large tree crashed through the middle of the house probably does); 3) 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 or the tenant must have given the initial notice by sending that notice by certified mail, return receipt requested, or by registered mail; 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; 5) the landlord must not have made a diligent effort to repair or remedy the condition, e.g., if the landlord has 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; 3) obtain judicial remedies under the 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.
However, 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, so long as, the total repairs and deductions in any one month do not exceed one month's rent or $500, whichever is greater.

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 Code, there is a rebuttable presumption that seven days after receipt of notice is a reasonable time. However, Section 92.054(a) of the 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) 15 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) 30 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.

Finally, if the tenant withholds rents, 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. 62.5** My current unit is uninhabitable due to a disaster, but my landlord has another available. Can he make me sign another lease contract extending the length of my lease in order to move to the new unit?

No. According to the Texas Property Code, Section 1, Subchapter B, Chapter 92 § 92.062, 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. 63** Do I have to keep paying rent to my landlord while I am not living at my house/apartment?

Most likely yes. 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. 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. 64** 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 30 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. 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. 65** 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 her last available address is advisable.

**Q. 66  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. 67  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 last known address. The tenant should document all efforts and attempts to contact her landlord.

**Q. 68  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. 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. 69  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. 70  What should I do if I am served with an eviction lawsuit?**

If an eviction lawsuit is served on you, you should carefully read the papers and find your deadline for filing an answer or appearing in court. You can defend yourself in court or you can call a legal services program for information or possible representation.
**Q. 71 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. 72 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 law does not prevent suits 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. 73 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. 74 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. 75 All of my personal belongings were destroyed when the roof fell in on 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. 76 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. 77 If my personal belongings are lost or damaged as a result of the 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. 78 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 30-day grace period after purchasing

**Q. 79** 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. 80** 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; and 57 Am Jur. 2d, *Negligence*, 669.

**Q. 81** 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. 82** 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. 83** 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. 84** Must I continue paying rent for my commercial lease space (office, retail, mini-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 ministorage 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 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

Texas Business & Commerce Code § 58.002-58.003 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.

Continuation of Homestead Exemption While Replacement Structure is Constructed

Texas Tax Code § 11.135 allows homeowners to continue a homestead exemption for structures left uninhabitable or unusable by a casualty while the owner constructs a replacement, if the homeowners do not establish a different principal residence for which the owner receives an exemption, and intends to return and occupy the structure as the homeowners’ principal residence. To continue the exemption, the homeowners must begin active construction of the replacement qualified residential structure or other physical preparation of the construction site, on or before the one (1) year anniversary of the date the owners cease to occupy the former qualified residential structure as their principal residences. The exemption, under these conditions, can be maintained for up to two (2) years. It also preserves homestead protections for homeowners displaced by natural disasters, and provides relief for small businesses with less than $5 million in gross receipts that have suffered similar damage by allowing payment of property taxes in installments.

Increases in Tax Appraisal Value

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

Reappraisal of Property Damaged in Disaster Area

Texas 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.
Installment Payments of Taxes on Property in Disaster Area
Texas Tax Code § 31.032 If a residential homestead property, or other limited residential property, is damaged and it is in a disaster area, the owner may pay the taxes in quarterly installments.

Waiver of Certain Tax Penalties
Texas Tax Code § 23.129. The chief appraiser or collector may waive a late penalty if a disaster that made it effectively impossible for the taxpayer to comply tax filing requirements in certain circumstances.

5.2 Assistance Numbers and Helpful Regulatory Agency Information

HUD
1301 FanninSt., 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
http://www.hud.gov
mailto:answers@hud.gov

Disaster Relief Options for FHA Homeowners

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

Do I Qualify for "Housing Needs" Assistance?

5.3 FAQs

Q. 85 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 even 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.


**Q. 86 What if I can’t make the payments? Can they 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. 87 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 FHA-insured (insured by the Federal Housing Administration) or financed by the Rural Development Agency of the U.S. Department of Agriculture, you may be entitled to reduced or suspended payments.


Your lender must notify you of this right and give you an opportunity to seek help before the lender begins foreclosure proceedings. But, 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, which were delinquent prior to the bankruptcy. *See Bankruptcy Code § 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. 88 Who is responsible to replace my personal property that was located on someone else’s property (at 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 coverage’s 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. 89  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 homeowners’ 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. 90  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. 91  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. 92  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’dn.r.e.). Insurance, FEMA disaster assistance, or similar relief will be the sole source of recovery.
Q. 93 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. 94 My property has been damaged in a disaster (flood, disaster, explosion). Do I still have to pay the same amount in taxes that I paid last year?

Maybe not. According to Texas 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. The taxes you pay the year of the disaster will be calculated based on the date of the disaster and the value of the property both before and after it.

Q. 95 What if my property was affected by a non-natural disaster (ex: explosion)?

As of June 14, 2013, Texas Tax Code §§ 23.02(a) and (d) now allow people who have suffered property damage from any disasters, including non-natural ones, to have their property reappraised immediately following the disaster. This is a change from the old law which allowed people who suffered from natural disasters only, such as floods, to have their properties reappraised.

Q. 96 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 decrease in value of the property.

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-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-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. 97 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 money authorized by the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009…and the Consolidated and Further Continuing Appropriations Act, 2012…”

**Q. 98 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, a new amendment to Texas Tax Code § 23.23(g) took effect January 1, 2014. The amendment concerns the definition of a “new improvement” with respect to replacement structures constructed by disaster recovery programs. Replacement structures that differ from the originals may not necessarily be considered “new improvements” so long as certain requirements are met.

**Q. 99 What if the new structure is larger than the one it replaced?**

If a replacement structure must be built, the new structure may be bigger than the original was before the damage occurred. It will not be considered a “new improvement” so long as the larger size was necessary “to satisfy the requirements of the disaster recovery program.” Texas Tax Code § 23.23(g).

**Q. 100 What if the new structure is made out of different materials than the one it replaced?**

If a replacement structure must be built, the material used to build the outside may be a better material than the original material used (ex: rebuilt with brick instead of wood). The new structure will not be considered a “new improvement” so long as the better material was necessary “to satisfy the requirements of the disaster recovery program.” Texas Tax Code § 23.23(g).
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 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?
- 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 my salary if I cannot work because of the disaster?
- Is leave available if I or a family member becomes ill as a result of the disaster or its aftermath?
- How do I get my paycheck?

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, his or her house or car was destroyed, or the person is no longer able to get to work). If a disaster victim is not eligible for unemployment compensation, he or she may be entitled to federal disaster unemployment assistance.

To be eligible for 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 through no fault of his or her own and must not have voluntarily terminated employment. (3) The individual must be physically able and available to work. (4) The individual must be actively seeking work.
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. Each individual Qualified Beneficiary may make a separate election with respect to coverage. 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 id. at §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 active employee (not just the contribution for coverage that the employee paid while actively employed). Id. at § 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. 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.

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6 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.

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 displaced 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. Id. at § 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, 29 U.S.C. §§ 201 et seq., employees who are not exempt from the minimum wage and overtime provisions of the statute need only be paid for time actually worked. Employees who are exempt, however, 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. If the employer makes improper deductions from pay for time not worked, the employee’s exempt status may be lost. When the business is open and work is available, deductions from an exempt 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 “Employee Rights Under the Fair Labor Standards Act” available at http://www.dol.gov/whd/regs/compliance/posters/minwagep.pdf.

The Texas Payday Act requires employers to pay exempt employees at least once a month and non-exempt 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. Id. § 61.017. Employers whose employees may have been displaced by a natural disaster should take steps to ensure that checks are 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. 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. However, when the plant closing or mass layoff is the direct result of a natural disaster, such as a flood, earthquake, drought or storm, the employer is required only to give as much notice as is practicable.

Version: June 27, 2013
**Prohibited Employment Discrimination**

Texas is known as an employment-at-will state. Unless an employee is hired under a written contract for a specific term, the employer and the employee are free to terminate the employment relationship at any time, for any reason. Certain state and federal laws, however, 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 further information, see “Equal Employment Opportunity is the Law,” available at [http://www.eeoc.gov/employers/upload/poster_screen_reader_optimized.pdf](http://www.eeoc.gov/employers/upload/poster_screen_reader_optimized.pdf).

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 firefighters, 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](http://www.dol.gov/vets/programs/userra/userra_private.pdf).

**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. Part 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. However, the Department of Labor updated the regulations under the FMLA in 2008 which 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 as a result of major disasters declared by the President to individuals whose employment or self-employment was lost or interrupted due to the disaster. In the event of a disaster, TWC will publish announcements about the availability of DUA benefits. Unemployed disaster victims, who are not eligible for regular unemployment insurance (UI), should apply for unemployment benefits as soon as possible since there are deadlines as well as waiting periods for receipt of benefits. Error! Hyperlink reference not valid.

6.5 FAQs

Q. 101 What is unemployment insurance?

Unemployment insurance (UI) is a program designed to provide temporary financial assistance to workers who are unemployed through no fault of their own. UI benefits are paid as a matter of past employment and legal entitlement, and not on the basis of need.

Q. 102 How do I qualify for unemployment insurance benefits?

You must meet all of the following requirements to qualify for benefits: (1) You must have earned enough wages in your base period. The base period is the first four of the last five completed calendar quarters before you filed your claim. (2) You must be unemployed or partially unemployed through no fault of your own. (3) You must be physically able and available to work. (4) You must be actively seeking work. If you are temporarily laid off and have a definite return-to-work date, your work search requirements may be waived.

Q. 103 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 (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 (2000).
Q. 104 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;
- 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;
- Establish that the work or self-employment which they can no longer perform was their primary source of income;
- Cannot perform work or self-employment because of an injury as a direct result of the disaster; or
- 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.

Q. 105 How do I file for Unemployment Insurance (UI) or Disaster Unemployment Assistance (DUA)?

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.
- You may file for regular 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. To receive DUA benefits, all required documentation must be submitted 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. 106 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 IKE," 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. 107 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. 108 What DUA benefits are available?**

Disaster Unemployment Assistance 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. [http://www.twc.state.tx.us/jobseekers/disaster-unemployment-assistance](http://www.twc.state.tx.us/jobseekers/disaster-unemployment-assistance)

**Q. 109 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 Texas 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. 110 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. 111 If the office 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 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. 112 Can my employment be terminated without notice or cause?

Unless you have a written agreement (contract) for employment for a specified period of time, your employment is considered at-will and can be terminated by you or your employer at any time, for any reason, with or without notice.

Q. 113 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. 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. 114 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. 115 I had to evacuate and need to get my paycheck. 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 paycheck to you by registered mail. If you want to have someone receive or pick it up on your behalf, your employer will need your written authorization to send or give the paycheck to that person.

**Q. 116 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: 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.

Effective March 1, 2013, with very few exceptions, the Social Security Administration required 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 65, 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. 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 60 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 or SSI benefits, on his/her 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.

7.2 Tax Relief

The IRS will waive the usual fees and expedite requests for copies of previously filed tax returns for affected taxpayers. Taxpayers should put the assigned Disaster Designation, such as “Disaster No. 4223” 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 information, can be requested free of charge by calling 1-800-908-9946 or online at http://www.irs.gov/Individuals/Order-a-Transcript. Tax return transcripts for the last three tax years are also available free of charge upon request.

Taxpayers who are adversely affected by a disaster may qualify for tax relief from the Internal Revenue Service (IRS), including the postponement of tax filing and payment deadlines.
IRS computer systems automatically identify taxpayers located in the covered areas and apply automatic filing and payment relief. If you reside or have a business outside the covered area, you must call the IRS disaster hotline at 1-866-562-5227 to request tax relief.

People affected by a disaster who need help with tax matters can call 1-866-562-5227 for assistance. Additional information for affected taxpayers is provided at www.irs.gov.

7.3 FAQs – Banking/FDIC Issues

Q. 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 Monday through Friday and 9:00 am to 5:00 pm on Saturday and Sunday.

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. We encourage 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 at www.fema.gov or the Red Cross at www.redcross.org 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 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 should contact one of the emergency service organizations, such as FEMA at www.fema.gov or the Red Cross at www.redcross.org and request assistance.

Q. 122 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. Among what regulators are encouraging banks to do is to allow customers to skip loan payments with no adverse consequences for the borrower, extend loan repayment terms, restructure existing loans, and ease the terms for new loans to take into account new sets of circumstances. Before skipping payments or changing the terms of the loan, contact your bank.

Q. 123 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 SSA at 1-800-772-1213 or TDD at 1-800-325-0778 between 7:00 a.m. and 7:00 p.m. Monday through Friday. Information from the SSA is available at: http://www.ssa.gov/emergency/.

Q. 124 I need longer term financing until insurance checks come in and I can find another job, will banks help?

We understand that not all banks provide unsecured loans, but FDIC regulators have encouraged banks to consider working constructively with affected consumers to meet their lending needs, making loans on a short-term basis to help consumers.

Q. 125 What about the contents of my safe deposit box? Does FDIC insurance cover safe deposit boxes?

No, deposit insurance does not cover safe deposit contents. 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.126 I am worried about ID Theft since my home was severely damaged during the storm, and I am not sure where my belongings are at the moment.

If you feel ID theft is a real concern, you may place a "fraud alert" on your credit file, which can help prevent a thief from opening new accounts or making changes to your existing accounts. 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.

If you have reason to believe you may be a victim of ID theft, you may place a fraud alert by contacting the fraud departments of either of the major credit bureaus: 1) Equifax at 1-888-766-0008 or www.equifax.com; 2) TransUnion at 1-800-680-7289 or www.transunion.com or 3) Experian: 1-888-EXPERIAN or 1-888-397-3742; www.experian.com; 701 Experian Parkway, Allen, TX 75013.

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. VICARS has also produced an online toolkit (at http://www.IDVictim.org) that provides a step-by-step guide to restoring a person’s identity.

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. 127 What happens if my bank has lost my records?

Be assured that banks are required to have extensive 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. 128 If my local bank was destroyed, is my money still insured?

Yes, your money is still insured by the Federal Deposit Insurance Corporation. 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. 129** 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. 130** 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. 131** 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 upon 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. 132** 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 at www.fema.gov, or the Red Cross at www.redcross.org.

**Q. 133** Who can I contact for more information?

A. 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 8am to 10pm central time, 7 days a week.

Source: This question and answer section utilizes information provided by the FDIC at http://www.fdic.gov/gustav/faq.html.
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 a volunteer attorney 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 (1-800-252-8011). The Attorney General’s webpage is an excellent resource on consumer protection issues: [http://www.oag.state.tx.us/consumer/index.shtml](http://www.oag.state.tx.us/consumer/index.shtml).

8.2 Most Common Questions/Issues

- Price Gouging
- Deceptive Trade Practices / Door-to-Door Sales
- Home Equity Fraud
- Debt Collection / Credit Reporting
- Home Remodeling and/or Repair / Mold Remediation Fraud

8.3 Summary of the Law

A. Texas Deceptive Trade Practices Act (DTPA) – Texas Business and Commerce Code § 17.41 et seq.

The DTPA protects consumers against false, misleading, or deceptive trade practices, including unconscionability and breach of warranty. The Act provides that a consumer who is damaged by such unlawful practices 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 and mental anguish damages.

B. 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 local
district attorneys. Consumers should be encouraged to contact the Texas Attorney General at 1-800-252-8011 or www.oag.state.tx.us.

C. 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. It 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 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.

FTC Cooling-Off Rule. In addition, the Federal Trade Commission’s “Cooling-Off Rule” (Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations; 16 CFR Part 429) 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;
• The result of prior negotiations at the seller’s permanent business location where the goods are sold regularly;
• Needed to meet an emergency;
• Made as part of a request for the seller to do repairs or maintenance on personal property (purchases made beyond the maintenance or repair request are covered).

Also exempt from the Federal 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.

8.4 Fair Credit Billing Act

If a consumer paid for a purchase with a credit card, and a billing dispute arises about the purchase (for example, if the merchandise shipped was not what was ordered), the consumer can notify the credit card company that he wants to dispute the purchase. A sample dispute letter can be found at the following link, under “Exercise Your Rights”: [http://www.consumer.ftc.gov/articles/0219-disputing-credit-card-charges](http://www.consumer.ftc.gov/articles/0219-disputing-credit-card-charges). Under the Fair Credit Billing Act, 15 U.S.C. § 1666 et seq., (found here: [https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/fair-credit-billing-act](https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/fair-credit-billing-act)), the credit card company must acknowledge the dispute in writing within 30 days after receiving it, 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. (The consumer is still required to pay any part of the bill that is not in dispute.) To protect rights under the Fair Credit Billing Act, the consumer must send a written notice about the problem to the credit card company at the address given for “billing inquiries,” specified on the billing statement within sixty days after the first bill containing the disputed amount is mailed.

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 or charge card or the 60-day period has expired, the consumer may have other rights under the Act. For questions about the Fair Credit Billing Act, visit [http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre16.shtm](http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre16.shtm) for the FTC’s brochure, “Fair Credit Billing.”
8.5 **Home Equity Fraud**

Home equity is the market value of the 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).

8.6 **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 the situation as soon as possible. Some creditors will agree to postpone payments for a period 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 is found at Ch. 20 of the Texas Business & Commerce Code.

8.7 **Regulatory Agency Directives / Announcements**

- Price gouging
  [http://www.oag.state.tx.us/consumer/price_gouging.shtml](http://www.oag.state.tx.us/consumer/price_gouging.shtml)
- Consumer protection – home solicitation
  [http://www.oag.state.tx.us/consumer/door_to_door.shtml](http://www.oag.state.tx.us/consumer/door_to_door.shtml)
  [http://www.oag.state.tx.us/consumer/3day.shtml](http://www.oag.state.tx.us/consumer/3day.shtml)
- Fair credit billing
- Disaster scams
  [http://www.oag.state.tx.us/consumer/disaster.shtml](http://www.oag.state.tx.us/consumer/disaster.shtml)
- Mortgage foreclosure “rescue”
  [http://www.oag.state.tx.us/alerts/alerts_view_alpha.php?id=76&type=1](http://www.oag.state.tx.us/alerts/alerts_view_alpha.php?id=76&type=1)
• Debt collection
  http://www.oag.state.tx.us/consumer/debt_collection.shtml

• Key contacts

  Texas Attorney General
  Website: http://www.oag.state.tx.us/consumer/index.shtml
  1-800-252-8011
  Houston Regional Office: (713) 223-5886; (713) 223-5821 (fax); 808 Travis, Suite 1520; Houston, Texas 77002-1702

  Better Business Bureau
  BBB of Metropolitan Houston
  Website: http://Houston.bbb.org
  Email: info@bbbhou.org
  Phone: (713) 868-9500
  Fax: (713) 867-4947
  1333 W. Loop South, Ste. 1200
  Houston TX 77027

  BBB of Southeast Texas
  Website: http://www.bbbsetexas.org
  Email: bureau@bbbsetexas.org
  Phone: (409) 835-5348
  Fax: (409) 838-6858
  550 Fannin Street, Suite 100
  Beaumont TX 77701-2011

  BBB of the Coastal Bend
  Website: http://corpuschristi.bbb.org
  Email: info@corpuschristi.bbb.org
  Phone: (361) 852-4949
  Fax: (361) 885-0628
  719 S. Shoreline, Ste. 304
  Corpus Christi TX 78401

8.8 FAQs

  Q. 133 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.

The telephone number for the Texas Office of the Attorney General is 1-800-252-8011. Urge consumers to contact the Attorney General if someone calls with what the consumer feels is a scam -- an early alert can prevent others from fraud. Urge them to contact the local newspaper’s consumer desk to notify them of scams.

**Texas Business & Commerce Code § 58.001** 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.

Q. 134  **Should I enter into a lien contract to pay for home repairs?**

After a disaster, a homeowner frequently needs major repairs for serious damage. This 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 common result is that the homeowner not only fails to have necessary repair work done, but loses his/her home through foreclosure.
Q. 135 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. They then pressure the homeowner to sign multiple agreements without 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/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. Check out 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 can be found here: [http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?webListAction=search&searchstate=TX](http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?webListAction=search&searchstate=TX)

Q. 136 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 him/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. 137 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. The Making Home Affordable Program (HAMP) is FREE. All the information needed to begin the process is located on their website at https://www.makinghomeaffordable.gov/pages/default.aspx. If anybody attempts to charge you money for a modification, the odds are that you are dealing with somebody who is trying to scam you.

Q. 138 How do I decide which bills to pay first?

Before deciding which bills to pay and which to ignore, clients 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 you are on SSD, your children should be eligible for “dependents’ benefits” which may entirely pay your support obligations. Check with your 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 extra time is needed, contact the lender in advance.

Generally speaking, you pay your 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. 139 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 certified mail. Consumer Credit Counseling Services may negotiate with collectors on behalf of debtors for little or no fee. See the business listings of the White Pages of the phone book.

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. 140 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 1-800-252-9690.

Q. 141 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 law there are certain things that cannot be taken, 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; and
- Necessary medical equipment.

If working, any tools needed for the job, and an automobile if it is necessary for the job (merely going back and forth to work does not qualify). 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.state.tx.us)
1-800-252-3439

National Association of Insurance Commissioners (www.naic.org)
1-816-783-8300

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 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.

Answers to Questions about the National Flood Insurance Program
The Complete Current Manual
http://www.fema.gov/media-library/assets/documents/115549
More detailed NFIP information at United Policyholders-a non profit
http://unitedpolicyholders.org/blog/houston-flooding-insurance-claim-help

9.3  FAQs – Auto

Q. 142  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. 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. 143 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 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. 144 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 will give you a check for the market value of the vehicle. 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. 145** 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. 146** The insurance company agreed to repair my vehicle. Can the company require the use of used parts?

In some cases, used parts and after market 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. 147** 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. 148** Is my vehicle covered for flood damage?

Only 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 may wish to check with your agent or insurance company.

**Q. 149** 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.(http://www.helpinsure.com/home/condisasterfaq.html).
Q. 150 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 (general information line).

Q. 151 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?

Be careful about endorsing 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. Be sure to review any document before signing it – including a check.

Q. 152 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. 153 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. 154 If an insured vehicle is financed, how are claim checks issued? If issued to both the insured and lien holder, how does the insured collect?

The lien holder endorsement requires the insurer to pay to the insured and the lien holder as their interest may appear. The insured and the lien holder 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 lien holder, and the checks would require endorsements from both parties. The insured and the lien holder will agree on the release of funds.

Q. 155 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?

Your first step would be to contact the insurer and your lien holder. You can also contact the Texas Department of Banking at 1-877-276-5554 or visit their web site at http://www.dob.texas.gov/.
Q. 156 What determines if a flooded vehicle should be totaled?

It is determined the same as any other loss. Normally, 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.

Q. 157 Does the insured have to agree to have their vehicle totaled if they will be "upside down" on their loan?

The policy contract states how the loss will be paid and it is the insurance company that decides whether or not to total a car. If the cost to repair exceeds the actual cash value, the company will pay the actual cash value of the vehicle. The insured and the insurance company may negotiate the settlement in which the insured may retain the salvaged vehicle; however, the insured would be responsible for the cost of repairs at that point. Insurance coverage for the difference between the actual cash value of a vehicle and the outstanding loan amount can be covered by a GAP (Guaranteed Auto Protection) endorsement or a separate GAP policy. If the owner retains salvage, that owner is subject to the salvage laws regarding owner-retained salvage. For questions regarding owner-retained salvage, please contact TxDMV at 888-368-4689.

Q. 158 Describe how the title on an insured vehicle is processed if the vehicle is determined to be a total loss from flood damage or from collision damage.

For information about how titles are processed, please contact TxDMV at 888-368-4689, or online at: http://txdmv.gov/.

Source: This question and answer subsection utilizes information provided by the Texas Department of Insurance: https://www.tdi.state.tx.us/consumer/storms/index.html

9.4 FAQs – Mobile Homeowners

Q. 159 Are there different types of policies that provide coverage for mobile homes?

Yes, mobile homes may be written on various types of policies, 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. 160 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. 161 Does my mobile home owner’s policy provide Additional Living Expense?**

Most mobile home owner’s policies provide some additional living expense reimbursement in the event the mobile home is damaged or destroyed from a peril (or perils) insured against by 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. 162 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](http://www.helpinsure.com/home/condisasterfaq.html).

9.5 **FAQs – Homeowners**

**Q. 163 Can I make repairs to my property immediately?**

Generally, you should make temporary repairs, if necessary, 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 may wish to take pictures of the damage before making temporary repairs.

**Q. 164 Does a homeowner’s insurance policy provide additional living expense (ALE) 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. But this is not true of most flood insurance policies. However, 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. 165 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. Contact your insurance company or agent regarding coverage.
Q. 166 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." Contact your insurance company or agent regarding coverage.

Q. 167 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. 168 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. 169 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. 170 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?

Be careful about endorsing a check before discussing it 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 check may be a partial payment to initiate repairs. Additional funds may be released when you submit proof that repairs have been completed.
**Q. 171 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. You should check with your agent or company to see if your company offers replacement cost coverage on your policy.

**Q. 172 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. Have your company explain the basis for its payment and clarify if additional funds are forthcoming.

**Q. 173 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. 174** 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. 175** 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. Additionally, you may want to contact the Office of Consumer Credit at 1-800-538-1579 or online at 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. 176** 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. 177** 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 loss of use 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. 178  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 Federal Emergency Management Association (FEMA) representative at a Disaster Recovery Center (DRC) or the National Flood Insurance Program (NFIP). 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. 179  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. 180  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 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. 181 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. 182 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. 183 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. 184 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. 185 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. Most policies do not include any additional cost for remediation or testing of ensuing mold unless your policy includes mold remediation coverage.
Q. 186 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. 187 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. 188 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.

Q. 189 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. 190 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/revaglityppia.html.
Q. 191 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. 192 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: https://www.tdi.state.tx.us/consumer/storms/index.html

9.6 FAQs – National Flood Insurance Program (NFIP)

Q. 193 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 (WYO) 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. 194 How can I obtain insurance coverage to protect my home and contents from damage caused by flooding?

The National Flood Insurance Program (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. 195 Is flood insurance expensive?

The average flood insurance policy costs $400 a year for $100,000 of coverage. People in low risk areas can purchase flood insurance for just over $100 a year. See http://www.floodsmart.gov/floodsmart/ for more information and a quick look at your estimated coverage costs for your address.

Q. 196 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. 197 Can I buy flood insurance if I rent?

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

Q. 198 How much flood insurance can I buy?

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

Q. 199 Does the policy provide any coverage for additional living expense?

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

Q. 200 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. 201 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. 202 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. 203 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. 204 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. 205 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. 206 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. 207 Where can I get more information about flood insurance?

Check out www.floodsmart.gov.

Source: This question and answer subsection utilizes information provided by the Texas Department of Insurance: https://www.tdi.state.tx.us/consumer/storms/index.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 increasingly 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; (a) the duty to select, supervise and retain medical staff,
(b) the duty to use reasonable care in the maintenance of facilities and equipment, (c) the duty to oversee all persons who practice medicine within the facilities, and (d) the duty to formulate, adopt and enforce adequate rules and policies to ensure quality care for patients.

10.3 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.shtml

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

Helpful websites:

Texas Health and Human Services Commission

Getting Help During a Disaster (FAQs) -
http://www.hhsc.state.tx.us/GettingHelpDuringDisaster.html

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. 208 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 which 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, and 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. 209 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 two separate insurers due to a pre-existing 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.

10.6 FAQs – HIPAA, Privacy and Special Enrollment Rights

Q. 210 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. 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. 211 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 which will be used or disclosed. A provider or health plan does not have to agree to this request, but reasonable requests are usually honored.

**Q. 212 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 providers when they are performing employment-related functions (such as drug testing and fitness for work).

**Q. 213 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 medical providers and health plans. If the PHI cannot be provided to you for review in a mutually convenient time and place, the 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. 214 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](http://www.dol.gov/ebsa/faqs/faq_compliance_hipaa.html).

**10.7 FAQs – Health Insurance Claims**

**Q. 215 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. 216 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: 1) allow Part A/B & supplemental Plan C benefits to be furnished at specified non-contracted facilities 2) waive in full requirements for gatekeeper referrals where applicable and 3) 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

- 160 - Benefits During Disasters and Catastrophic Events

**10.8 FAQs – Prescriptions**

**Q. 217 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 (TDD). Also, visit their website at http://www.dshs.state.tx.us/preparedness/.

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
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 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 [just prior to or during the activation](http://www.phe.gov/preparedness). 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.

**Q. 218 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](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 found at: [http://www.phe.gov/coi/Pages/links.aspx](http://www.phe.gov/coi/Pages/links.aspx).
11.0 PERSONAL BANKRUPTCY ISSUES

11.1 Overview

The damages and dislocation caused by a disaster is expected to make some storm victims think about filing bankruptcy. Below is a summary of common questions asked about bankruptcy. This outline is meant to only be a bankruptcy primer.

On April 20, 2005, President Bush signed the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“BAPCPA”), which made numerous significant changes to bankruptcy law. This law applies to any bankruptcy case filed after October 17, 2005. As explained below, the law imposes several new requirements and restrictions on debtors. The outline below is intended to highlight the most relevant changes; 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. A Chapter 7 case is sometimes called “liquidation.” As explained below, eligibility for Chapter 7 is now subject to a new “means test” which requires those making an income above certain levels to instead file a Chapter 13 case. In any individual bankruptcy case, certain types of property are exempt from creditors and are kept by the debtor. However, note that the BAPCPA has made significant changes to these exemptions, most notably by placing a cap on the value of the homestead exemption that may be claimed in some instances.

In Chapter 13, a Debtor who has regular income files a plan, or contract that obligates the debtor to pay some or all of his debts over a 3-5 year period, Chapter 13 is available only to an individual with regular income whose unsecured debts are less than $383,175 and whose secured debts (usually a mortgage) are less than $1,149,525. 11 U.S.C. § 109(e). As noted
above, under the means test, a debtor having an income above a certain threshold must file a Chapter 13 case. Chapter 13 does offer certain benefits, even though it does require payments from future income over time. A significant benefit is when the debtor is facing foreclosure on a mortgage; missed payments can be cured over the term of the plan, and, in effect, the mortgage is reinstated. The “super discharge” of Chapter 13 also covers some debts (other than those for alimony and support, student loans, or drunk driving) that would not be dischargeable in a Chapter 7 case (explained below). However, the debts previously discharged under the Chapter 13 “super discharge” have been narrowed substantially by BAPCPA. Chapter 13 also allows the Debtor to retain possession of his or her property, even nonexempt property, while making payments under a repayment plan. However, keep in mind that the payments in the plan must equal or exceed the value of the retained nonexempt property, in addition to allocating the future “excess income” not needed for expenses.

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 his secured debt to exceed the limit for Chapter 13. Its procedures and requirements are significantly more expensive that in Chapter 13.

Chapter 12 is for “farmers.” The Code defines this to be someone who earns more than 80% of their 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. However, the BAPCPA added several new exceptions to the automatic stay. In addition, the BAPCPA imposes 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. Because filing bankruptcy will be reported on credit reports and may affect future credit applications, it is important to evaluate how this may affect an individual before proceeding.

### 11.4 Relevant Courts/Agencies

Consult the website of the [United States Bankruptcy Court for the Southern District of Texas](http://www.uscourts.gov) for updates and information. The clerk’s office in Houston can be reached at (713) 250-5500.

Consult the website of the [United States Bankruptcy Court for the Eastern District of Texas](http://www.uscourts.gov) for updates and information. The clerk’s office can be reached at (409) 839-2617.

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. Because of the BAPCPA amendments, it is harder for a debtor to fix any mistakes he makes when he files bankruptcy pro se, and then harder for his attorney to correct the mistakes if the case is dismissed.

11.5 FAQs

Q. 219 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 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. See 11 U.S.C. § 521(a)(2); 11 U.S.C. § 362(h).

The BAPCPA imposes 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, and a “record” of any interest in an Education IRA or tuition savings program. 11 U.S.C. § 521(a) and (c). The debtor must also file a certificate proving that the debtor received certain required notices. 11 U.S.C. § 521(a). The new law requires the filing of certain tax returns with the court and the trustee. 11 U.S.C. § 521(e) and (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 “§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 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. Generally, the debtor will wait awhile in some cases before the debtor’s case is called. After the 341 meeting, the trustee will gather and attempt to sell any nonexempt 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. 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. 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 has a three or five year term. It 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, 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.

**Q. 220 Should I file for bankruptcy?**

Filing bankruptcy is a strictly personal decision. The ratio of your assets to liabilities is an important factor. The type of debt you have is another factor. A debtor cannot discharge all debts. 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. 221 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)(i) and (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) and (4). This would only be applicable in very rare circumstances, particularly given the access to online courses.

Q. 222 How does the new “means test” work?

Note: This question and answer subsection reflects current dollar amounts as of May 2016. However, as of April 1, 2008, and each three-year interval ending on April thereafter, dollar amounts in the Bankruptcy Code are adjusted. 11 U.S.C. § 104. Also, median incomes and expense deductions used to calculate the “means test” (based on IRS standards) are adjusted periodically.

The BAPCPA introduced a new “means test” for Chapter 7 bankruptcies. See 11 U.S.C. § 707(b)(2). 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. See 11 U.S.C. §101(10A). The debtor’s “current monthly income” (on an annualized basis) 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: $44,230 (one person); $59,366 (two people); $62,710 (three people); $72,698 (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 deductions based on IRS standards (see http://www.justice.gov/ust/eo/bapcpa/20100315/meanstesting.htm). The allowed expenses are deducted from the current monthly income to arrive at “disposable income.” If disposable income is greater than (1) 25% of the debtor’s nonpriority unsecured debt or $7,475, whichever is greater, or (2) $12,475, a presumption of abuse arises. 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. See 11 U.S.C. § 1325(b). For debtors whose annualized “current monthly income” is less than the applicable state median, the repayment plan must be for three years. If the debtor’s “current monthly income” is greater than the applicable state median, the plan must generally be for five years. See 11 U.S.C. § 1322.
Q. 223 Which debts are not discharged in bankruptcy?

Certain debts are not dischargeable in bankruptcy, meaning bankruptcy does not affect them. While Chapter 13 has historically allowed for the discharge of more debts than Chapter 7, the BAPCPA has largely eliminated this advantage.

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 5th circuit 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 nondischargeable 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. See 11 U.S.C. §§ 523 and 1328. Note, however, that in Chapters 12 and 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 $650 incurred within 90 days before filing are presumed non-dischargeable. 11 U.S.C. § 523(a)(2). Likewise, cash advances greater than $925 obtained within 70 days before filing are also presumed non-dischargeable. Id. Limitations have also been attempted concerning seeking legal advice concerning the incurrence of additional debt.

Q. 224 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. 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. 11 U.S.C. § 523(a)(3). In addition, if you fail to list the debt with the intent to conceal and defraud, then you may lose your discharge in its entirety.


Q. 225 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. 226 What is a discharge in bankruptcy?**

A "discharge" in bankruptcy means that you are 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 USC § 727.


**Q. 227 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 Bankruptcy Abuse Prevention and Consumer Protection Act (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. 228 Can I repay a creditor if I want to - even after bankruptcy?**

Yes. You can voluntarily repay a debt even if it would be discharged by your bankruptcy. In a Chapter 7 case, the only limitation is that 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). Be careful when pursuing this option. The debtor may be waiving his discharge and assuming personal liability on the debt. ([http://www.nolo.com/legal-encyclopedia/what-debts-must-i-continue-pay-during-my-chapter-7-bankruptcy.html](http://www.nolo.com/legal-encyclopedia/what-debts-must-i-continue-pay-during-my-chapter-7-bankruptcy.html)).

**Q. 229 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) 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 new exceptions to the automatic stay, however. The automatic stay does not apply to certain proceedings involving certain domestic matters (i.e. paternity, domestic violence, dissolution of marriage), withholding of income to pay domestic support obligations (i.e., child support, alimony), restriction or suspension of a driver’s license, and certain pre-existing eviction actions. See 11 U.S.C. § 362(b). Moreover, 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). Once a discharge is obtained, the discharge will operate as an injunction against efforts to collect the discharged debt. The automatic stay also
automatically terminates with regard to secured debt if a statement of intent and a reaffirmation agreement are not filed timely.

**Q. 230 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. 231 Where do I file if I haven’t lived in the same state or district for the last six months?**

28 USC § 1408 states that 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 USC 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. 232 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. These exceptions to discharge have been simplified to broadly include “domestic support obligations” as well as property settlements not otherwise covered as “domestic support obligations,” including attorney’s fees. See 11 U.S.C. § 523(a)(5) and (15). In fact, domestic support obligations are now given the first priority for payment of unsecured debt. 11 U.S.C. § 507(a)(1).

Additionally, the BAPCPA provides that a 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. 233 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.

The exempted assets in an individual retirement account, except for a simple employee pension or a simple retirement account, shall not exceed $1,245,475 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 USC 522(n).

Q. 234 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 USC 523 (a)(5 & 15)).

Q. 235 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, however, extends the automatic stay to co-debtors for consumer debt in most cases pending confirmation of a Plan. 11 U.S.C. §1301. However, if the co-signed debt is not fully repaid by a debtor the co-signer is still liable for the balance.

Q. 236 Will my filing bankruptcy stop a foreclosure?

Yes. Filing bankruptcy temporarily stalls your lender’s right to foreclose (“automatic stay”), until it gets permission to go forward with the foreclosure proceedings. Eventually, a debtor in bankruptcy will still have to provide “adequate protection” to a secured creditor by making payments on the debt, or the automatic stay can be lifted. 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.

Q. 237 What property is exempt from the Trustee in a Chapter 7 case?

In Texas, a Debtor can elect either federal or state property exemptions. 11 U.S.C. § 522(b) assuming they can meet the residency provision discussed above. 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.

The BAPCPA made significant changes that, due to federal primacy, modify and restrict the value of state law exemptions available to debtors. First, in order to claim a state’s exemptions, the debtor must have lived in the state for at least two years (730 days). 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 Texas’s more generous homestead laws and then immediately filing bankruptcy.

Moreover, while homestead exemptions in Texas previously had no cap, the BAPCPA imposes a $155,675 cap 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:

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<th>ASSET</th>
<th>EXEMPTION</th>
<th>PROVISION</th>
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| Homestead                            | 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 | Tex. Prop. Code §41.002     |
| Personal Property Exemption (overall)| Overall limit:  
  Single Adult: $50,000  
  Family: $100,000  
Specifically exempt and not included in the aggregate total are:  
(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 | Tex. Prop. Code §42.001     |

Version: June 27, 2013
after a tenant breaches a lease agreement for or abandons the real property.

| **Personal Property Exemption (specific items)** | The following items are exempt (within the aggregate limits above):  
(1) home furnishings, including family heirlooms;  
(2) provisions for consumption;  
(3) farming or ranching vehicles and implements;  
(4) tools, equipment, books, and apparatus, including boats and motor vehicles used in a trade or profession;  
(5) wearing apparel;  
(6) jewelry not to exceed 25 percent of the aggregate limitations prescribed by Section 42.001(a);  
(7) two firearms;  
(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 nonlicensed 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; | Tex. Prop. Code §42.002 |
(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.  
Note: IRA or annuity contributions, except to Roth IRAs, in excess of the amounts deductible for tax purposes are not exempt.  
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. Labor Code §408.201

**Unemployment Benefits**  
Tex. Labor Code §207.075

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**Q. 238 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
Q. 239 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. 240 Virtually all my property and 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. However, this decision is something you should evaluate, looking at all the facts and circumstances of your situation and future. As a general matter, exempt property cannot be taken from you except by creditors that have obtained a lien on the property when you bought it, or for unpaid taxes.

Q. 241 My business was affected by the disaster. Can it file bankruptcy?

Businesses can file bankruptcy cases. However, if your business is unincorporated and a “dba”, then any bankruptcy by the business will place you into bankruptcy as well. These matters should be reviewed with an attorney.

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.
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.

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, Experian: 888-397-3742, or Equifax: 800-525-6285.

12.4 Children’s immunization records (Texas)

The statewide immunization registry, known as ImmTrac, 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 ImmTrac 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 ImmTrac-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
Austin, TX 78714-9347
Phone: 800.252.9152
http://www.dshs.state.tx.us/immunize/immtrac/default.shtm
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.

12.6 **Driver’s License**

To replace your Texas driver’s license you must: (1) visit any Texas Driver License office, (2) present proof of identity, (3) present proof of lawful presence in the U.S., if not a U.S. citizen or lawful permanent resident, (4) present proof of Social Security number, and (5) pay the required fee.

Information on replacing your Texas driver’s license can be found on the following website: [http://www.txdps.state.tx.us/DriverLicense/changes.htm](http://www.txdps.state.tx.us/DriverLicense/changes.htm).

12.7 **Food Stamps/ SNAP Benefits, ATP Card and EBT Card**

The Federal Food Stamp Program is the 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 further information regarding the SNAP program as administered in Texas, visit [http://yourtexasbenefits.hhsc.texas.gov/programs/snap/](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](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. For further assistance, visit [http://www.uscis.gov/portal/site/uscis](http://www.uscis.gov/portal/site/uscis) and click on the “Forms” tab.

12.9 **Insurance documents**

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://secure.ssa.gov/apps6z/IMRC/main.html](https://secure.ssa.gov/apps6z/IMRC/main.html). For Medicaid cards, contact the state Medicaid office by visiting [http://www.hhsc.state.tx.us/medicaid/](http://www.hhsc.state.tx.us/medicaid/) 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). You will be able to get emergency payments if necessary. The Houston office is located at 3100 Smith St., Houston, TX 77006. For more information, log onto [www.socialsecurity.gov/emergency](http://www.socialsecurity.gov/emergency) or [http://ssa-custhelp.ssa.gov/app/answers/detail/a_id/251](http://ssa-custhelp.ssa.gov/app/answers/detail/a_id/251).

12.12 **Passports**

Passports may be obtained by calling 1-877-487-2778 (TTY 1-888-874-7793) or through [http://www.travel.state.gov/passport/lost/lost_848.html](http://www.travel.state.gov/passport/lost/lost_848.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.
13.1 FAQs

242. 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 Texas Family 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 Texas Family 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.

243. During the disaster my child’s other parent evacuated with my child and will not give him/her back. What do I do?

Under Texas Family Code § 157.371 et al, 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.

Texas Family 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 General Assistance/Helpful Numbers

<table>
<thead>
<tr>
<th>Assistance Available for Disaster Victims</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family Locators</td>
</tr>
<tr>
<td>The American Red Cross maintains a database to help you find family.</td>
</tr>
<tr>
<td><a href="http://www.nokr.org">www.nokr.org</a> (next of kin registry)</td>
</tr>
<tr>
<td>USA.gov also offers other sources for locating family.</td>
</tr>
<tr>
<td><a href="https://www.usa.gov/after-disaster">https://www.usa.gov/after-disaster</a></td>
</tr>
<tr>
<td>FEMA Disaster Assistance</td>
</tr>
<tr>
<td>1-800-621-3362 Hearing/Speech Impaired: 1-800-462-7585</td>
</tr>
<tr>
<td><a href="http://www.fema.gov">www.fema.gov</a></td>
</tr>
<tr>
<td>Disaster Unemployment Assistance (DUA)</td>
</tr>
<tr>
<td><a href="http://www.twc.state.tx.us/ui/bnfts/offices.html">http://www.twc.state.tx.us/ui/bnfts/offices.html</a></td>
</tr>
<tr>
<td>Houston Unemployment Insurance Tele-Center</td>
</tr>
<tr>
<td>(281) 983-1100; toll free: 1-800-939-6631</td>
</tr>
<tr>
<td>Military Assistance (Military Onesource) – any military members or families in need of counseling services or Red Cross Armed Forces Emergency Service Centers</td>
</tr>
<tr>
<td>1-800-342-9647</td>
</tr>
<tr>
<td><a href="http://www.militaryonesource.com">www.militaryonesource.com</a></td>
</tr>
</tbody>
</table>

**Disaster Legal Services Hotlines**

| Texas                                      |
| 1-800-504-7030 (routed to Lone Star Legal Aid) |
| 1-866-959-1133, or 713-759-1133 (routed to HBA Legal Line during the hours of 3 to 5 pm, Monday to Friday) |

**Information for International Evacuees**

<table>
<thead>
<tr>
<th>Consulat General de France</th>
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<tbody>
<tr>
<td>713-572-2799</td>
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Version: June 27, 2013
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<thead>
<tr>
<th>Consulate General du Canada</th>
<th>214-922-9806</th>
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<tbody>
<tr>
<td>Consulat General de Belgique</td>
<td>713-449-9634</td>
</tr>
<tr>
<td>Consulado General de México</td>
<td>713-271-6800</td>
</tr>
<tr>
<td>Consulado General de Guatemala</td>
<td>713-953-9531</td>
</tr>
<tr>
<td>Consulado General de El Salvador</td>
<td>713-270-6239</td>
</tr>
<tr>
<td>Consulado General de Costa Rica</td>
<td>713-266-0484</td>
</tr>
<tr>
<td>Consulado General de Honduras</td>
<td>281-377-5127; 713-987-7406</td>
</tr>
<tr>
<td>Consulado General de Nicaragua</td>
<td>713-789-2762</td>
</tr>
<tr>
<td>Consulado General de Panamá</td>
<td>713-622-4451</td>
</tr>
<tr>
<td>Other consulate information</td>
<td><a href="http://www.usembassy.gov/">http://www.usembassy.gov/</a></td>
</tr>
</tbody>
</table>

### Insurance Information

<table>
<thead>
<tr>
<th>Texas Department of Insurance</th>
<th>1-800-252-3439</th>
</tr>
</thead>
<tbody>
<tr>
<td><a href="http://www.tdi.state.tx.us">www.tdi.state.tx.us</a></td>
<td></td>
</tr>
<tr>
<td>National Association of Insurance Commissioners</td>
<td>(816) 783-8500</td>
</tr>
<tr>
<td><a href="http://www.naic.org">www.naic.org</a></td>
<td></td>
</tr>
</tbody>
</table>

### Charitable organizations recommended by FEMA

<table>
<thead>
<tr>
<th>American Red Cross Disaster Donations</th>
<th>1-800-435-7669</th>
</tr>
</thead>
<tbody>
<tr>
<td><a href="http://www.redcross.org">www.redcross.org</a></td>
<td></td>
</tr>
<tr>
<td>Red Cross of Houston</td>
<td>713-526-8300; 2700 Southwest Fwy.</td>
</tr>
<tr>
<td><a href="http://www.houstonredcross.org">www.houstonredcross.org</a></td>
<td></td>
</tr>
<tr>
<td>Catholic Charities in Houston</td>
<td>713-526-4611; 2900 Louisiana St.</td>
</tr>
<tr>
<td>713-227-9981; 326 S. Jensen Dr.</td>
<td></td>
</tr>
<tr>
<td>866-649-5862; 2615 Fannin St.</td>
<td></td>
</tr>
<tr>
<td><a href="http://www.catholiccharities.org">www.catholiccharities.org</a></td>
<td></td>
</tr>
<tr>
<td>Salvation Army Disaster Relief</td>
<td>(713) 752-0677; 1500 Austin St.</td>
</tr>
<tr>
<td><a href="http://www.salvationarmyhouston.org">www.salvationarmyhouston.org</a></td>
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### Child Support Check

<table>
<thead>
<tr>
<th>Texas</th>
<th>Texas Attorney General</th>
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<tbody>
<tr>
<td>1-800-252-8014</td>
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</tbody>
</table>

### Social Security Checks

<table>
<thead>
<tr>
<th>General Information</th>
<th>1-800-772-1213; 1-800-325-0778 Hearing/Speech Impaired</th>
</tr>
</thead>
<tbody>
<tr>
<td><a href="http://www.ssa.gov">www.ssa.gov</a></td>
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<tr>
<td><strong>Postal Service/Change of Address</strong></td>
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<tr>
<td><strong>United States Postal Service</strong></td>
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<tr>
<td>(To change of address by phone or</td>
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<tr>
<td>internet)</td>
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<tr>
<td>1-800-ASK-USPS (1-800-275-8777)</td>
<td></td>
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<tr>
<td><a href="http://www.usps.com">www.usps.com</a></td>
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<tr>
<th><strong>Emergency Housing</strong></th>
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<tbody>
<tr>
<td><strong>Texas Department of Housing &amp;</strong></td>
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<tr>
<td><strong>Community Affairs (search low</strong></td>
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<tr>
<td><strong>income housing by city or county)</strong></td>
</tr>
<tr>
<td>512-475-3800; 800-525-0657</td>
</tr>
<tr>
<td><a href="http://www.tdhca.state.tx.us">www.tdhca.state.tx.us</a></td>
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<table>
<thead>
<tr>
<th><strong>FEMA Disaster Assistance</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Emergency housing assistance and to inquire about being compensated for housing evacuees.</td>
</tr>
<tr>
<td>1-800-621-3362</td>
</tr>
<tr>
<td><a href="http://www.fema.gov">www.fema.gov</a></td>
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<tr>
<th><strong>State Bar of Texas</strong></th>
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<tbody>
<tr>
<td><strong>Main Switchboard</strong></td>
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<tr>
<td>1-800-204-2222</td>
</tr>
<tr>
<td><a href="http://www.texasbar.com">www.texasbar.com</a></td>
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<thead>
<tr>
<th><strong>Statewide Lawyer Referral Service</strong></th>
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<tbody>
<tr>
<td>1-800-252-9690/1-877-983-9227</td>
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<thead>
<tr>
<th><strong>State Attorney General Offices</strong></th>
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<tbody>
<tr>
<td><strong>Texas Attorney General</strong></td>
</tr>
<tr>
<td>1-800-252-8011</td>
</tr>
<tr>
<td><a href="http://www.oag.state.tx.us/">http://www.oag.state.tx.us/</a></td>
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<thead>
<tr>
<th><strong>Credit Bureaus</strong></th>
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<tbody>
<tr>
<td><strong>Equifax</strong></td>
</tr>
<tr>
<td>1-800-685-1111</td>
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<thead>
<tr>
<th><strong>Trans Union Credit</strong></th>
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<tbody>
<tr>
<td>1-800-916-8800</td>
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<table>
<thead>
<tr>
<th><strong>Alcoholics Anonymous</strong></th>
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<tbody>
<tr>
<td><strong>Houston Office</strong></td>
</tr>
<tr>
<td>713-686-6300</td>
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<table>
<thead>
<tr>
<th><strong>Austin Office</strong></th>
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<tbody>
<tr>
<td>512-444-0071</td>
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<table>
<thead>
<tr>
<th><strong>Dallas Office &amp; Help Line</strong></th>
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<tbody>
<tr>
<td>214-887-6699</td>
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<table>
<thead>
<tr>
<th><strong>San Antonio Office &amp; Help Line</strong></th>
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<tbody>
<tr>
<td>210-828-6235</td>
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</table>
## 14.2 Legal Services in Texas

<table>
<thead>
<tr>
<th>Legal Services in Texas</th>
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<tbody>
<tr>
<td>Disability Rights Texas</td>
<td>1-800-252-9108</td>
</tr>
<tr>
<td>Aid to Victims of Domestic Abuse</td>
<td>713-224-9911</td>
</tr>
<tr>
<td></td>
<td><a href="http://avda-tx.org/v2/">http://avda-tx.org/v2/</a></td>
</tr>
<tr>
<td>American Civil Liberties Union (Houston)</td>
<td>713-942-8146</td>
</tr>
<tr>
<td>American Civil Liberties Union (Austin)</td>
<td>512-478-7300</td>
</tr>
<tr>
<td>Family Violence Legal Hotline</td>
<td>1-800-374-[HOPE (4673)]</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.texasadvocacyproject.org/">http://www.texasadvocacyproject.org/</a></td>
</tr>
<tr>
<td>Legal Services Corporations</td>
<td></td>
</tr>
<tr>
<td>Legal Aid of NorthWest Texas (servicing Northern Texas)</td>
<td>1-888-529-5277</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.lanwt.org">www.lanwt.org</a></td>
</tr>
<tr>
<td>Texas Rio Grande Legal Aid Inc. (servicing South, Central, and</td>
<td>1-888-988-9996</td>
</tr>
<tr>
<td>West Texas)</td>
<td></td>
</tr>
<tr>
<td></td>
<td><a href="http://www.trla.org">www.trla.org</a></td>
</tr>
<tr>
<td>Lone Star Legal Aid</td>
<td>1-800-733-8394</td>
</tr>
<tr>
<td>1415 Fannin</td>
<td>713-652-0077</td>
</tr>
<tr>
<td>Houston, Texas 77002</td>
<td></td>
</tr>
<tr>
<td></td>
<td><a href="http://www.lonestarlegal.org">www.lonestarlegal.org</a></td>
</tr>
<tr>
<td>Houston Office</td>
<td>1-800-733-8394, 713-652-0077</td>
</tr>
<tr>
<td>Beaumont Office</td>
<td>1-800-365-1861, 409-835-4971</td>
</tr>
<tr>
<td>Texarkana Office</td>
<td>1-800-568-3857, 903-793-7661</td>
</tr>
<tr>
<td>State Bar of Texas</td>
<td></td>
</tr>
<tr>
<td>Main Switchboard</td>
<td>1-800-204-2222</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.texasbar.com">www.texasbar.com</a></td>
</tr>
<tr>
<td>Statewide Lawyer Referral Service</td>
<td>1-800-252-9690/1-877-983-9227</td>
</tr>
<tr>
<td>Bexar County</td>
<td></td>
</tr>
<tr>
<td>San Antonio Bar Association</td>
<td>(210) 227-8822</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.sanantoniobar.org/">http://www.sanantoniobar.org/</a></td>
</tr>
<tr>
<td>San Antonio Young Lawyers Association</td>
<td><a href="http://www.sayla.org">www.sayla.org</a></td>
</tr>
<tr>
<td></td>
<td>210-499-0901 (Vice-Pres.)</td>
</tr>
<tr>
<td>County</td>
<td>Association, Association, Service, Office</td>
</tr>
<tr>
<td>----------------</td>
<td>-----------------------------------------</td>
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<tr>
<td>Collin County</td>
<td>Plano Bar Association</td>
</tr>
<tr>
<td></td>
<td>Dallas Bar Association</td>
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<tr>
<td></td>
<td>Dallas Association of Young Lawyers</td>
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<tr>
<td></td>
<td>Dallas Criminal Defense Lawyers Association</td>
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<tr>
<td>Dallas County</td>
<td>El Paso County Bar Association</td>
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<td>Houston Bar Association</td>
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<td></td>
<td>Houston Young Lawyers Association</td>
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<td>Houston Bar Lawyer Referral Service</td>
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<td></td>
<td>Harris County Criminal Lawyers Association</td>
</tr>
<tr>
<td></td>
<td>Dispute Resolution Center/Neighborhood Justice Center</td>
</tr>
<tr>
<td></td>
<td>Harris County Domestic Relations</td>
</tr>
<tr>
<td></td>
<td>Harris County DA's Office - Consumer Fraud</td>
</tr>
<tr>
<td></td>
<td></td>
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Version: June 27, 2013
<table>
<thead>
<tr>
<th>Location</th>
<th>Contact Information</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Family Violence Unit</strong></td>
<td>713-755-5888</td>
</tr>
<tr>
<td><strong>General Intake and Information</strong></td>
<td>713-755-5800</td>
</tr>
<tr>
<td><strong>Public Services</strong></td>
<td>713-755-0104</td>
</tr>
<tr>
<td><strong>South Texas College of Law Legal Clinic</strong></td>
<td>713.646.2990 <a href="https://www.stcl.edu/lawclinics/index.html">https://www.stcl.edu/lawclinics/index.html</a></td>
</tr>
<tr>
<td><strong>Texas Southern University - Thurgood Marshall School of Law Legal Clinic</strong></td>
<td>713-313-4455 <a href="http://www.tsulaw.edu/clinic/">http://www.tsulaw.edu/clinic/</a></td>
</tr>
<tr>
<td><strong>The Earl Carl Institute for Legal and Social Policy, Inc.</strong></td>
<td>713-313-1139 <a href="http://www.tsulaw.edu/centers/ECI/">http://www.tsulaw.edu/centers/ECI/</a></td>
</tr>
<tr>
<td><strong>University of Houston Legal Aid Clinic</strong></td>
<td>713-743-2094 <a href="http://www.law.uh.edu/clinic/">http://www.law.uh.edu/clinic/</a></td>
</tr>
<tr>
<td><strong>Jefferson County</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Jefferson County Bar Association</strong></td>
<td>409-719-5999 <a href="http://www.jcba.org">www.jcba.org</a></td>
</tr>
<tr>
<td><strong>Nueces County</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Tarrant County</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Tarrant County Bar Association</strong></td>
<td>817-336-4101 (Lawyer Referral Service); 817.338.4092 <a href="http://www.tarrantbar.org">www.tarrantbar.org</a></td>
</tr>
<tr>
<td><strong>Texas Legal Services Center (Elderly Issues)</strong></td>
<td>1-800-622-2520 <a href="http://www.tlsc.org/">http://www.tlsc.org/</a></td>
</tr>
<tr>
<td><strong>Travis County</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Austin Bar Association</strong></td>
<td>512-472-0279 <a href="http://www.austinbar.org">www.austinbar.org</a></td>
</tr>
<tr>
<td>Texas Attorney General</td>
<td></td>
</tr>
<tr>
<td>------------------------</td>
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</tr>
</tbody>
</table>
| **Main Agency Switchboard** | 512-463-2100  
www.oag.state.tx.us |
| **Consumer complaint hotline for price-gouging complaints** | 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>Government Agencies &amp; Services</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Equal Employment Opportunity Commission</strong></td>
</tr>
</tbody>
</table>
| **Main Contact Information** | 1-800-669-4000  
Hearing Impaired: 1-800-669-6820  
info@ask.eeoc.gov (include zip code and/or city and state so that your email will be sent to the appropriate office)  
www.eeoc.gov |

<table>
<thead>
<tr>
<th>Other Federal Agencies &amp; Resources</th>
</tr>
</thead>
</table>
| **U.S. Government’s Official Web Portal with links to many agencies and programs.** | 1-844-USA-GOV1 (872-4681)  
http://www.usa.gov/ |
| **Federal Citizen information Center** | 1-888-878-3256 (order line) / 719-295-2675 (questions only)  
www.pueblo.gsa.gov |
| **Internal Revenue Service** | 1-800-829-1040  
www.irs.gov |
| **U.S. Department of Housing and Urban Development (HUD)** | 1-800-347-3735 (Fraud Line) / 1-800-347-3739 (Fair Housing)  
www.hud.gov  
Fort Worth Regional Office (serves Dallas)  
817-978-5600  
Houston Field Office  
713-718-3199 |
| Social Security Administration | 1-800-772-1213  
www.ssa.gov  
Hearing/Speech Impaired: 1-800-325-0778 |
|----------------------------------|--------------------------------------------------|
| Department of Education Hotline | 1-800-872-5327  
www.ed.gov |
| U.S. Department of Health & Human Services (Medicare) | 1-800-MEDICARE (633-4227)  
Hearing Impaired: 1-877-486-2048  
http://www.cms.gov/ |

### Texas State Offices

| Texas Department of Assistive & Rehabilitative Services | 1-800-628-5115  
http://www.dars.state.tx.us/ |
|---------------------------------------------------------|-------------------------------------------------|
| Texas Department of Mental Health | 1-512-776-7111 / 1-888-963-7111  
http://www.dshs.state.tx.us/mental-health/ |
| Texas Department of State Health Services (including mental health) | 1-888-963-7111  
http://www.dshs.state.tx.us/ |
| Texas Department of Housing & Community Affairs | 512-475-3800 / 1-800-525-0657  
www.tdhca.state.tx.us |
| Department of Licensing & Regulation | 512-463-6599 / 1-800-803-9202  
http://www.license.state.tx.us/ |
| Department of Public Safety | 512-424-2000  
www.txdps.state.tx.us  
DPS Driver License Customer Service 512-424-2600 |
| Division of Worker's Compensation | 1-800-372-7713  
http://www.tdi.state.tx.us/wc/indexwc.html |
| Texas Department of Education | 512-463-9734  
www.tea.state.tx.us |
| Texas Department of Aging and Disability Services | 1-800-458-9858 (Consumer Rights & Services)  
www.dads.state.tx.us |

### 14.3 Houston Area Helpful Numbers

<table>
<thead>
<tr>
<th>Houston Area Helpful Numbers</th>
</tr>
</thead>
</table>
| NAACP-Houston | 713-526-3389  
http://naacpHouston.org/ |
<table>
<thead>
<tr>
<th><strong>Houston City Hall</strong></th>
<th>713-837-0311</th>
<th><a href="http://www.houstontx.gov/events/cityhall.html">http://www.houstontx.gov/events/cityhall.html</a></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>City of Houston Department of Health &amp; Human Services</strong></td>
<td>832-393-5169</td>
<td><a href="http://www.houstontx.gov/health/">http://www.houstontx.gov/health/</a></td>
</tr>
<tr>
<td><strong>Automobile Registration (Harris County)</strong></td>
<td>713-274-8000</td>
<td><a href="http://www.hctax.net/">http://www.hctax.net/</a></td>
</tr>
<tr>
<td><strong>County Clerk (Harris County)</strong></td>
<td>713-755-6411</td>
<td><a href="http://www.cclerk.hctx.net/">http://www.cclerk.hctx.net/</a></td>
</tr>
<tr>
<td><strong>Child Support Customer Service Center</strong></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><strong>Harris County Department of Education</strong></td>
<td>713-694-6300</td>
<td><a href="http://www.hcde-texas.org/">http://www.hcde-texas.org/</a></td>
</tr>
<tr>
<td><strong>Marriage License</strong></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><strong>Probate Clerk’s Office</strong></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>
<td></td>
</tr>
<tr>
<td><strong>Harris County Veterans Services Office</strong></td>
<td>281-876-6600</td>
<td><a href="http://www.vso.hctx.net/">http://www.vso.hctx.net/</a></td>
</tr>
<tr>
<td><strong>Texas Department of State Health Services (including mental health)</strong></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><strong>Texas Department of Insurance</strong></td>
<td>1-800-252-3439</td>
<td><a href="http://www.tdi.texas.gov/">http://www.tdi.texas.gov/</a></td>
</tr>
<tr>
<td><strong>Texas Workforce Commission (Houston Office)</strong></td>
<td>713-796-9132</td>
<td><a href="http://www.twc.state.tx.us/">http://www.twc.state.tx.us/</a></td>
</tr>
<tr>
<td><strong>Texas Department of Assistive &amp; Rehabilitative Services</strong></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><strong>Texas Department of Insurance – Division of Worker’s Compensation</strong></td>
<td>1-800-372-7713</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><strong>Texas Workers Compensation Health &amp; Safety Hotline</strong></td>
<td>1-800-452-9595</td>
<td><a href="http://www.tdi.texas.gov/wc/indexwc.html">http://www.tdi.texas.gov/wc/indexwc.html</a></td>
</tr>
</tbody>
</table>
| **Texas Veteran's Commission** | 1-800-252-VETS (8387)  
http://www.tvc.state.tx.us/ |
|-------------------------------|----------------------------------------------------------|
| **Workforce Solutions**       | 1-888-469-JOBS (5627)  
http://legacy.wrksolutions.com/jobs/individualsdisabilities.html |
| **Federal Courts, Southern District of Texas** | 713-250-5500 (Houston Division)  
http://www.txs.uscourts.gov/ |
| **Municipal Courts**          | http://www.houstontx.gov/courts/ |
| General ticket and court information | 713-837-0311 |
| Administration Department     | 713-247-5479 |
| Judicial Department           | 713-247-5464 |
| **Small Claims Courts**       | Visit http://www.jp.hctx.net/default.htm to determine the appropriate justice of the peace court |
| **City Jails**                | 713-247-5400  
http://mycity.houstontx.gov/jails/ |
| **County Jails (Harris County Sheriff)** | 713-221-6000  
http://www.harriscountyso.org/# |
| **Jury Summons Information for Harris County** | 713-755-6392  
| **Texas Department of Criminal Justice** | 512-463-9988 (Austin)  
Visit http://www.tdcj.state.tx.us/ to determine the appropriate division |
| **Probation Information (Harris County Community Supervision & Corrections Department)** | 713-755-2700  
http://www.harriscountytx.gov/cscd/ |
| **Traffic Ticket Info/Municipal Courts** | 713-837-0311  
http://www.houstontx.gov/courts/ticket_information.html |
| **Bankruptcy Court, Southern District of Texas** | 713-250-5500  
http://www.txs.uscourts.gov/offices/houston-division |
| **Better Business Bureau (Houston)** | 713-868-9500  
http://www.bbb.org/houston/ |
<table>
<thead>
<tr>
<th>Texas Department of Insurance Consumer Help Line</th>
<th>1-800-252-3439</th>
</tr>
</thead>
<tbody>
<tr>
<td></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>
<tr>
<td>National Association of the Remodeling Industry-Houston Chapter</td>
<td>713-955-6210</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.narihouston.com/">http://www.narihouston.com/</a></td>
</tr>
<tr>
<td>U.S. Consumer Product Safety Commission/Bilingual</td>
<td>1-800-638-2772</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.cpsc.gov/">http://www.cpsc.gov/</a></td>
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<tr>
<th>Immigration Services</th>
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<tbody>
<tr>
<td>Catholic Charities of the Archdioceses of Galveston-Houston</td>
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<tr>
<td><a href="http://www.catholiccharities.org/">http://www.catholiccharities.org/</a></td>
</tr>
<tr>
<td>Gano/Carecen—Central American Refugee Center</td>
</tr>
<tr>
<td><a href="http://www.immigrationadvocates.org/nonprofit/legaldirectory/organization.393389-Central_American_Resource_Center_Houston_Office">http://www.immigrationadvocates.org/nonprofit/legaldirectory/organization.393389-Central_American_Resource_Center_Houston_Office</a></td>
</tr>
<tr>
<td>Casa Juan Diego</td>
</tr>
<tr>
<td><a href="http://cjd.org/">http://cjd.org/</a></td>
</tr>
<tr>
<td>Immigration Counseling Center</td>
</tr>
<tr>
<td><a href="http://www.immigrationadvocates.org/nonprofit/legaldirectory/organization.393319-Immigration_Counseling_Center">http://www.immigrationadvocates.org/nonprofit/legaldirectory/organization.393319-Immigration_Counseling_Center</a></td>
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<tr>
<th>Department of Homeland Security</th>
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<tr>
<td>Citizen Line</td>
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<tr>
<td>Operator Number</td>
</tr>
<tr>
<td>Comment Line</td>
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<table>
<thead>
<tr>
<th>Family, Women, and Youth Services</th>
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</thead>
<tbody>
<tr>
<td>AI-Anon (families coping with alcoholism)</td>
</tr>
<tr>
<td>Association for the Advancement of Mexican-Americans, Inc.</td>
</tr>
<tr>
<td><a href="http://www.aama.org/">http://www.aama.org/</a></td>
</tr>
<tr>
<td>Avance’ Family Support &amp; Education Program</td>
</tr>
<tr>
<td><a href="http://www.avancehouston.org/">http://www.avancehouston.org/</a></td>
</tr>
<tr>
<td>Big Brother Big Sisters of Greater Houston</td>
</tr>
<tr>
<td><a href="http://www.bbbstx.org/site/c.4nIHOOhG7IQE/b.6426577/k.7262/Big_Brothers_Big_Sisters.htm">http://www.bbbstx.org/site/c.4nIHOOhG7IQE/b.6426577/k.7262/Big_Brothers_Big_Sisters.htm</a></td>
</tr>
<tr>
<td>Casa de Esperanza/Bilingual</td>
</tr>
<tr>
<td><a href="https://www.casahope.org/">https://www.casahope.org/</a></td>
</tr>
<tr>
<td><strong>Organization</strong></td>
</tr>
<tr>
<td>----------------------------------------------</td>
</tr>
<tr>
<td>Covenant House</td>
</tr>
<tr>
<td>Family Time Crisis Hotline</td>
</tr>
<tr>
<td>Healthy Family Initiatives</td>
</tr>
<tr>
<td>Learning Support Center at Texas Children’s Hospital</td>
</tr>
</tbody>
</table>
| **University of Texas Psychiatric Services** | 713-741-5000  
https://hcpc.uth.edu/ |
| --- | --- |
| **University of Houston-Parent Education Project** | 713-743-5491  
http://www.coe.uh.edu/pep/ |
| **University of Houston-Psychology Research & Services Center** | 713-743-8600  
http://www.uh.edu/ |
| **Victim’s Assistance Center** | 713-274-7391  
http://www.victimassistancecentre.com/ |
| **Texas Crime Victims Clearinghouse** | 1-800-848-4284  
https://www.tdcj.state.tx.us/divisions/vs/index.html |
| **Women’s Hospital of Texas Education Department** | 713-790-1234  
http://womanshospital.com/ |
| **Bay Area Turning Point** | 281-338-7600  
http://www.bayareaturningpoint.org/ |
| **The Bridge Crisis Center** | 713-473-2801  
http://www.thebridgeovertroubledwaters.org/ |
| **Brazoria County Women’s Center** | 979-849-9553  
http://www.womenscenterbc.com/ |
| **Fort Bend County Women’s Center** | 281-344-5750  
http://www.fortbendwomenscenter.org/ |
| **Houston Area Women’s Center** | 713-528-6798  
http://www.hawc.org/ |
| **Montgomery County Women’s Center** | 936-441-7273  
http://mcwctx.org/ |

**Senior Services**

| **Alzheimer’s Association-Houston and Southeast Texas Chapter** | 713-314-1313  
http://www.alz.org/texas/ |
| **AARP** | 1-888-687-2277  
http://www.aarp.org/ |
| **Alabama State Bar** | 1-800-354-6154  
https://www.alabar.org/ |
| **Louisiana State Bar** | 1-800-421-5722  
https://www.lsba.org/ |
| **Mississippi State Bar** | 601-948-4471  
http://www.msbar.org/ |
<p>| <strong>American Cancer Society</strong> | 1-800-227-2345 |</p>
<table>
<thead>
<tr>
<th>Organization</th>
<th>Contact Information</th>
<th>Website</th>
</tr>
</thead>
<tbody>
<tr>
<td>American Heart Association</td>
<td>1-800-242-8721 [<a href="http://www.heart.org/HEARTORG/Affiliate/Houston/Texas/Home_UCM_SWA001_AffiliatePage.jsp">http://www.heart.org/HEARTORG/Affiliate/Houston/Texas/Home_UCM_SWA001_AffiliatePage.jsp</a>]</td>
<td></td>
</tr>
<tr>
<td>Houston/Harris County Area Agency on Aging</td>
<td>832-393-4301 [<a href="http://www.houstontx.gov/health/Aging/index.html">http://www.houstontx.gov/health/Aging/index.html</a>]</td>
<td></td>
</tr>
<tr>
<td>Interfaith Ministries</td>
<td>713-533-4900 [<a href="https://www.imgh.org/">https://www.imgh.org/</a>]</td>
<td></td>
</tr>
<tr>
<td>Legal Hotline for Older Texans</td>
<td>1-800-622-2520 [<a href="http://www.tlsc.org/programs/legalhotline.asp">http://www.tlsc.org/programs/legalhotline.asp</a>]</td>
<td></td>
</tr>
<tr>
<td>New Lifestyles</td>
<td>1-800-869-9549 Visit [<a href="http://www.newlifestyles.com/">http://www.newlifestyles.com/</a>] for the contact number in your area</td>
<td></td>
</tr>
<tr>
<td>Salvation Army - Houston</td>
<td>713-752-0677 [<a href="http://www.salvationarmyhouston.org/">http://www.salvationarmyhouston.org/</a>]</td>
<td></td>
</tr>
<tr>
<td>Salvation Army-Family Shelter</td>
<td>[<a href="http://www.salvationarmyhouston.org/shelters">http://www.salvationarmyhouston.org/shelters</a>]</td>
<td></td>
</tr>
<tr>
<td>Salvation Army-Social Services</td>
<td>[<a href="http://www.salvationarmyhouston.org/social-services">http://www.salvationarmyhouston.org/social-services</a>]</td>
<td></td>
</tr>
<tr>
<td>Senior Guidance Program of the Houston Junior Forum</td>
<td>713-868-1850 [<a href="http://houstonjuniorforum.org/membership/service-opportunities/">http://houstonjuniorforum.org/membership/service-opportunities/</a>]</td>
<td></td>
</tr>
<tr>
<td>West University Senior Services</td>
<td>713-662-5895 [<a href="http://www.westutx.gov/220/Senior-Services">http://www.westutx.gov/220/Senior-Services</a>]</td>
<td></td>
</tr>
<tr>
<td><strong>Emergency and Crisis Intervention Services</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Crime Stoppers</td>
<td>713-222-TIPS (8477) [<a href="http://www.crime-stoppers.org/">http://www.crime-stoppers.org/</a>]</td>
<td></td>
</tr>
<tr>
<td><strong>Additional Assistance</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Certified Public Accountant Referral (Houston CPA Society)</td>
<td>713-622-7733 [<a href="https://www.houstoncpa.org/imis15/houstoncpa/home/houstoncpa/default.aspx">https://www.houstoncpa.org/imis15/houstoncpa/home/houstoncpa/default.aspx</a>]</td>
<td></td>
</tr>
<tr>
<td>Chamber of Commerce, Greater Houston Partnership</td>
<td>713-844-3600 [<a href="https://www.houston.org/">https://www.houston.org/</a>]</td>
<td></td>
</tr>
</tbody>
</table>
| Greater Houston Fair Housing Center Bilingual Intake for housing discrimination matter | 713-641-3247  
http://greaterhoustonfairhousingcenter.cfsites.org/index.php |
| --- | --- |
| Harris County Medical Society | 713-524-4267  
http://www.hcms.org/home/ |
| Houston Apartment Association | 713-595-0300  
https://www.haaonline.org/ |
| Houston Association of Realtors | 713-629-1900  
http://www.har.com/ |
| Univision, Un Su Defensa, Spanish TV Station | 713-662-4545  
http://www.univision.com/houston/kxln/somos-univision-45-houston |
| Library Public Houston (General) | 832-393-1313  
http://houstonlibrary.org/ |
| Harris County Law Library | 713-755-5183  
http://www.harriscountylawlibrary.org/ |
| Federal Public Defenders | 713-718-4600 (Houston)  
http://www.fpdsdot.org/en/ |
| Copies of State & Federal Laws | 512-463-1722  
www.capitol.state.tx.us; http://www.sll.texas.gov/ |
| Harris County Tax Assessor & Collector | 713-274-8000  
http://www.hctax.net/ |

### 14.4 Beaumont Area Helpful Numbers

<table>
<thead>
<tr>
<th>Beaumont Area Helpful Numbers</th>
</tr>
</thead>
</table>
| US Social Security Administration | 1-800-772-1213  
https://www.ssa.gov/ |
| American Red Cross | 409-832-1644  
http://www.redcross.org/local/tx/houston/local-chapters/beaumont |
| Beaumont Community Housing Development Organization | 409-813-2158  
http://www.guidestar.org/profile/76-0665866 |
| Buckner Children & Family Services | 409-866-0976  
http://beafamily.org/ |
| Catholic Charities | 409-924-4400  
http://www.catholiccharitiesbmt.org/ |
<table>
<thead>
<tr>
<th>Organization Name</th>
<th>Phone</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>
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<td>Family Services of Southeast Texas</td>
<td>409-833-2668</td>
<td><a href="http://www.westrengthenfamilies.org/">http://www.westrengthenfamilies.org/</a></td>
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<td>Goodwill Industries of Southeast Texas, Inc.</td>
<td>409-838-9911</td>
<td><a href="http://www.goodwilltxla.org/">http://www.goodwilltxla.org/</a></td>
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<td>Nutrition &amp; Services for Seniors</td>
<td>409-892-4455</td>
<td><a href="http://seniormeals.org/">http://seniormeals.org/</a></td>
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<tr>
<td>Some Other Place</td>
<td>409-832-7976</td>
<td><a href="http://www.someotherplacebeaumont.com/default.asp?sec_id=180015440">http://www.someotherplacebeaumont.com/default.asp?sec_id=180015440</a></td>
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<tr>
<td>The Salvation Army</td>
<td>409-896-2361</td>
<td><a href="http://www.salvationarmy.org/">http://www.salvationarmy.org/</a></td>
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