

**RECOVERING FROM HURRICANES  
AND OTHER NATURAL DISASTERS**

**YOUR LEGAL RIGHTS**

Prepared By

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## HOUSING

### **1. My house was damaged and I cannot live in it - do I need to pay my mortgage?**

You must pay your mortgage even if your house is damaged and you cannot live in it. However, check with your lender since many companies may offer a grace period of several months to delay payments (although interest may continue to be added).

### **2. What if I cannot pay my mortgage?**

If you have received a written foreclosure notice as a result of a disaster related financial hardship, you may be eligible for Federal Emergency Management Agency (FEMA) payments to help you with your mortgage payments. FEMA benefits are explained in another section of this pamphlet.

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 proposes a plan of how (s)he will pay regular mortgage payments and all other living expenses, and also pay an amount every month toward the mortgage arrears. If you think you may want to file a Chapter 13 bankruptcy, you should consult an attorney.

### **3. What if I live in a condominium?**

If you live in a condominium or pay maintenance to any type of homeowners' association, you still need to pay your maintenance fees even if your homeowners' association is not fixing the common areas or you do not like the way they are doing repairs. You should attend the homeowners' association meetings to voice your concerns, and talk with other homeowners and members of the board about your complaints. A group of you may want to seek legal advice. However, if you just stop paying maintenance, you could lose your home to foreclosure.

### **4. I have homeowner's insurance, but I was told it will take months for an adjuster to look at my house and then it will take longer for a check to be issued - am I eligible for any type of assistance because my house needs lots of expensive repairs and I'm not even sure I can live there until it's fixed?**

If you have homeowner's insurance, you will most likely be eligible for money for living expenses while you cannot live in your house. You need to contact your insurance company. If you did not have homeowner's insurance then you may be eligible for assistance under the Assistance for Individuals and Households program to pay for necessary repairs to essential parts of your home. You may apply for assistance by telephone at 1-800-621-3362.

**5. The apartment I live in is in really bad shape from the hurricane, but the landlord told me that if I want to stay I must pay full rent - what should I do?**

Your landlord may also be experiencing financial hardship until his/her insurance money comes through for repairs. Talk to your landlord to see if the rent can be reduced until the apartment is repaired. See if the landlord will allow you to move to another unit in the building that is livable.

**6. What if my landlord won't negotiate?**

You have the right to reduce rent in proportion to the damage to the unit. If the unit is unlivable you can move out. In either case, you should send a certified letter to your landlord notifying him/her of your actions. You may contact Legal Services of Greater Miami, Inc. for brochures which explain in more detail how to do this.

**7. All my stuff was destroyed when the roof fell in on the place I rent - what help can I get?**

If you had renter's insurance at the time of the hurricane, contact your insurance company. If your situation is desperate, make sure you describe your situation to the insurance company; if the company agrees that there is coverage, you can ask for an advance payment to cover a part of your loss. Read the information in the insurance section of this handout about how to prepare for the adjuster's visit, and how to handle your insurance claim.

**8. What if I do not have any insurance on my property?**

If you did not have renter's insurance, see if your landlord had insurance to cover your belongings. If your losses are not covered by any insurance policy, you may be able to get an Assistance for Individuals and Households grant for replacement of necessary items of personal property. You may apply for these benefits through FEMA at 1-800-621-3362.

**9. My landlord told me to move out the next day because he wants the apartment for his daughter who lost her house in the hurricane, and told me if I wasn't out, he'd change the locks - do I have to move?**

Florida law does not allow a landlord to just lock you out or turn off the utilities or to use any other "self help" means to get you to leave. The landlord must file an eviction action in court and, then you only have to move out after the judge in your eviction case enters a final judgement of eviction. Furthermore, the landlord must first give you some type of written notice to move before the landlord can file an eviction case against you in court.

If you get any eviction court papers, you can call Legal Services for information on how to file your answer to the eviction lawsuit. If the landlord does lock you out, you can call the police, and, you should consult a lawyer regarding an action for damages.

## **10. My apartment is so bad I cannot live in it and I am going to move. I want my security deposit returned - what are my rights?**

If you have a written lease, read your lease to see what it says. If you do not have a written lease, or your lease does not say anything about deposits, then the landlord must either return your deposit within 15 days after you move out or send you a letter, by certified mail, within thirty (30) days, saying why he will not return your deposit. You then have fifteen (15) days to object in writing, or the landlord will be allowed to keep the security deposit. However, before you leave, you must give your landlord your new address. If you and your landlord disagree about whether you should get your deposit back, you can call Legal Services. We have a booklet that describes how you can take your landlord to small claims court to get back your security deposit. You can also register to attend our Small Claims Court Clinic where a private lawyer can give you individual advice about your case.

## **INSURANCE**

### **1. How can I preserve my claims and protect my right to repayment from insurance coverage?**

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

If you cannot get through to your insurance company by telephone, write them a letter telling them of your loss and keep a copy of it. If you cannot find the insurance policy, contact your agent, broker or insurance company. If you cannot stay in your home, make sure you give the insurance agent or representative your new address and telephone number.

### **2. What if I live in a condominium?**

If you own a condominium, you should look at both the coverage provisions in your association insurance policy, and the coverage under your individual unit coverage owner's insurance policy.

### **3. How do I get an insurance adjuster out to my home to assess the damage?**

You should request the insurance company to send an adjuster to look at your property. It is best if this request is in writing. If necessary, you should contact the Florida Department of Insurance at 1-800-342-2762.

#### **4. What can I do to prepare for the insurance adjuster?**

If circumstances allow, make a list of all property damaged or destroyed, take pictures, collect names, addresses and telephone numbers of witnesses, obtain repair estimates, keep a record of expenses, such as alternative housing, etc., and locate original bills and receipts for lost items. Submit these along with your claim to the insurance company.

#### **5. What if I cannot wait for the insurance adjuster?**

Some insurance policies provide for reimbursement for temporary housing relocation costs while your home is being repaired and for car rental costs while your car is being repaired or replaced. Check your policy or call your insurance company.

If your situation is desperate, make sure that you let the insurance company know and, if the insurance company agrees that there is coverage, ask for an advance payment toward your losses. Due to the extreme amount of damage caused by a hurricane, insurance companies may recommend you start repairing the damaged property before the adjuster's visit. You should get the company's permission before doing so. Many companies will also give you an emergency advance to cover some repair costs.

#### **6. What if the insurance company offers to settle?**

You should CONSULT A LAWYER before signing any release or waiver and before cashing any check from the insurance company which might be deemed full and final payment of your claim. Before you settle with the insurance company, be aware of the full extent of your damage and the full value of your claim. It may be important for you to get estimates or to actually have the work completed before you agree to a specific cost figure.

#### **7. What if the insurance company denies my claim or offers me less than I think I am entitled to receive?**

You should demand that the insurance company give you its reasons IN WRITING for denying coverage or limiting your claim, and consult a lawyer. Most insurance policies require that you bring suit against the insurance company for failure to pay a claim WITHIN ONE YEAR from the date of the occurrence of the damage. If you do not file suit in time, you may be prevented from receiving any reimbursement.

#### **8. What if my insurance does not cover all of the damages to my home or personal property?**

You may be eligible for benefits under the FEMA program if you are unable to pay for repair or replacement of essential parts of your home or essential personal property. See the FEMA section of this handout.

You may also keep all of your repair and replacement receipts and file your losses with the IRS on your income tax returns next year. For information, you may call IRS at 1-800-829-1040.

### **SOME CAUTIONS**

- 1. Beware of anyone who claims that they are working on behalf of the government, the Florida Department of Insurance or your insurance company and asks for money to help expedite your claim. Ask this person's name and immediately report this to your insurance company or the State of Florida Department of Insurance for verification.**
- 2. 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. Consult an attorney before signing any contract.**
- 3. Most insurance companies will only reimburse for 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.**

### **IMMIGRATION**

- 1. Do I need to be a U.S. resident or citizen to apply for emergency disaster relief?**

You can qualify for non-cash FEMA disaster programs even if you do not have a legal immigration status. Receipt of other benefits depends on immigration status.

- 2. Will I be considered a public charge and denied residency if I apply for Emergency Disaster Relief?**

No. Acceptance of Emergency Disaster Relief will not be considered public cash assistance preventing you from becoming a resident. You will not be classified as a public charge solely because you have accepted emergency disaster assistance.

- 3. If I lost my "green card" in the hurricane, how can I get a replacement?**

You need to fill out a **form I-90** and file it IN PERSON at the Miami district office located at 7880 Biscayne Boulevard. Other locations may become available to accept these applications. Along with the I-90 you must submit two recent residency photographs (2"x2", color with a white background) and a cashier's check or money order for \$110.00.

You can get the immigration form I-90 from INS by calling 1-800-870-3676.

**4. If I lost my work permit in the hurricane, how can I get a replacement?**

You need to fill out immigration form I-765. If you have a photocopy of your lost work permit, attach it to the I-765. Also include a photocopy of any applications or documents which entitle you to receive a work permit, such as application of asylum, suspension of deportation, or adjustment of status. A \$100.00 cashier's check or money order must be included to obtain a replacement work permit. You must mail the I-765 to: INS Employment Authorization Unit, 7880 Biscayne Boulevard, Miami, Florida 33138. You can get the immigration form I-765 from INS by calling 1-800-870-3676.

**5. Do I need to let INS or the immigration court know that I have moved as a result of the hurricane?**

If you have a pending case, you are required to inform the immigration court of any change in address or telephone within 5 days of moving. Notice of a change of address is made on immigration form EOIR-33, which should be sent certified mail to: U.S. Department of Justice, EOIR, Office of the Immigration Judge, P.O. Box 381139, Miami, Florida 33238-1139. If you cannot obtain this form, mail a letter to the above address. In the letter include your name, alien registration number, and new address and telephone number.

If your case is pending before the asylum unit, notice of a change of address must be sent to: Immigration and Naturalization Service, Asylum Unit, P.O. Box 851041, Mesquite, Texas 75185-1041.

If your case for adjustment or suspension of a final order is pending before the immigration service, notice of change of address should be sent to: 7880 Biscayne Boulevard, Miami, Florida 33138.

If your application for citizenship or asylum is pending, notify INS, Asylum office, 77 S.E. 5<sup>th</sup> Street, 3<sup>rd</sup> Floor, Miami, 33131.

Be sure to include your alien registration number on all letters or forms sent in to INS. If you are in a shelter or tent site because your home was damaged, you should provide the address of a relative or friend who can receive your mail until you are able to obtain other housing. Send all correspondence by certified mail and keep a copy. In fact, if possible, you should hand deliver correspondence to INS in Miami.

**DISASTER RELIEF (FEMA)**

**1. What kind of benefits does FEMA provide?**

The Federal Emergency Management Agency (FEMA) is an umbrella organization that coordinates state and federal government benefits for disaster victims, and determines

eligibility for Assistance for Individuals and Households. Call FEMA at 1-800-621-3362. The phones are open until midnight.

## **2. Who is eligible for Assistance for Individuals and Households ?**

You must show that your primary residence has been made unlivable or that you are no longer living there because of the disaster. If you have insurance you must also show that you have made reasonable efforts to obtain insurance benefits and that you have not been successful. You must also agree to repay FEMA to the extent that you later get insurance benefits.

Assistance for Individuals and Households is also available to individuals and to families who have disaster related necessary expenses or serious needs, and who do not have adequate assistance from other sources, such as insurance.

## **3. What kind of help can I get under Assistance for Individuals and Households?**

Assistance for Individuals and Households usually takes the form of a check to cover the cost of rent, mortgage or essential home repairs.

You may apply for rental or mortgage assistance if you have received written notice of eviction for nonpayment of rent or mortgage. This kind of assistance may be provided for a period not to exceed 18 months for homeowners and 3 months for renters.

Money for home repairs is available for the purpose of quickly repairing or restoring the essential living condition. Residences must be able to be made livable by repairs within 30 days.

Assistance for Individuals and Households also provides grants to cover necessary expenses or serious needs for essential items or services in the following categories:

- A. For the repair, replacement or rebuilding of owner occupied housing;
- B. To provide clothing, household items, furnishings, and appliances, tools and equipment required as a condition of employment;
- C. To replace or repair vehicles or provide public transportation;
- D. To pay for funeral expenses.

## **6. Will Assistance for Individuals and Households benefits affect my eligibility for SSI, TANF, Medicaid, or Food Stamps?**

No. Individual and family grant benefits may not be counted either as income or resources in determining your eligibility for any income-tested programs supported by the

federal government.

**7. If I owe money can my Assistance for Individuals and Households benefits be taken by my creditor?**

No. Assistance for Individuals and Households benefits are exempt under federal law from garnishment, seizure, encumbrance, levy, execution, pledge, attachment, release, or waiver. They also cannot be assigned or transferred away from the recipient to someone else.

**8. Do I have to be a U.S. citizen to qualify for Assistance for Individuals and Households benefits?**

No. Most legal residents, refugees, asylees, parolees for at least 1 year, and Cuban/ Haitian entrants are eligible to receive Assistance for Individuals and Households benefits. In order to obtain money to repair an owner occupied residence, you must show that you are the owner of the home and that you reside there.

**9. Who is eligible for Small Business Administration (SBA) loans?**

In order to qualify for an interest loan, you must show that your home or business was damaged by the hurricane, and that you have the ability to repay the loan.

**10. What kind of help can I get from the SBA loan program?**

SBA provides low interest loans for repairs.

## **UNEMPLOYMENT COMPENSATION**

If you became unemployed because your employer's business was destroyed or closed because of the hurricane, or you lost your job because your house or your car was destroyed, or because you were no longer able to get to work due to the hurricane, you may be entitled to receive Unemployment Compensation (UC) benefits or Disaster Unemployment Assistance (DUA).

**1. Where do I apply for Unemployment Compensation and Disaster Unemployment Assistance?**

You may pick up an application for either regular UC or special Disaster Unemployment Compensation Assistance benefits at your local One Stop Service Center. You will then have to complete and mail your application to the agency for Workforce Innovation, Unemployment Compensation Claims Center, P.O. Box 5608, Ft. Lauderdale, FL 33310-5608. You may also apply on the internet at ["http://www.myflorida.com."](http://www.myflorida.com)MACROBUTTONHtmlResAnchor[www.myflorida.com](http://www.myflorida.com). If you are applying for DUA call FEMA 1-800-462-9029 first to get a registration number.

## **2. When should I go to apply for UC or DUA?**

For either regular UC benefits or DUA benefits, you should apply as soon as possible since you may have to wait about four weeks before your first check is sent to you.

## **3. How do I know if I am eligible for UC benefits?**

You are eligible for regular UC benefits if you are unemployed. However, some immigration restrictions apply. You must have a valid work permit, and;

- A. filed a UC claim;
- B. registered for work at a local Employment Services Office;
- C. able to work and available for work;
- D. meet certain wage requirements; and
- E. served a one week waiting period; and

Even if you meet the requirements listed above, you can be disqualified from receiving UC if:

- A. You voluntarily quit your job without good cause attributable to the employer; or
- B. You were terminated because of misconduct; or
- C. You refused employment without good cause.

## **4. How do I know if I am eligible for DUA benefits?**

Even if you are not eligible for regular UC benefits, you may still be eligible for Disaster Unemployment Compensation Assistance benefits. You must be an unemployed U.S. citizen, permanent or temporary U.S. resident, or have a valid work permit, and show that:

- A. You filed a DUA claim on or before (date based on date of natural disaster).
- B. You are unemployed as a result of the hurricane;
- C. You registered for work through the Agency for Workforce Innovation and are able and available for work, unless you were injured as a result of the hurricane or if you were self employed before the hurricane, you remain unemployed because you are attempting to get your business back in order; and

D. You meet certain wage requirements.

**5. What if I am told that I am not eligible for UC or DUA benefits?**

You have the rights to appeal the decision within twenty (20) days from the date on the Notice of Determination. After you have appealed you will get a notice telling you about your appeal rights. If you need a translator, you should ask for one in advance. At the hearing, you will have an opportunity to explain to the appeals referee why you are entitled to UC or DUA. You should bring witnesses and documents with you to prove your case.

**PUBLIC EDUCATION**

**1. Do I have to send my children to school?**

Yes. If the schools are open in your county, unless there is a good reason for not sending them to school, you must send your children to school. You should listen closely to the public announcements. You will be given directions as to whether schools are open and the procedures for sending and picking up your children. If you are uncertain what to do, you should contact your child or children's school.

**FAMILY ISSUES**

**1. Will my child be able to get emergency medical care if I cannot be reached by telephone?**

Yes. A licensed doctor may provide emergency medical care or treatment to any minor who has been injured in an accident or who is suffering from an acute illness, disease, or condition if delay in providing the care will endanger the health or physical well-being of the minor. The care must be provided in a licensed facility. Care may also be provided in the pre-hospital setting by paramedics and emergency medical care technicians. This will apply if:

**A. The minor is unable to provide the name of his parent(s), guardian or legal custodian.**

**B. The parent(s), guardians, or legal custodian cannot be immediately located by telephone at their place of residence or business.**

**2. My child is living with a relative. Will my child be able to get medical care if I cannot be reached by telephone?**

**Yes. After a reasonable attempt to contact you has been made, any of the following may consent to non-emergency medical care or treatment of a minor who is not committed to the Department of Children and Family Services or the Department of Juvenile Justice:**

- A. A person who possesses a power of attorney to provide medical consent for the minor.**
- B. your child's stepparent.**
- C. your child's grandparent.**
- D. your child's adult brother or sister.**
- E. your child's adult aunt or uncle.**

**3. I have a child in my home who was placed by the Department of Children and Families (or) The Department of Juvenile Justice. What will happen during an emergency if the child requires medical care?**

**You should contact the Agency that placed the child in your home for specific instructions as to how the child is to receive medical care during an emergency.**

**4. Is it possible to do something about violence in our home?**

**A natural disaster causes a great deal of stress on everyone. This can lead to increased tension and violence in family and household units. The law offers protection for victims of acts of violence. Victims have the right to take legal action against the person who is causing the violence by seeking an injunction. If you require immediate assistance, you should contact law enforcement. If you need assistance with obtaining an injunction for protection, you should contact the Clerk of Court at the following numbers: 305-292-3458 (Key West); 305-289-6027 (Marathon); 305-852-7145 (Plantation Key); 305-349-5888 (Miami-Dade County).**

**5. How can I get counseling for myself or my family?**

**There are numerous providers of counseling services on an ongoing basis. After a natural disaster, additional providers will be available. Information on disaster counseling is usually made available through public information announcements after the disaster. You should also check with hospitals and other mental health agencies in your community in reference to the availability and cost of disaster counseling.**

## **EXPEDITED FOOD STAMPS**

### **1. What are expedited food stamps?**

Expedited food stamps are available to very needy persons within 7 calendar days of application. The expedited process is part of the regular food stamp program application process.

### **2. How do I know if I am eligible for expedited food stamps?**

To be eligible for expedited food stamps you must show one of the following:

A. you or your household have no more than \$150 in monthly income before taxes and \$100 or less in cash or in bank accounts; or

B. your basic shelter and utility expenses are greater than your present income and resources combined.

### **3. What verification do I need to obtain expedited food stamps?**

You must only be able to verify that you are who you say you are by showing documents bearing your name, or by having someone say they know you.

### **4. Do I have to meet any other eligibility requirements?**

You will be asked for verification of your immigration status, your social security number, your income and your expenses at the time you apply. However, you will be eligible for expedited food stamps within 7 days after you apply even if all of the verification cannot be obtained.

### **5. If I do not qualify for expedited food stamps, can I still get regular food stamps?**

Yes, your food stamp application must be processed and you must receive a written decision within 30 days stating whether you are eligible, and the amount of benefits to which you are entitled. If you are denied benefits, but you believe you are entitled to them, contact the Legal Services office closest to you.

## **TANF BENEFITS - CASH ASSISTANCE**

### **1. Could I be eligible for TANF even if I never was before?**

Yes. If you live in the same household as your minor children and you are poor, you may be eligible for TANF. You should apply at the Department of Children and Families office nearest you. If you are denied benefits, or DCAF takes longer than 45 days to make a decision in your case, contact the Legal Services office closest to you.

## **MEDICAID BENEFITS**

### **1. Could I be eligible for Medicaid now even if I never was before?**

Yes. If you are pregnant, have young children, are disabled, elderly, or an unemployed head of household, you and your family may be eligible for Medicaid depending on your immigration status, income, resources, and the size of your household. You should apply at the Department of Children and Families office. If you are denied or you do not receive a decision within 45 days, contact the Legal Services office closest to you.

## **SOCIAL SECURITY AND SSI BENEFITS**

### **1. What if I did not receive my latest Social Security or SSI benefits?**

If you live within the disaster area and you did not receive your Social Security or SSI benefits, you should go to your local post office to get your check. If the check is lost call 1-800-772-1213.

### **2. Could I be eligible for SSI now even if I never was before?**

If you are blind, over the age of 65, or disabled and cannot perform any kind of work, you should apply for benefits at the Social Security office nearest you. 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 you a written decision. If you are denied and you think you are eligible, you should file a request for reconsideration within 60 days of the date of the initial decision. If you are denied again, you should request a hearing and contact Legal Services.

### **3. Are there any other benefits besides old age and disability benefits for which I might be eligible?**

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

**LEGAL SERVICES OF GREATER MIAMI, INC.**  
**Office Locations and Hours**

**MAIN OFFICE**

3000 Biscayne Boulevard  
Suite 500  
Miami, Florida 33137  
Telephone (305) 576-0080  
TDD (305) 573-1578  
Intake Hours - Monday through Thursday  
8:30 a.m - 3:00 p.m.  
Friday - Emergencies Only

**REGIONAL OFFICES**

**SOUTH DADE LAW CENTER**

10720 Caribbean Blvd., #400  
Miami, Florida 33189  
Telephone (305) 232-9680  
TDD (786) 242-0207  
Intake Hours  
Monday through Friday  
9:15 a.m. - 11:30 a.m.  
2:00 p.m. - 4:30 p.m.

**LEGAL SERVICES  
OF THE FLORIDA KEYS**

600 White Street  
Key West, Florida 33040  
Telephone (305) 292-3566  
TDD (305) 292-9772  
Intake Hours  
Monday through Friday  
9:15 a.m. - 11:30 a.m.  
1:15 p.m. - 4:00 p.m.

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