DISASTER LEGAL ISSUES FOR HURRICANE IDA
YOUR RIGHTS & LEGAL RESOURCES AFTER A DISASTER

LAURA TUGGLE
Southeast Louisiana Legal Services
Executive Director

HANNAH ADAMS
Southeast Louisiana Legal Services
Staff Attorney, Litigation & Advocacy Unit

CONSTANCE TULLIER
Southeast Louisiana Legal Services
Staff Attorney, Employment & Benefits Unit
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The information provided during this presentation does not, and is not intended to, represent legal advice. All information available during is for general informational purposes only. If you need legal help, you should contact a lawyer. You may be eligible for our free legal services and can apply by calling our Disaster Legal Assistance Hotline at 1-844-244-7871 or you can apply online at www.slls.org
FEMA MAJOR DISASTER DECLARATION FOR LOUISIANA

Approved by the President on August 29, 2021, meaning homeowners and renters who live in the parishes below can apply for possible help with expenses, or serious needs resulting from a declared disaster which are not covered by insurance or other forms of assistance.

Incident Period:

Registration Deadline - 10/29/2021 but may be extended

What if I have Ida damage but my parish is not on the list?
Sometimes other parishes are added to the declaration later. You can revisit DisasterAssistance.gov to look up your address to check if your parish is added at a later date.
Types of Assistance

- Temporary Housing
- Rental Assistance
- Home Repair Assistance for Homeowners
- Low-cost loans or funds to cover uninsured personal property or real property
- Other programs to help individuals and business owners recover from the effects of the disaster.

*FEMA does not cover expenses or losses covered by your insurance.*
1. **Critical Needs Assistance (CNA):**

FEMA may provide financial aid to people with immediate or critical needs who are displaced from their primary dwelling. Immediate or critical needs are: life-saving and life-sustaining items including, but not limited to: water, food, first aid, prescriptions, infant formula, diapers, consumable medical supplies, durable medical equipment, personal hygiene items and fuel for transportation. For Hurricane Ida, CNA has so far provided a one-time award of up to $500.00 per household.
2. **Generator and Chainsaw Reimbursement:**

Eligible purchases or rentals of a generator (up to $800) and/or chainsaw ($250) made between Aug. 26, 2021 and Sept. 25, 2021 may be approved for FEMA reimbursement. The purchase cannot be covered by insurance or another source. The applicant must also meet the general eligibility requirements for FEMA’s Individuals and Households Program.
3. **Transitional Shelter Assistance (TSA):**

TSA is for applicants who are unable to return to their pre-disaster primary residence because their home is either **uninhabitable** or **inaccessible** due to Hurricane Ida. TSA is intended to provide survivors with short-term accommodations through direct payments to lodging providers if not covered by insurance or other source.

Under TSA, disaster survivors may be able to stay in an approved hotel or motel for a limited period of time and have the cost of the room and taxes directly paid by FEMA. The applicant must cover all other costs associated with lodging and amenities, including, but not limited to incidental room charges or amenities, such as telephone, room service, food, etc.

FEMA approved applicants may choose any place on FEMA’s list of approved hotels in their area. The list of approved hotels is available at [http://www.femaevachotels.com/index.php](http://www.femaevachotels.com/index.php) or the FEMA Helpline. FEMA provides applicants with access and functional needs additional assistance in locating approved hotels to meet their needs.
Eligibility Requirements for FEMA Assistance

You must be a U.S. citizen, non-citizen national or Qualified Alien for a cash award from FEMA’s Individuals and Households Program.

You may, however, apply on behalf of your U.S. citizen child, or another adult household member may qualify the household for assistance.

Even if you do not, or your family does not, qualify for FEMA cash assistance (Individuals and Households Program), please call FEMA at 800-621-3362 or 800-462-7585 (TTY for hearing/speech-impaired) for information and to be referred to other programs that can assist you regardless of your immigration status.
You must live in the disaster area as your primary residence at the time of the disaster.

If a homeowner, you must prove you own the home for certain types of assistance.

FEMA has to verify occupancy and homeownership before it gives some types of help.
Occupancy Verification Documents

As of September 2, 2021, to confirm occupancy, FEMA will accept the following:

- Utility bills,
- Other bills,
- Employer’s documents,
- Leasing/housing agreement,
- Rent receipts,
- Public official’s documents/letter (police chief, mayor, postmaster, state or local government),
- Identification cards,
- Motor vehicle registrations,
- Affidavits of residency or other court documents,
- Letters from local schools (public or private),
- Letters from federal or state benefit providers,
- Letters from social service organizations (such as community assistance programs and non-profits).

Additionally, survivors may also now use a signed statement from a commercial or mobile home park owner and provide self-certification for mobile homes and travel trailers.
Ownership Verification Documents

To confirm ownership, FEMA will now accept the following:

- Deed or official record,
- Mortgage documentation,
- Structural or real property insurance documents, bill or payment record,
- Property tax receipts or property tax bill,
- Manufactured home certificate of title,
- Reals Estate Provisions,
- Contract for Deed,
- Land Installment Contract,
- Quitclaim Deed,
- Bill of Sale or Bond for Title,
- Will or Affidavit of Heirship (naming applicant heir to the property and a death certificate),
- Public official’s documents/letter,
- Receipts for major repairs or improvements (dated within 5 years of disaster).

FEMA will allow survivors with HEIRSHIP PROPERTIES, MOBILE HOMES, or TRAVEL TRAILERS, who do not have traditional documentation (listed above) to verify ownership to self-certify ownership and qualify for assistance.
FEMA expects the same household members to live together post-disaster as pre-disaster and for them to submit one application for FEMA assistance.

FEMA has a “shared household” rule which typically results in only one applicant per disaster address being approved for benefits.

When the nature of a disaster results in families having to split up, multiple people from the same pre-disaster household may be approved for FEMA assistance.
If you had flood damage to your property in a prior disaster, FEMA requires that you maintain flood insurance on your property in order to receive FEMA assistance in a future disaster.

Sometimes an address may show up in FEMA’s database as being required to have flood insurance but that requirement may be connected to a prior resident of the home.
Insurance & FEMA Eligibility

By law, FEMA cannot pay for losses covered by your insurance. This means if you have homeowner or renter insurance that may cover your disaster losses, you cannot get help from both FEMA and insurance for the same loss. If you are insured, FIRST file your insurance claim. You can file your FEMA claim before you get your insurance company’s decision. You may still be eligible for some FEMA aid even if you have insurance. FEMA will need to see insurance claim information including:

- Denial of your claim letter: Proof that you are not covered under your insurance company and policy.
- Settlement letter: What damage and property are covered by your insurance policy.
- Delay letter: Proof of no official decision by your insurance company on your claim, and it has been more than 30 days from the time that you filed your insurance claim.
Ways to apply for FEMA:

1. Online: DisasterAssistance.gov (quickest way)
2. Call 1-800-621-3362 or TTY 1-200-462-7585
3. Download FEMA App with Apple or Google Play
Application Checklist:

Have a pen and paper ready and be prepared to give the following information:

- **Social Security Number**: You, another adult member or minor child in your household **MUST** have a Social Security number. Note: You or they must also be a U.S. Citizens, a non-citizen national, or qualified alien.

- **Email Address (optional)**: You can use an email address to create an account on DisasterAssistance.gov to file and track the status of your claim. If you chose to communicate with the agency by phone or mail only, an email is not necessary. Although the agency has stated that filing a claim with an account on DisasterAssistance.gov is the most efficient route.

- **Insurance Information**: Note the type(s) of insurance coverage you have. Like: homeowners, flood, auto, etc.

- **Damage Information**: Type of dwelling or vehicle damaged due to Hurricane Ida. Like: Car, Truck, Mobile Home, Condo.

- **Financial Information**: At the time of the disaster your total annual household income (before taxes). Like: Gross wages, unemployment insurance benefits, disability.

- **Contact Information**:
  1. Provide the address and phone number of the property where the damage occurred.
  2. ALSO, provide the address and phone number where FEMA can reach you now.

- **Direct Deposit Information** (optional): Subject to FEMA approval, FEMA can deposit your funds directly into your bank account now with the following information:
  1. Bank Name
  2. Type of Account (checking or savings)
  3. Routing Number
  4. Account Number
No Social Security number or lost SSN card?

Visit: ssa.gov

- You can get an original Social Security card or a replacement card if yours is lost or stolen (at no charge).
- You can use my Social Security account to request a replacement Social Security card online if you:
  1. Are a U.S. citizen age 18 years or older with a U.S. mailing address.
  2. Are not requesting a name change or any other change to your card.
  3. Have a driver’s license or a state-issued ID card.

There are other card-replacement options, if necessary, available on the SSA website. Once you have your social security number, you can start FEMA’s application process.
HELPFUL TIPS FOR YOUR FEMA CLAIM

• Save all documentation that you can. Like: receipts for post-storm expenses for food, gas, lodging, replacement of property, etc.

• Take pictures of your damages as soon as possible—before anyone starts clearing it out if at all possible.

• If you are unsure about something, do not guess or enter information you know to be incorrect. It is best to wait to complete an application unit you have gathered all the information that you need.

• Submitting multiple applications for a single disaster or household, may delay your case AND may lead to FEMA accusing you of fraud or making you pay back duplicated payments.

• Phone calls from FEMA may seem to come from an unidentified number but there are also scams going on. If you can handle your FEMA claim online, or at a FEMA disaster center with a FEMA representative, that is much safer.
False Statements to FEMA:
FEMA assistance is a federal program. False statements can lead to criminal charges.

FEMA Payment Error & Recoupment:
If FEMA later decides it should not have paid you, either because you made a mistake or you committed fraud, by law it must ask for that money back. If that happens, you can appeal the notice of debt. Keep all receipts and records for at least seven years if you can.
DENIED FEMA ASSISTANCE?

- Do NOT panic – you always have the right to appeal a FEMA decision
- Read your decision letter in full
- Common reasons for denial include:
  - You can’t prove ownership or occupancy of your home
  - You had homeowner or renter insurance and the insurance claim has not been decided yet
  - You reported no damage when you initially registered for FEMA assistance or inspection found insufficient damage
  - Your home is safe to occupy
  - You indicated that you were not willing to move while your damaged home was being repaired, making you ineligible for temporary rental aid
  - There were multiple applications from the same household
• Appeals must be submitted within 60 days of FEMA’s initial decision on your application
  • If your deadline has passed, be sure to include in your appeal letter why the letter is late
  • Your letter should explain why you disagree with FEMA’s decision and include supporting documents that entitle you to more and/or different assistance - examples:
    • Pre- and post-disaster lease and bills for temporary rental assistance
    • Contractor estimates for home repair assistance
    • Receipts of hotel evacuations costs for temporary lodging expenses
• The letter should be notarized before you send it, or else include the sentence at the end: “I declare, under penalty of perjury, that the foregoing information is true and correct” next to your printed, name, signature and date

• Submit the cover sheet with the barcode, enclosed in your initial FEMA decision letter, with the appeal letter

• Each supporting document should have this information on it:
  • Your name
  • The disaster number (4 digits)
  • Your FEMA registration number (9 digits)
  • The last four digits of your SSN
SUBMITTING THE APPEAL LETTER AND DOCUMENTS

- You can upload the letter and documents to your FEMA account at www.disasterassistance.gov
- You can fax them to: 1 (800) 827-8112
- You can drop them off at a Disaster Recovery Center (DRC) if one is open in your area
- Locating a DRC:
  - Text DRC and a ZIP code to 43362. Example: DRC 70601
  - Visit: https://egateway.fema.gov/ESF6/DRCLocator
- You can mail them to:
  
  FEMA  
  National Processing Center  
  P.O. Box 10055  
  Hyattsville, MD 20782-8055
HELPFUL TIPS FOR THE APPEALS PROCESS

• Sign and date the letter at the end
• If you need assistance preparing an appeal letter, contact an attorney, who will then have you fill out an authorization and consent form allowing them to prepare the letter for you.
• SLLS or your local legal aid office may be able to provide you free legal help – call 1-844-244-7871 to apply for free legal help from SLLS
• Submit ALL documentation with the letter
• Faxing documents gives you a receipt of transmission
• Keep FEMA updated of your mailing address, physical address, and phone number
• Call the FEMA helpline if you have questions: 1 (800) 621-3362 from 6 AM to 10 PM CT, 7 days a week
AFTER YOU SUBMIT

- Check the status of the appeal via your disasterassistance.gov account or by calling the Helpline every other week
- FEMA has 90 days from receipt to render a decision on your appeal
- If FEMA requests additional documents, send them ASAP
- If a FEMA inspector calls requesting information or to verify information in your appeal, answer the call
- Generally, FEMA decisions on appeals are final – but if you have new/additional information not included in the appeal or your situation has changed, FEMA may consider it
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<th>Contact</th>
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<td>Contact an attorney. You may qualify for free legal help from SLLS.</td>
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**90 DAYS AND STILL NO DECISION?**
HURRICANE IDA
DISASTER UNEMPLOYMENT ASSISTANCE
This program provides assistance to eligible individuals whose employment has been either lost or interrupted as a direct result of a major disaster.

Included Parishes:

Citizenship Eligibility:
Also note that, you must be a U.S. citizen, non-citizen national or Qualified Alien to be eligible for Disaster Unemployment Assistance.
DUA
Eligibility Continued

• Unemployed workers or self-employed individuals who became unemployed as a DIRECT RESULT of the disaster that are otherwise ineligible to receive state unemployment insurance benefits. Regular UI benefits supersede DUA, even in the case of a disaster.

• If you are already receiving state unemployment insurance benefits due to COVID-19, there is no need for you to apply for DUA and you should continue filing your weekly certifications. Note PUA/PEUC programs were scheduled to end in Louisiana July 31, 2021.

• DUA is also available to those individuals who became the breadwinner, or major support provider, due to the death of the head of household and as a direct result of the disaster.

If you were already unemployed and did not lose your job as a result of the disaster, please do not apply for DUA.
What kind of assistance can I expect to receive?

Eligible individuals for DUA will be paid benefits on a weekly basis.

The DUA benefit duration is determined weekly up to 27 weeks.

Currently, the maximum weekly assistance amount in Louisiana is $247.00 and is based on the individual’s gross earnings or net income if self employed for the most recent tax year.

The minimum DUA benefit amount is $93.00 weekly based on full-time employment.
Eligible persons may file claims on https://www.louisianaworks.net/

The deadline to file a DUA claim as a result of Hurricane Ida is October 4, 2021.
Mistakes on part of you or the agency may result in overpayments. The agency may demand repayment of benefits paid out. Leans can be placed against real property.

Fraudulent claims will be prosecuted, including jail time--You are required to report all earnings when worked, not when received. Intentional false reporting of the reason for separation or last employer information may also be considered fraudulent.
Replacement SNAP Benefits & DSNAP

*All information from http://www.dcfs.la.gov/
SNAP recipients, depending on their Parish, may be eligible for a percentage of replacement benefits to cover food loss due to power outages.
Replacement SNAP Benefits Approved & Processing

• Recipients of SNAP in 18 Parishes impacted by Hurricane Ida power outages will receive an **AUTOMATIC** 55% Replacement of benefits.

• The benefits, 55% of each household’s monthly allotment for August, will be automatically loaded onto the recipients card by September 11, 2021.
SNAP recipients in other parishes who lost food purchased with SNAP benefits due to a power outage of 24 straight hours or more can request replacement benefits by submitting a completed and signed SNAP 38 form to DCFS.

- SNAP clients may need to provide documentation from their utility company verifying their power outage. This can take time, so residents are advised to request their documentation as soon as possible.
- The deadline for requesting replacements due to Hurricane Ida is September 28, 2021.
How to Apply for Replacement SNAP Benefits:

Two ways to apply:

● Online: SNAP 38 Online Form

● Mail or Fax: Download a SNAP 38 Form & Submit completed form:
  — By mail: to DPC, P. O. Box 260031, Baton Rouge, LA 70826-9918
  — By fax: (225) 663-3164
  — In person: At your local DCFS office

After confirming the length of power outages in your area with the Louisiana Public Service Commission, DCFS will determine your eligibility for replacement benefits. If caseworkers need additional information they will contact you. If replacements are warranted, DCFS expects to issue benefits to your account within 10 days.

If you have additional questions about your application:

● Email LAHelpU.dcfs@la.gov or call 1-888-524-3578.
DSNAP

Provides eligible households, who do not currently receive SNAP benefits, with help buying groceries due to lost income or damages following a disaster.

DSNAP is only administered after a federally-declared disaster and after the State of Louisiana receives approval from the United States Department of Agriculture, Food and Nutrition Services to activate DSNAP services. NOTE: DSNAP FOR HURRICANE IDA IS WAITING FOR APPROVAL.

If DSNAP is authorized, eligibility for benefits will be based on the applicant’s household income, resources and disaster-related expenses.

SNAP recipients NOT eligible for DSNAP.
Pre-register for DSNAP now and be ready if DSNAP becomes available for your community. Pre-registration will speed up the application process that determines final eligibility if DSNAP is authorized.

Pre-Registration Does Not Guarantee Benefits

DSNAP is only administered after a federally-declared disaster and after the State of Louisiana receives approval from the United States Department of Agriculture, Food and Nutrition Services to activate DSNAP services. If a DSNAP is authorized, eligibility for benefits will be based on the applicant's household income, resources and disaster-related expenses.
Online Pre-Registration:

The pre-registration is simple and can be done online through the CAFÉ customer portal. Pre-registration is only the first step; an application is also required.

Visit:

www.dcfs.louisiana.gov/cafe

Additional Questions? All information sourced from:

http://www.dcfs.louisiana.gov/
RENTER’S RIGHTS AFTER IDA
AND OTHER DISASTERS

Hannah Adams
(504) 529-1000 x. 258
hadams@slls.org
Governor’s Order 170 JBE 2021

Governor’s 9/6/21 order suspends all legal deadlines from 8/26/21 - 9/24/21

This includes the legal deadlines in the eviction process:
- 5 day notice
- 3 days between service of summons and hearing
- 24 hours to vacate
- Evictions are effectively barred until after 9/24/21 statewide
• Centers for Disease Control and Protection ("CDC") moratorium: struck down by Supreme Court on 8/26/21

• CARES Act remaining provisions:
  • §4024(c) – 30 days’ notice required for eviction for nonpayment of rent at properties with federally backed mortgage or federal subsidy
  • §4023(d) – Eviction for nonpayment of rent, notices to vacate for nonpayment, and late fees barred at properties with federally-backed mortgages in forbearance.
When a tenant cannot use their home because of an “Act of God” or other event outside of their control like a hurricane, they may be able to get out of their lease (see below), but they cannot get a reduction of rent.

See Louisiana Civil Code article 2715: “If the impairment of the use of the leased thing was caused by circumstances external to the leased thing, the lessee is entitled to a dissolution of the lease, but is not entitled to diminution of the rent.”

What if damage is caused, in part, by pre-existing maintenance or repair issues?
CAN LANDLORD EVICT FOR STORM DAMAGE?

• If the home is totally destroyed, yes. Under Louisiana Civil Code article 2714: “If the leased thing is lost or totally destroyed, without the fault of either party, or if it is expropriated, the lease terminates and neither party owes damages to the other.”

• If the home is partially destroyed or its use “substantially impaired,” no. Under Louisiana Civil Code 2715: “If the impairment of the use of the leased thing was caused by circumstances external to the leased thing, the lessee is entitled to a dissolution of the lease.”
CAN LANDLORD EVICT WITHOUT GOING TO COURT?

- No. The landlord must go to court to evict, and cannot force a tenant to leave for any reason without an eviction judgment from the judge.
- The law only allows a landlord to take possession of a unit without going to court if the property is abandoned. Typically this means that the property is empty of furnishings, no one appears to be living there for an extended period of time, and the keys are left or returned. See La. Code Civ. P. art. 4731(B). However after Katrina some landlords took advantage of this provision to claim that their tenant had "abandoned" the premises when they were just evacuated and illegally removed their belongings.
- Tenants should text or email landlord to notify them that they are evacuated and have NOT moved out.
IS LANDLORD OBLIGATED TO MAKE REPAIRS?

• Yes, under La. Civ. Code art. 2691 landlords are required to make necessary repairs.
• Tenant may be able to get out of lease early.
• Tenant can do repair and deduct under La. Civ. Code art. 2694:
  • Give notice in writing of necessary repairs
  • Document that repairs are necessary
  • If repairs are not made in a “reasonable” time, pay for the repairs yourself and keep the receipt
  • Deduct from future rent
CAN LANDLORD DISPLACE TENANT TO MAKE REPAIRS?

• Yes, under La. Civ. Code art. 2693:

  If during the lease the thing requires a repair that cannot be postponed until the end of the lease, the lessor has the right to make that repair even if this causes the lessee to suffer inconvenience or loss of use of the thing.

  In such a case, the lessee may obtain a reduction or abatement of the rent, or a dissolution of the lease, depending on all of the circumstances, including each party's fault or responsibility for the repair, the length of the repair period, and the extent of the loss of use.

• I.e. landlord does not need to pay for a hotel, but tenant may not owe rent while displaced.
CAN TENANT END LEASE IF HOME IS DAMAGED?

- Under La. Civ. Code art. 2714 if home is totally destroyed, the lease automatically terminates.
- Under La. Civ. Code art. 2715 if home is partially destroyed or use “substantially impaired” tenant is entitled to get out of lease early.
- Under La. Civ. Code art. 2693 if tenant displaced while repairs are happening, they may be entitled to get out of lease.
- Check lease! Lease controls.
For tenants impacted by COVID-19, emergency rental assistance is available in every parish.

ERAP can pay 12 months back rent, up to 3 months forward.

Ida impacted parishes:
- Jefferson – Call (504) 736-6262 or visit 1221 Elmwood Park Blvd # 605
- St. Tammany – Call (985) 898-3016
- East Baton Rouge – www.ebremergencysolutions.com
- All other parishes – www.lastaterent.org
WHERE CAN I FIND LEGAL HELP?

Louisiana State Bar Association Find Legal Help Directory
https://www.lsba.org/public/findlegalhelp/

Free Legal Assistance Is Available for People with Low-Income

Acadiana Legal Services – Lafayette Office - 337-237-4320 -
3 parishes in disaster declaration - St. Mary, St. Martin & Iberia

Southeast Louisiana Legal Services – Disaster/COVID Line -1-844-244-7871 - 22 parishes in Disaster Declaration

Louisiana State Bar Association Online Free Legal Answers
la.freelegalanswers.org