
Federal Indian Law and Tribal Law



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Introduction

Legal Aid of Nebraska's Disaster Relief Program is made possible through a grant Legal Aid of Nebraska received from the Legal Services Corporation. The purpose of the program is to educate individuals about disaster preparedness and to assist people affected by disasters with legal issues related to disasters. In 2016, Legal Aid of Nebraska published a guidebook focusing on general disaster preparedness and response. This Federal Indian Law and Tribal Law guidebook is intended to educate individuals and attorneys about the same issues, but taking into account the unique laws and relationships applicable to members of Native American Tribes and their lands.

This guidebook is not intended to be used as legal advice, and the information in the guidebook is provided for educational purposes only. Use of this guidebook does not create an attorney-client relationship with Legal Aid of Nebraska. If you are Native American and wish to apply for assistance from Legal Aid of Nebraska, contact 1-800-729-9908, Monday through Friday, between 9:00 a.m. and noon, or visit legalaidofnebraska.org.

As a result of hundreds of years of social, political, and legal interactions between Native Americans and the Europeans who immigrated to the Americas, a unique body of legal jurisprudence has developed governing relations between Native American Tribes, individual states, and the United States. In practice, this means laws generally applicable to most people and places affected by disasters may not apply the same to Native American lands, tribes, and tribal members. In order to understand how the law impacts Native Americans affected by disasters, some understanding of the legal background affecting Native Americans is necessary.

FOUNDATIONS OF FEDERAL INDIAN LAW

Many people know the United States Constitution as the foundational document setting forth the power of the federal government and its relationship with the 50 states, but the Constitution applies differently to Native American Tribes. The only grant of power in the Constitution that specifically mentions Native American Tribes is the Commerce Clause, stating Congress may “regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.”¹ In addition to the Commerce Clause, the federal government has exercised other powers, such as its treaty power, in connection with Native American Tribes.²

Prior to 1871, the federal government and Native American Tribes entered into hundreds of treaties, many of which are valid today.^{3,4} These treaties, as with the Constitution, have been referred to as the supreme law of the land and form a significant part of the foundation of federal Indian law. The Constitution and the hundreds of treaties, along with United States Supreme Court opinions and federal legislation, together define the legal relationship between the federal government, states, and tribes.⁵

These relationships can be exceedingly complicated, and they require close study to fully understand. To completely describe these relationships in writing would require hundreds of pages, which we do not do here. For attorneys or others interested in learning more, there are many books that expand in great

detail on these subjects. Two that have been helpful to Legal Aid of Nebraska in preparing this guide are Matthew L.M. Fletcher's "Federal Indian Law," and Felix S. Cohen's Handbook of Federal Indian Law.

BASIC PRINCIPLES

Federal Indian law has been summarized as being defined by three general principles.⁶ First, Congress's authority over tribes is plenary and exclusive, yet the federal government also holds obligations to tribes and individual Native Americans under what is called the trust responsibility.⁷ Second, state governments have no authority to regulate Native American affairs except as lawfully granted to them by the federal government.⁸ Third, tribal sovereign authority is inherent and not granted or delegated to tribes by the United States or any other nation.⁹

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FEDERAL-TRIBAL RELATIONSHIP AND TRUST RESPONSIBILITY

As of 2018, there are 573 federally recognized Native American Tribes in the United States.¹⁰ A primary benefit of federal recognition is access to what has come to be called the federal trust responsibility.¹¹ The federal government's trust responsibility to Native American Tribes and their members is a foundational basis for federal-tribal relationships.¹² Many of the treaties between the United States and Native American Tribes contain promises by the United States to provide for the welfare of tribes and their members. Over time, as implemented by federal legislation, the federal government has generally recognized its responsibility and obligation to provide a variety of services to Native Americans, including health care, housing, public safety, and others. In some areas, the trust

responsibility resembles an actual legal trust, such as the management of lands held in trust by the federal government for the benefit of Native Americans.

In many ways, the trust responsibility can be said to apply generally to all tribes and tribal members. In other ways, the federal government may have specific obligations to specific tribes, determined by specific treaties the federal government has agreed to with individual tribes, as well as legislation enacted for the benefit of particular tribes.

SELF-DETERMINATION AND TRIBAL LAW

Although tribes are sovereign nations, Congress has plenary authority over tribes. Inconsistent and paternalistic behavior in the use of such authority has greatly interfered with tribal sovereignty and complicated the state of Native American affairs today, which is detrimental to tribes and their members. Over the past 40 years, federal policy toward tribes has generally been in support of greater tribal self-determination.

In furtherance of self-determination, the hundreds of tribes across the United States, as sovereigns, have established diverse forms of self-government. For example, the four tribes headquartered in Nebraska (the Omaha Tribe, the Ponca Tribe, the Santee Sioux Nation, and the Winnebago Tribe), have all enacted Constitutions, enacted distinct tribal laws, and established courts.¹³

Tribal laws are not uniform and vary from tribe to tribe. Attorneys representing those affected by disasters in Indian country must familiarize themselves with the relevant tribal laws. Because laws vary from tribe to tribe, and because of the large number of tribes, it is impossible to set forth any general statements summarizing them.

JURISDICTIONAL ISSUES

One issue that can arise when providing legal assistance to Native Americans is the question of jurisdiction. As sovereign nations, tribes have inherent authority to govern themselves, their territory, their members, and issues that impact them. However, over the years, in a series of controversial decisions, the United States Supreme Court has limited the civil and criminal jurisdiction of tribes and tribal courts. Congress and the executive branch, despite its general policy of supporting tribal self-determination, also continue to place limits on tribes' ability to govern themselves.

One prominent example is a line of United States Supreme Court cases that has come to define what civil jurisdiction tribes and tribal courts may exercise. Perhaps the most important case in this regard was *Montana v. United States*, decided in 1981.¹⁴ The Montana case involved a dispute between the Crow Tribe, the state of Montana, and nonmember residents of the Crow Tribe's reservation, about the Tribe's effort to prohibit nonmember hunting and fishing on the reservation.^{15,16} The Tribe argued in part that it had the ability to prohibit these activities because of its inherent sovereign authority; however, the Supreme Court held that the Tribe's inherent sovereignty was largely limited to the power to regulate tribal members and internal tribal relations. The Court said tribes do not have inherent authority over non-members on non-Indian owned land, except in two situations. The first was that tribes may regulate the activities of nonmembers who enter consensual relationships with the tribe or its members. The second was that tribes may also retain inherent power to exercise civil authority over non-member conduct that threatens or in some way affects the political integrity, economic security, or the health or welfare of the tribe.¹⁷

Later cases have revisited and further defined the rules set out in *Montana*. Attorneys evaluating how best to assist Native Americans affected by disasters should familiarize themselves with these cases to advise their clients of their rights and their options to protect them.

Another factor complicating jurisdiction in Indian country is Public Law 280, originally passed by Congress in 1953. Generally, state governments have no authority to regulate Native American affairs unless such authority is granted to states by the federal government. In Public Law 280, Congress delegated federal criminal and civil jurisdiction over Native American affairs to some, but not all states, and provided that state laws in the listed states applied to Indian country the same as they would throughout the state with some exceptions.¹⁸

As mentioned, Public Law 280 only affected some states, specifically, Alaska (with some exceptions), California, Minnesota (except the Red Lake Reservation), Nebraska, Oregon (except the Warm Springs Reservation), and Wisconsin.¹⁹ Public Law 280 also allowed other states to determine whether to assume jurisdiction over Indian lands within each state.²⁰ Some states have done so in whole or in part.²¹

Public Law 280 was later amended to allow states to retrocede Public Law 280 jurisdiction back to tribes and the federal government.²² Some states have done so. In Nebraska, the state has partially retroceded Public Law 280 jurisdiction concerning the Omaha, Santee, and Winnebago Tribes.



Disaster Assistance

Disasters come in many forms and can strike anywhere in the United States. Disasters can include damage caused by floods, tornadoes, severe weather, hurricanes, and fire, to name just a few, and can affect people in innumerable ways. Property, such as cars, which may be needed for employment or the activities of daily life, can be damaged and rendered unusable. Homes can be damaged and become uninhabitable.

If you or your family is affected by a disaster, you may be eligible for government or other assistance. This guide is intended to help volunteers or other attorneys assisting those affected by disasters navigate the different types of assistance that might be available, and help provide answers to questions you might have.

What assistance is available in a disaster?

There are several forms of assistance that might be available if you are affected by a disaster. If you have insurance, you should contact your insurance company to file a claim. If your insurance covers damage caused in the disaster, your insurance company might reimburse you the full cost to replace property damaged in a disaster, minus the cost of your deductible.

Additionally, the Salvation Army, Red Cross, or other non-profit organizations may be able to provide emergency assistance, such as food, shelter, clothing, and medical assistance. If you are affected by a disaster, consider contacting these organizations to learn what assistance they can provide. If they cannot provide assistance, or the assistance you are seeking, ask for referrals to other organizations that may be better able to meet your needs.

If insurance and other sources do not cover damage caused by a disaster, or if you do not have insurance, government assistance might be able to help.

Perhaps the most well-known governmental agency providing assistance to those affected by disasters is the Federal Emergency Management Agency (FEMA); however, FEMA is usually only involved if the local tribal, state, and/or local government is unable to respond to the needs of those affected by the disaster.

If the extent of a particular disaster is small, the collective damage caused by the disaster may be able to be met without FEMA intervention. For instance, if a flash flood damages some roads and homes in a tribal community, the tribe may have resources sufficient to repair the roads and clear debris, and there may be enough available housing to house those affected. In this circumstance, FEMA may not become involved with the disaster.

Because FEMA only exists to provide assistance when all other avenues are inadequate, you should report any damage or other effect to your tribal government, and you should ask what assistance is available to help.

If the scale of the disaster is so great that a tribe cannot meet the needs of the communities and people affected, a tribe can ask the President of the United States to declare that an emergency or major disaster exists. If the President declares a disaster, then FEMA can work with tribes to provide for the basic needs of the community and the people in the community.

How can FEMA help?

There are three main types of assistance that FEMA can provide in the event of a disaster: Public Assistance (PA), Individual Assistance (IA), and Hazard Mitigation Grants (HMGP). All three types of assistance are only available when the President declares a disaster.

Public Assistance (PA) and Hazard Mitigation Grants (HMGP) provide funding primarily to tribal, state, or local governments to repair, replace, or restore government facilities damaged in a disaster, such as roads, bridges, utilities, and other important services, and to help prevent such damage in the future. Individual Assistance (IA) is the only form of FEMA assistance available to individuals affected by a disaster.

Is Individual Assistance (IA) available every time the President declares a disaster?

No. There are two types of disasters that the President can declare: “emergency” disasters and “major” disasters. Emergency declarations are intended to provide immediate and short-term assistance essential to save lives, protect public health, safety, and property, or to lessen or avert the threat of a catastrophe.²³ FEMA assistance is only available under emergency declarations to meet specific public emergency needs or to help tribal, local, or state governments prevent a major disaster from occurring. For this reason, Individual Assistance (IA) is not available under emergency declarations. Individual Assistance is only available when the President declares a major disaster.

What is a Major Disaster?

A major disaster is any natural catastrophe (hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought) or any fire, flood, or explosion. The President must determine that the disaster causes damage of sufficient severity and magnitude that federal funding and assistance is needed to supplement the efforts and available resources of tribal, state, and/or local governments, as well as disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused by the catastrophe.

What individual assistance can FEMA provide in a major disaster?

There are several types of FEMA-funded individual disaster assistance:

- **Individuals and Households Program (IHP)**
 - If the President authorizes the Individuals and Households Program (IHP), the following assistance may be available:
 - Financial assistance to homeowners to repair or replace disaster-damaged homes.
 - Financial assistance to rent a temporary place to live.
 - Temporary homes (such as FEMA Trailers) when rental properties are not available and applicants are unable to use their financial assistance.
 - Funding for tribes to build additional permanent or semi-permanent homes where no other housing resources are available or feasible.
- **Disaster Unemployment Assistance**
 - Because of a disaster, places of work are often damaged and are forced to temporarily or permanently close, putting employees out

of work. Similarly to regular unemployment benefits, FEMA can provide disaster unemployment assistance to those who have lost work or have become unemployed because of a disaster. Disaster unemployment assistance is administered by state workforce agencies. You should contact the appropriate state agency to apply for disaster unemployment assistance.

- **Crisis Counseling Program**

- FEMA, in partnership with the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration, can give grants to tribal governments to provide mental health services to people affected by disasters.²⁴ These services can include counseling to help disaster survivors understand their situation and work through their reaction to the disaster.²⁵ They can help disaster survivors reduce stress, review disaster recovery options, and lend emotional support.²⁶

These services can be made available at no cost to tribes, but the tribal government must have requested this assistance and have had the request approved by FEMA.²⁷ Check with your tribal government if this assistance has been made available.

Does the federal government offer other assistance besides FEMA assistance?

Yes. In some cases, individuals who have had property losses because of a disaster may be eligible for a loan through the Small Business Administration (SBA). Also, despite the name, individuals do not need a business in order to receive an SBA loan. Interest rates on SBA loans are typically very low, with favorable terms for borrowers. Most FEMA assistance is intended to meet immediate emergency needs and may not cover all disaster-related losses. SBA loans are better suited to meet these non-emergency disaster-related needs.

How do I know if the President has declared that a disaster exists?

For an up-to-date listing of current areas declared as disaster areas, visit www.fema.gov. It is important to note that a Public Assistance (PA) declaration primarily assists jurisdictions in repairing infrastructure and public works, and is a separate declaration from an Individual Assistance (IA) declaration. An Individual Assistance declaration assists affected households. The two declarations are not the same. For more information on PA and IA declarations, please visit www.fema.gov.

How do I apply for federal disaster (FEMA) assistance?

Individuals, families, and businesses in disaster-affected counties may be eligible for federal assistance. It is essential to register with FEMA to ensure access to all available assistance. You may register with FEMA and apply for disaster assistance by calling the FEMA Helpline at 1-800-621-3362 (TTY: 1-800-462-7585) or by visiting www.fema.gov.

Disaster survivors should read FEMA's Applicant Guide, titled "Help after a Disaster: Applicant's Guide to the Individuals and Households Program." You will be mailed a copy of this publication after registering with FEMA. You may also read a copy online at: www.fema.gov/help-after-disaster.

What information should I have available when applying?

You will need your Social Security number, your pre-disaster address, your current address, a phone number where you can be reached, insurance information, total household annual income, and a description of losses caused by the disaster. If you want disaster assistance funds transferred directly into your bank account, you will also need to provide a routing number and account number.

You will be given a FEMA registration number. This is very important; please write it down and keep it somewhere safe.

What happens after I apply for disaster assistance?

Please note that it may take up to 48 hours for your registration to appear in FEMA's system.

You may find it helpful to create an online account which will allow you to track the progress of your application. You may create an account at www.disasterassistance.gov. Creating an online account is not required.

FEMA will mail you a copy of your application and an Applicant Guide which will explain the entire process.

You may be contacted by an inspector who will schedule a time to review your damages. It is very important that you provide a working phone number so this inspector is able to reach you. If an inspector cannot contact you, you will experience delays on your application.

You may be asked to complete additional paperwork.

You may always call the FEMA Helpline at 1-800-621-FEMA (3362), TTY 1-800-462-7585 to check on the status of your application.

How does my insurance, or lack of insurance, affect my FEMA application and benefits?

If you have homeowner's or renter's insurance, you should still apply for FEMA assistance. However, you will need to work through your insurance company's claim process before being eligible for any FEMA benefits (and you may not be eligible for any FEMA benefits at all). You should provide FEMA with a decision letter from your insurance company. If your insurance company's settlement does not cover all your losses, or your insurance claim is denied, FEMA assistance may be available. If you do not have homeowner's insurance and your home or its contents were damaged, a FEMA inspector should contact you within 10-14 days of your application to inspect your home.

I received a loan application from the Small Business Administration (SBA). Should I complete it?

If you receive an SBA loan application, it is very important that you complete and submit it. Even if you are approved, you are under no obligation to accept any loan. After reviewing your application, the SBA may determine you are not eligible for a loan and refer you to FEMA. At this stage in the process, you may now be eligible for additional FEMA grant funds. If you fail to complete the loan application, you will miss out on the possibility of these additional grant funds.

The application should take approximately 30 minutes to complete. If you need assistance completing it, you may contact the SBA Customer Service Center at 1-800-659-2955.

FEMA sent me a letter saying I had no damage/insufficient damage, but I think that is wrong. What do I do now?

You may always appeal FEMA's decision if you believe it is incorrect. When you appeal FEMA's decision, you are asking FEMA to review your case again. It's important that you do this in a timely matter; you must appeal within 60 days of the date on FEMA's decision letter. All appeals must be in writing. You may mail or fax your appeal. You may be appealing FEMA's decision regarding your eligibility, the amount or type of help provided to you, late applications, requests to return money (also called "recoupment"), or questions regarding continued help.

1. Your appeal should explain in writing why you disagree with the decision. You may include documents which support your explanation; for example, a contractor's estimate showing how much it will cost to repair your home.
2. Your appeal should include your full name, date and place of birth, and address. Your letter must be either notarized, include a copy of a state issued identification, or include the following statement: "I hereby declare under penalty of perjury that the foregoing is true and correct."
3. You must sign the letter.

4. If someone other than you or the co-applicant is writing the letter, then a statement must be included saying that that person may act for you.
5. Include the FEMA application number and disaster number (shown at the top of your decision letter) in your letter of appeal. Mail your appeal letter to:

**FEMA National Processing Service Center
P.O. Box 10055
Hyattsville, MD 20782-8055**

6. You may also fax your appeal to 1-800-827-8112 Attn: FEMA.

How long does it take to get FEMA help?

You should be contacted by a FEMA inspector within 10-14 days of application. The inspection will be scheduled as soon as possible, but keep in mind inspectors are often very busy after a disaster and have many homes to inspect. If the inspection shows you have uninsured eligible damage or need to rent housing while displaced from your home, a check can be printed and put in the mail within two days of the inspection. If you have chosen to use electronic deposit, the funds are deposited almost immediately after approval. The money often arrives before the official letter explaining the award, which will come in the mail.

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I got a check from FEMA. Can I spend it on whatever I want?

No. It is very important that you spend the money in the way FEMA intended. FEMA will send you an award letter with an explanation of the funds, and it is important that you spend the money appropriately and keep documentation of this.

For example, FEMA "Housing Needs" assistance must be spent on housing. You may not spend it on replacement clothing or food, even if you need these things because of the disaster. If you do not use the money properly, you may not be eligible for additional help. You may also be required to pay the money back (also called "recoupment of funds"). If you aren't sure whether a specific expense is qualified for use of FEMA funds, you should contact FEMA to ask.

I received a rental assistance check, but there are no places to rent.

If you are eligible for housing assistance but cannot find rental housing within a reasonable commuting distance of your damaged dwelling, you should contact FEMA or visit a Disaster Recovery Center. FEMA will evaluate your situation and may authorize a travel trailer or mobile home to provide temporary housing.

What if I don't get enough FEMA money to meet my needs?

FEMA funds and other disaster aid programs are only intended to meet essential needs. There may be other sources of funding, such as SBA loans, which can assist you in your recovery. You should apply for all available assistance.

If you feel the amounts FEMA has approved for specific needs are too low, you can always appeal the decision. Keep in mind you will need to explain why you believe you are entitled to additional funds. See above for more information about appeals.

I have a new phone number. How do I update my application?

It is very important that you keep FEMA updated with current contact information, including phone number and address. You may update FEMA by calling the FEMA Helpline at 1-800- 621-FEMA (3362), TTY 1-800-462-7585, or by visiting a Disaster Recovery Center. It is important to keep a record of all communication with FEMA, including the date, time and who you spoke to. If you provided written documentation, keep a copy of the documentation that you provided.

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

A Disaster Recovery Center is an accessible facility or mobile office where applicants may go for information about FEMA and other disaster assistance programs. Applicants may also ask questions related to their individual FEMA case.

I lost my job because of the disaster and may lose my housing because of the lost income. Will FEMA make payments until I can return to work?

No, FEMA cannot make mortgage or rent payments on your behalf. If your job was affected by the disaster, you may be eligible for Disaster Unemployment Assistance.

Will FEMA pay for lost wages? I haven't been able to work since the disaster.

It is possible you can receive unemployment compensation benefits if:

- You are unemployed because your employer's business was destroyed or closed because of the disaster; or
- You are unemployed because your house or car was destroyed; or
- You can no longer get to work due to the disaster.

There is a federally funded Disaster Unemployment Assistance (DUA) program that would give you temporary income if you lost your job due to a "major disaster," which is defined as "a hurricane, tornado, storm, flood, earthquake, drought, ice conditions, fire, or other catastrophe." These funds are only available if the President declares a major disaster.²⁸

The inspector told me I was going to get money from FEMA, but the FEMA letter said I am not eligible. Who is right?

Inspectors are contracted by FEMA to perform inspection work only, and are not authorized to comment on eligibility matters. The letter is correct, and not the inspector. If the FEMA letter determined you are ineligible, please see the section above on appeals.

What will FEMA accept as proof of occupancy?

FEMA will accept several types of documents, including but not limited to the following:

- Utility bill for the damaged dwelling with your name or name of co-applicant
- Credit card statement sent to the damaged dwelling with your name or name of co-applicant
- Pay stubs sent to the damaged dwelling with your name or name of co-applicant
- Current driver's license or non-driver's license with the address of the damaged dwelling

What will FEMA accept as proof of home ownership?

FEMA will accept several types of documents, including but not limited to the following:

- Deed
- Mortgage documents
- Homeowner's insurance policy
- Property tax bill
- Property tax receipts

I missed the FEMA inspector's call. Should I try to call them back?

No. FEMA inspectors are busy inspecting other houses and you will likely be unable to reach them. You should wait for the inspector to contact you again. Inspectors will try to contact you three times to arrange an inspection of your property. It is important you keep your contact information updated so the inspector can reach you.

I have insurance and filed a claim with my insurance agent, but I have no place to live. Can FEMA help me?

Many homeowner's insurance policies include coverage for additional living expenses (ALE). ALE coverage includes the cost of housing, food, and other daily essentials. Your policy will specify the amount of ALE coverage provided. ALE coverage is only available when the insured property is uninhabitable because of a loss covered under the homeowner's insurance policy. If your housing costs exceed this amount, or your policy does not include ALE coverage, FEMA may be able to provide assistance.

My insurance settlement is not enough to meet my needs/cover my losses. Can FEMA help?

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First, carefully review your settlement documents and your insurance policy. If you lost your policy (your actual insurance contract) in the disaster, you may call your insurance company and request that a new copy be sent to you. Be sure you understand what kinds of damages and losses are covered by your policy. If you believe your insurance company has refused a claim for a damage or loss that is covered by your policy, you should contact your insurance company to appeal the decision.

FEMA may be able to provide assistance if you still have unmet needs after utilizing your insurance policy to its full extent. While anyone affected by a disaster should register with FEMA, your application will likely be denied as "ineligible" if you have homeowner's insurance. If you still have unmet needs after exhausting your insurance policy, you may contact FEMA to inquire about available assistance. You should explain that you have had a change in circumstances: you have made a claim on your insurance policy, utilized it in the intended manner, and still have unmet disaster-related needs. You should include the settlement information from your insurance company, which explains your insurance company's decision regarding your claim.

Are insurance deductibles covered by FEMA funds?

No.

What insurance documents does FEMA need?

FEMA is not allowed to duplicate any benefits already provided to you by your insurance company. Therefore, FEMA needs to know how your insurance company handled your claim. Supporting documents to explain the handling of your claim may include a settlement detailing funds awarded or a denial letter.

My insurance company told me they can't inspect my house for weeks. Can FEMA help?

FEMA may be able to help if your insurance settlement is delayed. Your settlement is considered delayed if it has been longer than 30 days since you filed your claim and no decision has been made. You need to write a letter to FEMA explaining the circumstance. You should include documentation from the insurance company proving that you filed the claim. If you filed over the phone, you should include the claim number, date of filing, and any estimates given to you by the insurance company regarding how long the settlement will take.

Please note that if FEMA provides any financial assistance because of a delayed insurance settlement, this assistance will be considered an advance. You must pay FEMA back the funds once your insurance settlement is complete.

I need to pay money back to FEMA. Where do I send it?

You have several options for paying money back to FEMA. You may pay by personal check or money order, by credit card, or by returning the uncashed US Treasury check.

Make all personal checks or money orders payable to FEMA. Be sure to include your FEMA registration number, which will be included on your Notice of Debt

letter, or your Bill for Collection number. If FEMA cannot identify you and associate your personal check or money order with an outstanding debt, it will be returned to you.

Mail your personal check, money order, or your completed credit card form to:

**FEMA
P.O. Box 530217
Atlanta, GA 30353**

US Treasury checks which have not been cashed or deposited may be returned to FEMA at:

**Department of the Treasury
Bureau of Fiscal Service
Philadelphia Financial Center
Attn: Treasury Check Return
1300 Townsend Road
Philadelphia, PA 19154-1026**

Include your name, Social Security number, and FEMA application number on any correspondence.

My home is not damaged but a public road/bridge is damaged so that I can't access my home. Can FEMA help?

Yes. If damages to a public road or bridge prevents or restricts you from accessing your home, FEMA may be able to provide assistance.

If I own the road/bridge should I apply for help?

Yes. If the private road or bridge damage prevents or restricts access to your home, FEMA may be able to provide assistance.

What if I share ownership and responsibility for the road/bridge?

All households who share in the responsibility of maintaining the private road or bridge should be encouraged to register, particularly if the damages prevent or restrict access to their homes.

How do I get a FEMA trailer?

If you are eligible for housing assistance from FEMA but are unable to find a residence to rent within a reasonable commuting distance of your damaged home, contact FEMA at 1-800-621-3362 or visit a Disaster Recovery Center. FEMA will evaluate your situation and may then authorize a temporary housing unit (a travel trailer or mobile home). In large-scale disasters, FEMA will conduct a study of the community's available housing stock and then make a decision regarding the need for temporary housing units.

How long can I use it?

If you are approved for a FEMA temporary housing unit, you will need to meet with a FEMA housing specialist to prove your continued eligibility each month. This process is called "recertification." Generally, temporary housing units are available for 18 months from the date of disaster declaration assuming you remain continuously eligible. FEMA may also grant an extension to this 18 month time period.

My family is too big for the trailer, what now?

FEMA temporary housing units come in a variety of sizes. If the largest size available is still too small for your family, it may be possible for your family to get two. You should speak with your FEMA housing specialist about your concerns.

Can I have a ramp built for my trailer?

Yes. Speak with your FEMA housing specialist or call the FEMA Helpline at 1-800-621-FEMA (3362), TTY 1-800-462-7585.

What if a storm damages my trailer?

When you move into your trailer, you will be provided a maintenance number. If you do not have the maintenance number, call the FEMA Helpline at 1-800-621-3362 or speak with your FEMA housing specialist.

Will FEMA pay my utility bills?

No. FEMA cannot pay utility bills. However, local agencies may have funds designated for emergency utility assistance. Contact your local Red Cross or United Way for referral to a local agency. You may reach the United Way by dialing 2-1-1 from any landline phone. In addition, many utility companies will make special allowances or set up special payment plans after a disaster. Be sure to contact your utility company directly, explain your situation, and inquire about the availability of assistance programs.

I lost food because of the power outage; can FEMA pay me for it?

No. FEMA's disaster assistance program does not cover food loss. Volunteer agencies in your area may be able to assist with immediate food needs. If you have homeowner's insurance, it is possible your policy covers food spoilage due to a covered loss. The basic homeowner policy does not, but you may have purchased an additional premium or "rider" to cover this cost. Review your insurance policy or contact your insurance company for more information.

Can FEMA buy food for me?

No, but Nebraska has Disaster Food Stamp Benefits that current Food Stamp recipients would be eligible for. Contact Nebraska Department of Health and Human Services at 402-471-3121 to find out if this assistance is available.²⁹

Can FEMA help with debris removal (trees, actual storm debris)?

FEMA does not typically pay for cleaning up debris. However, if the debris is keeping you or emergency workers from safely reaching your home, FEMA may be able to provide help. In a large-scale disaster, debris removal may actually be coordinated by the tribal government. Contact local officials to see what assistance is available. Debris removal may also be covered by your homeowner's insurance policy. Review your policy or contact your insurance company for more information.

Will FEMA reimburse me for the generator I bought?

FEMA will reimburse for generators purchased post-disaster only in very special circumstances. The applicant must first be eligible for FEMA assistance. The generator must be purchased or rented to power a medically-required appliance or piece of equipment. The generator must be purchased or rented on or after the governor's declaration of a state of emergency up to the end of the incident period or the date power is restored to the applicant's home, whichever occurs first. You will need to send FEMA a copy of the proof of purchase or rental receipts for the generator, and prove the appliance or equipment in question is required for medical purposes (for example, a letter from a physician on letterhead explaining the medical need for the appliance or equipment). You may send the above information to: FEMA Individuals & Households Program National Processing Service Center, P.O. Box 10055 Hyattsville, MD 20782-8055 You may also fax the above information to: 1-800-827-8112.

However you choose to send it, be sure to also include your name, last four digits of your Social Security number, disaster number, and registration number. Please ensure this information appears on all pages of your correspondence, and keep a copy for your records.

Do I have to repay the government or my Tribe for help I received?

Under normal circumstances, grants from the Individuals & Households Program do not have to be repaid. Recoupment may occur if the federal government later finds you have misspent the funds allocated (used them for a purpose other than that specified by FEMA), or have received an incorrect amount of funds (either due to fraud or mistake). Loans from the Small Business Administration must be repaid.

Where should I mail my receipts to FEMA?

You may mail receipts to: FEMA Individuals & Households Program National Processing Service Center, P.O. Box 10055, Hyattsville, MD 20782-8055. You may also fax receipts to: 1-800-827-8112. However you choose to send it, be sure to also include your name, last four digits of your Social Security number, disaster number, and registration number. Please ensure this information appears on all pages of your correspondence, and keep a copy for your records.

I have a lot of damage but my FEMA letter says \$0. Why?

Your letter from FEMA will state a reason for the denial. Once you have found the stated reason, you may refer to the Applicant's Guide for additional information. Applicants are most commonly denied because they have insurance to cover the loss. Please refer to the appeals section to appeal your denial.



Indian Health Service

What is the Indian Health Service?

The Indian Health Service (IHS) is an agency within the Department of Health and Human Services (DHHS) with the purpose of providing health care services to American Indians and Alaska Natives. Such services may include “hospital and medical care, dental care, public health nursing and preventive care.”³⁰ Services provided will likely vary by location, in that IHS does not provide the same services to all areas.³¹ Facilities providing IHS services may include contract facilities, or facilities under contract with IHS, in addition to IHS hospitals and clinics.³²

Who is eligible for IHS?

There is no formal enrollment process. Instead, IHS defines eligible individuals as “persons of Indian descent belonging to the Indian community.”³³ Factors that are taken into consideration include: “tribal membership, enrollment, residence on tax-exempt land, ownership of restricted property, active participation in tribal affairs, or other relevant factors.”³⁴

There are also certain circumstances when IHS will provide care to ineligible individuals. Such circumstances include when an ineligible woman is pregnant with an eligible man’s child, to control infectious disease, in situations of a public health hazard,³⁵ and in cases of an emergency.³⁶

What are Contract Health Services?

To expand coverage, IHS contracts with other public or private healthcare facilities to provide services to eligible individuals.³⁷ However, there are additional requirements to qualify for contract health services. An individual must reside within a “contract health service delivery area” of the tribe they are a member of or “maintain close economic and social ties with that tribe or tribes.”³⁸

How are health services paid for?

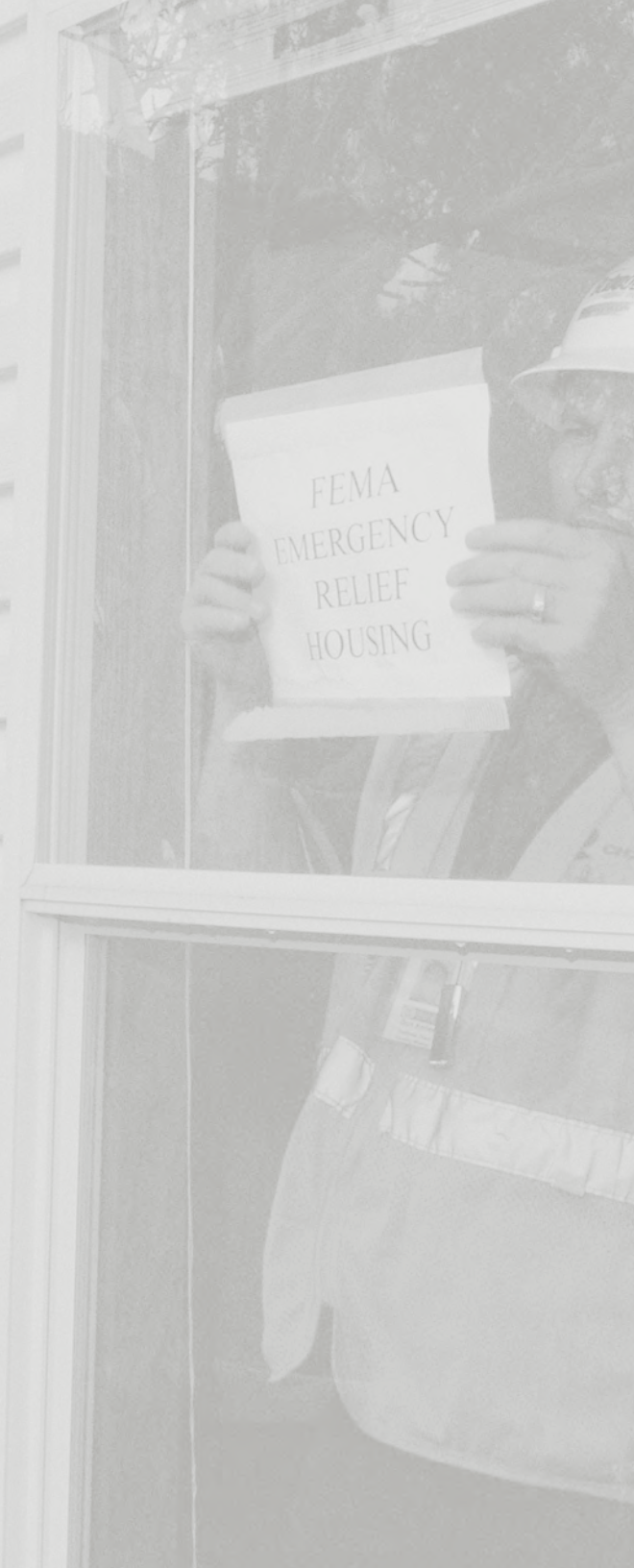
In regards to payment, IHS is the “payor of last resort” for services provided by IHS facilities and contract facilities.³⁹ This means an individual must utilize any Medicare, Medicaid, state programs, local programs, or private insurance benefits before IHS will pay for his/her services. In addition, IHS facilities and contract facilities are eligible for reimbursement from Medicare for services provided to Medicare patients.⁴⁰

What if a person is already on Medicare or Medicaid?

An individual may also be eligible for Medicare or Medicaid programs, independent of whether they are eligible for IHS services. Medicare is a federal program in which eligibility is based on age or disability. Medicaid is a joint federal and state program, in which eligibility is based on income and family size. An individual may also be eligible for additional state programs and tribal programs depending on the state and/or tribe.

If an individual who is on Medicaid is also eligible for IHS services, that individual does not have to pay Medicaid premiums, enrollment fees, or out-of-pocket costs such as copayments, coinsurance, and deductibles.⁴¹ The individual can continue to receive services from IHS facilities, including facilities under contract with IHS, even if the facility is not within that individual's managed care network, and that facility will still be paid for the services they provide.⁴²

Housing



This article is intended for attorneys, who do not normally practice in the area of Native American law, who wish to assist the native population with any housing issues that might arise. This housing summary is intended to give a brief overview of some of the funding options (both federally sourced and privately sourced) that Native Americans have when it comes to assisting them with any housing issues they might have, especially those who reside on native lands or on reservations. Options that are available to Native Americans include government-funded programs, and this housing section will discuss the requirements that must be met in order to utilize these programs. Local and community resources that aid Native Americans with housing are also briefly mentioned in this section. This section addresses some regulations that are unique to Native American housing situations. It is important to have a better understanding of these unique land, housing, and loan situations in order to best aid Native Americans when it comes to the issue of housing, especially in disaster situations.

What are Native Housing Codes?

As part of sovereign authority, many tribes have adopted housing codes governing housing within a tribe's jurisdiction. These codes differ from tribe to tribe, and people with issues involving housing within the jurisdiction of a tribe should take steps to familiarize themselves with codes that are relevant to that tribe. Each tribe must also develop both a one and five year housing plan in order to be considered for government assistance. It is important that a practitioner familiarize themselves with the codes and plans of each tribe in order to offer the best assistance possible for a Native American client. Housing codes unique to each tribe can usually be found in the tribe's governing documents.

What is typically found in tribal housing codes?

- Relevant to housing
- Minimum standards for facilities
- General standards for safety and sanitary measures
- Minimum space, use, and location requirements

RESPONSIBILITIES OF OWNERS AND OCCUPANTS

What are Tribal and Federal Housing Organizations?

Many tribes also operate or designate organizations that provide housing to Native Americans. Tribal housing organizations often adopt internal policies that set out rules governing their housing. These organizations receive funding for their programs from a variety of tribal and non-tribal sources that can affect the laws applicable to the housing provided. Land use restrictions and the inhospitality of some of the native lands combine to complicate the development and maintenance of low income housing.⁴³ Development and funding for Native Americans wishing to build or purchase their own home is complex because

of the trust responsibility and sovereignty concepts that shape the Native American's relationship with the federal government. This complicates the loan process for Native Americans wishing to build on Native or trust lands that cannot be taken by the bank if the individual fails to pay the bank back. This has led to special Native loan programs.

What kind of funding is available and where does it come from?

U.S. Department of Housing and Urban Development (HUD) provides most funding for housing assistance through Indian housing authorities.⁴⁴ This funding is used to:

- Develop housing for eventual ownership by individual families through the mutual help program;
- Develop and maintain rental housing for low income families; and
- Modernize and rehabilitate established low income housing.⁴⁵

Funding is available to Native Americans in different ways and includes loan guarantees for home mortgages, block grants, and community development block grants.⁴⁶

What government organizations and programs assist with housing?

- **U.S. Department of Housing and Urban Development (HUD):**
 - Provides financial assistance for the development and management of low-income housing and community development in the Indian and Alaska Native areas through the traditional Indian housing development program.⁴⁷
- **Bureau of Indian Affairs (BIA):**
 - Reviews and approves all required trust land leases, easements, and real estate appraisals, provides maintenance services to those IHA constructed roads and streets accepted into the BIA road systems,

and provides other support when available for the timely development of housing.⁴⁸ It also administers a non-HUD housing program, the housing improvement program.⁴⁹

- **Indian Health Service (IHS):**

- Assists tribes by providing technical and financial assistance in the development of sanitation facilities.⁵⁰ When requested by the tribe and the IHA, IHS may participate in the construction of sanitation facilities funded under the traditional Indian (HUD- assisted) housing development program.⁵¹

- **Indian Housing Authorities (IHAs):**

- Are comparable to public housing in structure and function in developing and managing assisted housing units under the U.S. Housing Act. They can be established by tribes under either tribal or state law. Tribally formed IHAs must have ordinances consistent with HUD approved format.⁵²

- **Housing Improvement Program (HIP):**

- Provides grants to very low-income homeowners who had no other source of funds for housing repair or renovation. This program is available on most Indian reservations.⁵³

What local organizations can assist with Native American housing?

- **Native American Connections:**

- Has developed, owns, and manages 500 units of income-based and affordable housing.⁵⁴
- Is Native American service that acts independently of the government as an effort to help end homelessness.⁵⁵

- **Indian Center in Lincoln, Nebraska:**

- Provides 142 units of rental housing and is a non-profit option for native housing.⁵⁶

Why are there separate laws for Native Americans when it comes to public housing?

The United States holds legal title to Native American lands, but it holds these lands in trust entirely for the benefit of Native American people. The government can be construed as the Native American's protector in trust. This concept is known as the trust responsibility. Native American Tribes are sovereign communities, and as such they have the right to manage their own affairs, including housing. Rights that are secured by Native Americans in trust responsibility include the right to possession, the right to receive income from the land, the right to water resources, and the right to hunt and fish on the land. These concepts will be discussed in further detail in the next section. Since the federal government has a duty to the Native American people, they provide government assistance for Native housing options.

What are Government Assistance Options for Native Housing and what does each provide?

041

- **Indian Housing Block Grant:**
 - Is a formula-based housing grant program.
 - Provides federal assistance for Indian Tribes to develop affordable housing and provide housing activities on a reservation or Indian area.⁵⁷
 - Provides federal assistance for Indian Tribes for the right of tribal governance, housing related services such as housing counseling, self-sufficiency services, energy auditing, and the establishment of resident organizations.⁵⁸
 - Is given to a federally recognized Indian Tribe, a tribally designated housing entity, or a state recognized tribe that was funded under the Indian Housing Program authorized by the United States Housing Act of 1937.⁵⁹
 - These grants are given to tribes that have submitted an Indian Housing plan to HUD.⁶⁰

- **Title VI of the NAHASDA:**

- Provides financing guarantees to Indian Tribes for private market loans to develop affordable housing.⁶¹

- **The Section 184 Loan Guarantee Program:**

- Is a home mortgage product specifically designed for American Indian and Alaska Native families.⁶² Congress established this program in 1992 to facilitate homeownership and increase access to capital in Native American communities.⁶³ Eligible borrowers are members of a federally recognized tribe, tribally designated housing entities, and Indian Housing Authorities.⁶⁴

- **Indian Community Development Block Grant Program:**

- Eligible activities include:
 - Housing development;
 - Acquisition;
 - New construction;
 - Reconstruction;
 - Moderate or substantial rehabilitation of affordable housing;
 - Modernization and operating assistance to housing developed under Indian Housing Program;
 - Housing services to eligible families and individuals;
 - Housing management services for affordable housing;
 - Crime prevention and safety; and
 - Model activities that provide creative approaches to solving affordable housing problems.⁶⁵

- **Resident Opportunity and Self-Sufficiency Program:**

- Provides funds for job training and support services to help public housing residents transition from welfare to work.⁶⁶

- **Rural Housing and Economic Development Program:**
 - Awards grants for capacity building within recipient organizations and support innovative housing and economic activities and projects.⁶⁷
- **Tribal Colleges and Universities Program:**
 - Assists tribal colleges and universities with building, expanding, renovating, and equipping their own facilities.⁶⁸

Why are federal laws and regulations inapplicable to tribal housing?

Homeownership on Native American lands is different than homeownership elsewhere due to the legal complexity of native land titles and the trust responsibility. The tribe itself rather than the individual tribe members, usually owns the property—this practice ensures that the land is not sold to nontribal members.⁶⁹ This practice, although good for tribes, means that it is difficult for those Native Americans wishing to improve or purchase housing to qualify for loans. Since there is no ability for banks to take back these tribally-owned lands if the loan goes unpaid, this has led to the death of private lending activity on Native lands.

Because of the death of private lending activity on Native lands, federally funded and sponsored loan products play a substantial role in home mortgage finance in tribal areas and reservations.⁷⁰ Some tribal housing authorities have their own mortgage company that operates a revolving loan fund.⁷¹ Tribally-owned mortgage companies also offer housing counseling and assistance to clients. This increased assistance has significantly improved financial literacy.⁷²

How can tribes qualify for government assistance for housing on Native lands?

In order to qualify for government assistance for housing on Native lands, each tribe must come up with a housing plan. There is no “free” native housing available, but grants help fund housing on Indian Reservations and for Native Americans.⁷³ The BIA is responsible for a wide range of services that include housing improvements.⁷⁴ So, in order for a Native American Tribe to qualify to receive federal funding and support, they must develop a housing plan, otherwise they will not be able to receive federal assistance for housing.

Relevant Definitions

Trust Land: land usually owned by an individual Native American or a tribe, where title is held in trust by the federal government. Most trust land is within the boundaries of the reservation but it can also be off reservation.⁷⁵

Tribally-Owned Land: a title to tribally owned land that is held by the tribe and not the federal government. Lenders cannot foreclose on tribally-owned lands and resell it because most tribes do not allow sales of native lands to non-Native Americans since it leads to severe fragmentation of these tribal lands.⁷⁶

Trust Responsibility: a legally enforceable fiduciary obligation on the part of the United States to protect tribal treaty rights, lands, assets, and resources, as well as a duty to carry out the mandates of federal law with respect to American Indian and Alaskan Native Tribes and Villages. Trust responsibility entails legal duties, moral obligations, and the fulfillment of understandings and expectations that have arisen over the course of the relationship between the United States and the federally recognized tribes. This responsibility compels the government to protect Native American interests. This responsibility provides Native Americans with a means of challenging government action that violates this duty.

Indian Self Determination and Education Act of 1975: this Act reaffirmed that tribal governments should be able to control education programs, contracts, and grants affecting Indians.

Tribal Sovereignty: the right of Native American governments (tribes) to be recognized as independent nations and to manage their own internal affairs as any other nation would do. The result of this sovereignty is that most federal laws and regulations about public housing are inapplicable to tribal housing.

NAHASDA AND RULES THAT GOVERN ALL NAHASDA HOUSING

What is NAHASDA?

045

- The Native American Housing Assistance and Self Determination Act of 1996.⁷⁷
- Perhaps the most significant nontribal source of funding and the law governing tribal housing.
- This act reorganized the system of housing assistance provided to Native Americans through the department of housing and urban development by eliminating several separate programs of assistance and replacing them with a block grant program.⁷⁸
- NAHASDA reduces the regulatory restrictions that burdened tribes and allows them to manage funds according to their own priorities.⁷⁹
- NAHASDA was intended to address the need of affordable housing on tribal lands for low income people and families.⁸⁰

How do Native American Tribes receive funds from NAHASDA and how much can they receive?

- NAHASDA requires that both a one and five year plan are submitted by the tribe.⁸¹
- Money is allotted to tribes based on a formula and goes to their tribally designated housing entities.⁸²

What rules govern NAHASDA?

- Indian Tribes are required to submit a plan that includes:
 - A description of planned activity; and
 - A description of needs.⁸³
- The amount of assistance made available to each tribe is determined using a formula developed as part of the NAHASDA program.⁸⁴
- HUD calculates the annual grant for each Indian Tribe and provides this information to the tribes.⁸⁵

HOUSING IMPROVEMENT PROJECT (HIP)

What is HIP?

- A home repair, renovation, replacement, and new housing grant program. The program is administered by the BIA and federally recognized Indian Tribes for American Indians and Alaska Natives individuals who have no immediate resource for standard housing.⁸⁶

Relevant Definitions:

Tribal Service Area: An area designated by a tribe and approved by BIA where HIP services can be delivered.⁸⁷

Who is eligible?

- The individual must be a member of a federally recognized American Indian Tribe or be an Alaskan Native.⁸⁸
- The individual must live in a tribal service area.⁸⁹
- The individual must have an income that does not exceed 150% of the US Poverty Guidelines.⁹⁰
- The individual must have present housing that is substandard.⁹¹
- The individual must have no other resource for housing assistance.⁹²
- The individual must not have acquired their present housing through a federally sponsored program that includes housing assistance.⁹³

HIP

- provides interim improvements up to \$7,500 in housing repairs for conditions that threaten health and safety.⁹⁴
- Provides for repairs and renovation up to \$60,000 to meet building code standards.⁹⁵
- Provides new housing. HIP will provide a modest new home if the individual does not own a home.⁹⁶

What types of assistance does HIP provide and what are the requirements for each?

Category A

- Provides up to \$7,500 in safety or sanitation repairs to the house in which you live which will remain substandard. Can be provided more than once but not for more than one house and the total assistance cannot exceed \$7,500.⁹⁷
- You will qualify for this type of assistance when:
 - It is not cost effective to repair the house in which you live and if either of the following are true:
 - Other resources to meet your housing needs exist but are not immediately available; OR
 - You qualify for replacement housing under Category C but there are no HIP funds available to replace your house.⁹⁸

Category B

- Provides up to \$60,000 in renovations which will bring your house to standard housing condition, as defined in section 256.2 of this part. Can only be provided once.⁹⁹
- You will qualify for assistance if:
 - Your servicing housing office determines that it is cost effective to renovate the house;
 - You occupy and own the house;
 - Your servicing housing office determines that the renovation will bring the house to standard housing condition according to all applicable building codes;
 - You sign a written agreement stating that if you sell the house before satisfaction of the Payback Agreement, you will be required to repay the tribe or tribal organization that administers the HIP or BIA the remaining balance according to the terms of the payback agreement:

- The grant under this part will be voided; and
- At the time of settlement of the sale of the house, you will repay the tribe or tribal organization that operates the HIP or BIA the full cost of all renovations made under this part.¹⁰⁰

Category C

- Provides a modest house that meets the criteria in section 256.10 and the definition of standard housing in section 256.2 and whose costs are determined by the criteria in section 256.19(b) and (c). Can only be provided once.¹⁰¹
- You will qualify for assistance if:
 - You meet one of the three sets of requirements:
 - You own a house in which you are living as defined in section 256.13(g)(1)-(5) AND the house cannot be brought up to applicable building code standards and to standard housing condition for \$60,000 or less.¹⁰²
 - You do not own a house AND you own land that is suitable for housing AND the land has adequate ingress and egress rights and reasonable access to utilities.¹⁰³
 - You do not own a house AND you have a leasehold or the ability to acquire a leasehold on land that is suitable for housing and the leasehold is undivided and not for less than 25 years at the time you receive assistance AND the land has adequate ingress and egress rights and reasonable access to utilities.¹⁰⁴
 - If you qualify for assistance under one of the above requirements, then you must sign a written grant agreement stating that if you sell the house within 10 years of assuming ownership:
 - The grant under this part will be voided¹⁰⁵; and
 - At the time of settlement of the sale of the house, you will repay the tribe or tribal organization that operates the HIP or BIA the full cost of the house.¹⁰⁶

- If you sell the house more than 10 years after you assume ownership then the following conditions apply:
 - You may retain 10% of the original cost of the house per year, beginning with the 11th year;¹⁰⁷
 - If you sell the house after 20 years, you will not have to repay the tribe, tribal organization, or BIA.¹⁰⁸
- A modest house provided with category C assistance must meet the following standards:¹⁰⁹
 - Up to 4 persons in the home:
 - 2 bedrooms
 - 1000 square feet
 - Up to 6 persons in the home:
 - 3 bedrooms
 - 1200 square feet
 - 7 or more persons in the home:
 - 4 bedrooms
 - 1400 square feet

Category D

- Provides assistance towards the purchase of a modest house that meets the definition of standard housing in section 256.2. ¹¹⁰
- You will qualify for assistance when:
 - You apply for financing from tribal, federal, or other sources of credit and have inadequate income or limited financial resources to meet the lender requirements of homeownership.¹¹¹

- The grant must not exceed the amount necessary to secure the loan and may be used for down-payment assistance, closing costs, and pre-home ownership counseling. Participation with other complementary housing programs is encouraged.¹¹²
- The method of awarding the grant must ensure that the funds are used for the purpose intended.¹¹³

STATISTICS

- 5.6% of homes on Native lands lack complete plumbing.¹¹⁴
- 6.6% of homes on Native lands lack complete kitchens.¹¹⁵
- 12% of homes on Native lands lack sufficient heating.¹¹⁶
- 15.9% of tribal homes were overcrowded.¹¹⁷
- 90,000 American Indian families are homeless or under housed.¹¹⁸
- 40% of on-reservation housing is considered inadequate.¹¹⁹
- 1% of the population in public housing is Native American.¹²⁰
- Poverty rate amongst Native Americans is 24%.¹²¹
- Homeownership rate amongst Native Americans/Alaskan Natives is 70%.¹²²
- 2.4 million people reported their sole race as American Indian or Alaska Native. Of this population of American Indian/Alaska Natives, only 23% lives on Native American lands.¹²³



HUD Resources

The Department of Housing and Urban Development provides a variety of disaster resources. For a presidentially declared disaster, the Federal Housing Administration activates a mortgage letter making a variety of insured loan programs available for disaster victims and puts into play use of special loan servicing and underwriting requirements.¹²⁴ It is important to recognize scams that may happen after a disaster strikes.¹²⁵ Some examples of cons to be aware of after a disaster are price gouging on home repairs, fake charities, and identity theft.¹²⁶

ADVICE FOR DISASTER RECOVERY FOR HOMELESS AND OTHER VULNERABLE PEOPLE

Vulnerable populations have special considerations that must be taken into account when a disaster occurs. It is important to have a plan in place for actions that should be taken in the event of an emergency or disaster to best aid homeless and vulnerable populations such as Native communities.¹²⁷

To prepare your area for a disaster, it is useful to take these steps when considering a plan for homeless and other vulnerable people:

- Step 1: Find your local disaster plans and identify if homeless and other vulnerable people were included in the plan. Identify who is responsible for disaster planning in your jurisdiction.¹²⁸
- Step 2: Involve the community. Get the right people together and build a network of people who have a deep understanding of the community.¹²⁹
- Step 3: Collect data on the homeless and vulnerable population and get an idea for the number and location of the population.¹³⁰
- Step 4: Create a comprehensive list of service providers with their contact information and resources.¹³¹
- Step 5: Expand your plan and address any gaps that might overlook certain populations.¹³²
- Step 6: Prepare for a disaster. Define roles and maintain the plan. Update your plan regularly to account for changing communities.¹³³

Some important factors to consider when taking into account vulnerable populations are that these populations may include:

- Young and old¹³⁴
- Able-bodied and disabled¹³⁵

- Working and unemployed¹³⁶
- That some may have children/pets/companions/belongings that they cannot be separated from¹³⁷
- People who are healthy and others who suffer from disease or mental illness¹³⁸
- People who may be dependent on drugs or medication and not have an adequate supply of that medication or drug¹³⁹
- People who may have had previous encounters with authorities and may be hesitant to come forward in the event of an emergency¹⁴⁰

Messages that are sent out regarding emergencies may be difficult for the homeless and/or vulnerable populations to receive, and if they do get the messages, it may be difficult or impossible for them to react.¹⁴¹ Some solutions to help mitigate this problem are:

- Providing the general public with a solid understanding of the actions to take in the event that a disaster occurs.¹⁴²
- Building teams of trusted sources for these vulnerable populations to utilize in the event of a disaster.¹⁴³
- Making sure that disaster notifications address the full range of circumstances.¹⁴⁴
- Keeping in mind that these vulnerable people will need to be contacted multiple times and in diverse ways to get a message out effectively.¹⁴⁵

Evacuation and transportation are difficult issues for these vulnerable populations.¹⁴⁶ Some populations will not have access to vehicles and have a great deal of difficulty getting to evacuation points because of health issues, mobility impairments, and transportation.¹⁴⁷ These people may also distrust authorities and be unwilling to cooperate or seek help with evacuation and transport.¹⁴⁸ It may be useful to coordinate with shelters and housing service providers to create a plan for evacuations and make arrangements for a safe return to the community.¹⁴⁹ It is useful to establish assembly points and engage qualified people in the evacuation effort.¹⁵⁰

It is important that shelters be in a place that can accommodate a diverse population of both formerly and newly homeless individuals.¹⁵¹ Support services that are offered must be able to address the broad needs of the displaced people.¹⁵² It is important to realize that excluding any individual from a shelter may have life-threatening consequences for the individual and may place a higher burden on emergency response workers.¹⁵³

The goal of recovery is to return people to their homes, but problems arise when people are homeless or precariously housed before the disaster.¹⁵⁴ There will be people who were in housing but may not have been on the lease or the deed and do not qualify for many replacement options.¹⁵⁵ A key plan to have in place will be the establishment of interim housing options for these types of people.¹⁵⁶

DISASTER RELIEF OPTIONS FOR FAIR HOUSING ACT HOMEOWNERS

Who qualifies?

- Individuals whose home or ability to make mortgage payments were harmed by an event that the president declared a disaster.¹⁵⁷

What may lenders do?

- If you are at risk of losing your home, your lender may stop or delay initiation of foreclosure for 90 days.¹⁵⁸
- Lenders may waive late fees for borrowers who may become delinquent on their loans as a result of the disaster.¹⁵⁹
- During the term of a moratorium, a loan may not be referred to foreclosure if you were affected by a disaster.¹⁶⁰

- Your lender will evaluate your situation for any available loss mitigation assistance to help you retain your home.¹⁶¹
- Your lender may enter into a forbearance plan, or execute a loan modification or partial claim if these actions will help you retain and pay for your home.¹⁶²
- If saving your home is not feasible, lenders have flexibility in using the pre-foreclosure sales program or may offer to accept a deed in lieu of foreclosure.¹⁶³

Advice for Mortgage Insurance for Disaster Victims and Types of Assistance Available

The Section 203(h) program allows the Federal Housing Administration (FHA) to ensure that mortgages are made by qualified lenders to victims of a major disaster who have lost their homes and are in the process of rebuilding or buying another home.¹⁶⁴ The federal government helps victims in presidentially designated disaster areas recover by making it easier for them to get mortgages and become homeowners or reestablish themselves as homeowners.¹⁶⁵

Individuals are eligible for the program if the individual's home was located in an area that was designated by the president as a disaster area and if their home was destroyed or damaged to such an extent that reconstruction or replacement is necessary.¹⁶⁶

These mortgages may be used to finance the purchase of a one family home that will be the principal residence for the homeowner.¹⁶⁷ No down payment is required, but the FHA mortgage is not free. HUD also sets limits on the amount that may be insured.¹⁶⁸

Individuals must apply for this mortgage insurance within one year of the presidentially declared disaster.¹⁶⁹



Banking and Financial Issues

The local banks are not cashing my checks or letting me withdraw money from teller stations, what can I do?

If you are a noncustomer of the bank, they may be suspicious whether you have funds in your account. You should ask the bank to call your bank to check the balance. If this does not work, unfortunately you may have to open a new account wherever you are.¹⁷⁰

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?

The transaction may just be delayed. During disasters banks may have more protocols to follow. You should talk to your bank about the delay to find out more information. You may also want to talk to the person who made the deposit to see if they have any information about it.¹⁷¹

If my ATM card does not work, what should I do?

Contact your bank immediately. They may tell you the bank's verification system is not working. If you need funds immediately, you should cash a check or use a credit card. You can also contact an emergency service organization that may be able to provide assistance like FEMA and the Red Cross.¹⁷²

I am no longer working due to the storm 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?

You should contact your bank immediately to see if you can work something out. During disasters, the Federal Deposit Insurance Corporation (FDIC) encourages banks to help those recovering from disasters. Your bank may allow you to delay or skip some loan payments and waive late fees. They also may work out a new payment plan for you due to your situation.¹⁷³

I need longer term financing until insurance checks come in and I can find another job. Will banks help?

Some banks may help because of the disaster; however, not all banks offer unsecured loans.¹⁷⁴

Where can I find a list of banks that are working with displaced people?

You can contact your bank directly to see if they've adopted a policy for assisting displaced people.

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

The FDIC does not insure safe deposit boxes. Even though safe deposit boxes are typically in a bank's vault, this may not protect it from damage during a disaster. You should contact your bank to learn of the condition of your safe deposit box.¹⁷⁵

How will I get my Social Security check?

Your Social Security check should still be going to your account at your local bank. If your funds have not been deposited, contact your bank or the Social Security Administration directly.

If you don't have direct deposit, visit the nearest office of the Social Security Administration which can be located by calling 1-800-772-1213 (TTY 1-800-325-0778) or visit www.socialsecurity.gov/emergency.¹⁷⁶

If your DirectExpress prepaid debit card was lost or destroyed, you should call the DirectExpress card Customer Service Department at 1-888-741-1115. You will have one free replacement per year and after that it is \$4 per replacement.¹⁷⁷

I am worried about ID theft since my home was severely damaged during the storm/I am not sure where my belongings are at the moment.

Contact one of the three nationwide reporting companies below to place a "fraud alert" on your credit file. If you do this, creditors will be alerted and they will take extra precautions before any new accounts are opened in your name or any changes are made to your current accounts. Contact one of following:¹⁷⁸

- **Equifax:** 1-800-525-628 or www.equifax.com
- **Experian:** 1-888-EXPERIAN (397-3742) or www.experian.com
- **TransUnion:** 1-800-680-7289 or www.transunion.com

What happens if my bank loses my records?

Banks are required to be prepared when disasters happen. This means they must have some sort of back up record system.¹⁷⁹

If my local bank was destroyed, is my money still insured?

Yes, the FDIC insures money up to \$250,000. So, as long as your account balance was not over this amount, it is insured. Nevertheless, it is a good idea to keep track of your financial records if you have to reconstruct your accounts.¹⁸⁰



Native American Document Recovery

What protective measures should be taken before an emergency to protect documents?

Be sure to make copies of important documents before an emergency event takes place. Keep the original documents in a safe place like a safety deposit box or a safe that is ideally located in a location other than your home. Keep important documents on your person if possible when evacuating in the event of an emergency. Keep in mind that if things like a Certificate of Degree of Indian Blood (CDIB) records are not already on file it will be difficult to request these documents without being in possession of other important identification documents. The best practice is to be sure that there are always copies of important documents and for those of Native American descent to have a CDIB on file.

What documents might have to be replaced in the event of a disaster?

- Tribal Identification Cards
- CDIB Cards (Certificate of Degree of Indian Blood)
- Social Security Cards
- Driver's License
- Passports
- Birth and/or Death Certificates
- Marriage Certificates
- Debit and/or Credit Cards
- Checks
- Food Stamps

Where should Native Americans go to recover these documents?

If recovery is necessary for the above Native American documents, there are different places that the individuals must go to replace each item.

Tribal cards or IDs will need to be replaced by the tribe that the individual is a member of. Each tribe has its own procedure to go through to replace a tribal identification card. The best first step to take is to contact the enrollment department to see what needs to be done.¹⁸¹

Certificate of Degree of Indian Blood (CDIB) cards are easy to replace if the individual already has a number. If that is the case, then the individual must contact the nearest Bureau of Indian Affairs to request a replacement card. If the individual never had a CDIB card to begin with then there are steps that must be taken to get a CDIB card. An example of information that would be needed to replace a CDIB card includes a CDIB number, current address, signature, copy of driver's license, or Social Security card for signature verification purposes.¹⁸² You must say why you are requesting a CDIB card for some tribes.

For a lost **Social Security card**, you must complete an application for a Social Security card using Form SS-5.

For a lost **driver's license** visit <http://www.dmv.org/ne-nebraska/replace-license.php> and follow the steps for applying for a duplicate license.

To replace a lost **food stamp card** visit <http://dhhs.gov/> and follow the steps to replace a SNAP benefits or EBT card.

To replace **checks**, call your bank or credit union, and they will tell you how to report lost checks and get replacements.

To replace **debit cards**, call your bank or credit union, and they will tell you how to replace your debit card.

To replace **credit cards**, call the bank that issued the card to get a new one or call your credit card company if your credit card was not issued by your bank.

Major credit card companies:

- **American Express:** 1-800-992-3404
- **Discover:** 1-800-347-2683
- **Master Card:** 1-800-627-8372
- **Visa:** 1-800-847-2911

To replace Birth/Death/Marriage certificates, go to your local courthouse. Certified copies of birth certificates, delayed birth certificates, and death certificates may be obtained from the State Department of Health or Bureau of Vital Statistics in the state where the person was born or died, or from a tribal office of vital statistics. The Indian Tribe must have a duly adopted tribal ordinance concerning the issuance of such documents.

How to find your Native American Tribal Number

The CDIB is a document that is issued by the US Bureau of Indian Affairs that establishes a person's heritage as being part of a nationally recognized tribe. Copies of the CDIB are available upon request at a tribal office. To see if an individual has a CDIB on file, contact the nearest Bureau of Indian Affairs office. If an individual is already registered with a CDIB, then one may simply request a replacement card through the specific tribal office. Each tribe does have a different procedure for initiating a document replacement for a CDIB request, so have the individual contact their tribal office directly for specific instructions.¹⁸³



Consumer Disaster Recovery

Does Nebraska have a law prohibiting price gouging?

“Price gouging” happens when a supplier raises their prices on necessities after a disaster occurs. In many states, price gouging is illegal. Nebraska does not have a statute prohibiting price gouging. However, Nebraska does have a statute that makes it illegal for a supplier to commit an “unconscionable act...in connection with a consumer transaction.” If the price gouging is severe enough that a court would deem it “unconscionable,” then charges could be brought against that supplier.¹⁸⁴

If you suspect that price gouging has happened and want the Attorney General's Office to investigate, you should file a complaint with Nebraska Attorney General's Office at: ago.nebraska.gov/consumer_protection or call (402) 471-2683.

What is “Home Equity Fraud”?

Home equity is the fair market value of the home minus the mortgage and other liens on the home. Home equity loans can be used to make repairs on your home; you would pay a fixed amount each month like a mortgage. If you cannot make the payments, you could lose your home.

Home equity fraud happens when one tries to steal someone's home equity. Vulnerable populations such as the elderly, the poor, and the disabled are common victims of home equity fraud.

There are many ways scam artists can commit home equity fraud, such as:¹⁸⁵

- Home repair scams that offer “easy financing” for home improvements.
- Caretakers, friends, or family that have gained a senior homeowner’s trust to persuade seniors to sign over their homes to them.
- Refinancing scams.
- Deed forgeries.
- Foreclosure consultants who request a large upfront fee or request that the homeowner sign over the deed to them before they do any work.
- Home equity skimming, which occurs when a homeowner finances a sale to a buyer (After the buyer pays a small down payment and the house is sold and the deed is recorded, the buyer takes out an equity loan and then takes the money and leaves. The seller should put a lien on the deed so that banks won’t allow home equity loans).
- Blank documents, like service contracts or registered mail receipts, are given to a homeowner to sign but really they are tricked into signing a lien or deed transfer.
- Fake lenders who set up shop in devastated areas and get homeowner signatures for loans and then take the loan money.

BE CAUTIOUS ABOUT THE FOLLOWING SCAMS

Appliance Scams

For safety reasons, it is important to think about replacing appliances that may have been damaged in a disaster. Damaged appliances can cause fires, explosions, or electrical shock. If your appliance technician says you need to replace an expensive or major appliance you should ask what materials would be used and for the replacement cost in writing. Discuss this with your insurance adjuster before committing to anything.¹⁸⁶

It wouldn’t hurt getting a second opinion. Do not pay anything up front or if the work is not completed.

Automobile Scams

If your car was “submerged in water to the point that rising water has reached over the floorboard, entered the passenger compartment and caused damage to any electrical, computerized, or mechanical components,” call your insurance company and have it checked out by a car dealer or repair shop.

Sometimes car dealers try to sell cars that have been damaged after a flood. If you’re buying a used vehicle, inspect it carefully. Look at hidden parts or crevices to check for mud or silt, which indicates water damage. Nebraska law requires that cars that have been “submerged in water to the point that rising water has reached over the floorboard, entered the passenger compartment and caused damage to any electrical, computerized or mechanical components” must be “designated as flood damaged [and] would receive a salvage title.”¹⁸⁷

Before you buy a used car, get the Vehicle Identification Number (VIN) to do a title search for the current owner’s name and address, purchase date, purchase price, sales tax, if owner is a car dealer, and odometer reading. The National Insurance Crime Bureau (NICB) has a database for salvaged vehicles you can check if you have the VIN. Visit www.nicb.org/theft_and_fraud_awareness/vincheck/vincheck to check the VIN.

Charity Scams

Some “charities” are scams. Instead of using their donations for what they say they will be used for, scam artists keep the money for themselves. Here are some warning signs to look out for:

1. Requests for donations due to people needing help urgently
2. A charity name you have never heard of before
 - Go to www.give.org to find out if the charity actually exists.
 - Get a number and call to see if it is real.
 - Ask for a brochure to be sent to you in the mail.
3. A charity that cannot send you a brochure, donor form, or that does not have a website

4. Door-to-door solicitors that accept donations made out to them personally
5. If the only way you can donate is by giving cash to the solicitor
6. If you are asked over the phone to provide confidential information (i.e. credit card number or bank account number)¹⁸⁸

Contractor Scams

Home repair scams are common after disasters. Check with the Better Business Bureau before choosing a contractor or get recommendations from friends, relatives, neighbors, coworkers, insurance agents, or claims adjusters.

See whether the company is local. Does it have a track record with references in the area? Ask the contractor if you can see their previous work. Ask for names and phone numbers of their previous clients and if they would be willing to talk with you. If they give you the client list, ask the previous client if they are satisfied with the work, if the contractor did what he or she promised to do, and if they would hire the contractor again. Also check the company vehicle to see if it displays the company name, address, and phone number.

Find out if the contractor has worker's compensation and liability insurance. Get at least two bids in writing to compare the cost, but know that a lower cost doesn't always mean a better deal and higher cost doesn't mean better quality.

Look at the contractor's business license and keep the number.

Check to see if the contractor is licensed in your state or reservation. Some jurisdictions require contractors and subcontractors doing business to register with a government agency. In Nebraska it is the Nebraska Department of Labor. Under Nebraska law, all contractors with one or more employees must provide current Worker's Compensation Certificates of Insurance with the Department of Labor.¹⁸⁹ Anyone doing electrical work needs to be licensed by the Nebraska State Electrical Division. To find out if an electrician is licensed in Nebraska call 402-471-3550.¹⁹⁰

Contract Scams

Before signing a contract make sure it is detailed and that it specifies:⁴⁸

1. All the materials that will be used in terms of quality, quantity, color, size and/or brand name.
2. A payment schedule. On home remodeling projects, you may need to make a down payment. This down payment can be as high as approximately one-third of the total contract price. Excluding the down payment, you may not need to pay for any incomplete work. All of these terms should be spelled out in the contract and clearly understood by both you and the remodeler/builder.
3. The contract with your builder or remodeler should state that the work is to be performed in accordance with all applicable building codes and zoning regulations. If you are remodeling, check with your local Building/Safety Department to find out what permits are needed to proceed with your project.
4. Do not sign a partial or blank contract! Read each clause carefully and ask any questions you may have before signing. Then, retain a copy of the contract as soon as you sign and file it in your records.
5. Any warranty (including terms, conditions, and oral promises) offered by the contractor should be in writing in language you can understand. You should read it carefully. Make sure the written contract includes: the contractor's full name, address, telephone number and proof of workers compensation and liability insurance.

Be skeptical if anyone comes to you regarding work that they believe needs to be done on your home. Be on the lookout for typical warning signs of a possible scam:

1. The contractor uses high-pressure sales tactics like "special deals."
2. A small repair quickly turns out to be a big repair.
3. They demand money before any services are done or before the work is completed.

Some jurisdictions have divisions that help identify and investigate potential scams. In Nebraska you can call the Nebraska Attorney General's Consumer Division at 800-727-6432 if you suspect a scam is occurring or if you are a victim of a scam.¹⁹¹ You can also contact the police.

Storm Chasers

Unfortunately, disasters attract scam artists who take advantage of those who need help rebuilding or repairing. Storm chasers are out-of-town contractors that travel to places hit by disasters to “provide home repair services.” These contractors may not be licensed or may do poor quality work. The Better Business Bureau suggests that storm victims:¹⁹²

- Get the company's complete name, address, and phone number. Be skeptical of vague or hesitant answers, or if the contractor does not offer contracts, brochures, or anything in writing. Beware of high-pressure sales tactics. A reputable company will be happy to let you check them out first.
- Make sure the contractor has all the appropriate permits for the work they are doing and verify that the company has liability and worker's compensation insurance. If a contractor cannot provide proof, **beware**. If possible, verify that the insurance is active by contacting the contractor's insurance company directly.
- If it is an out-of-town or out-of-state company, ask how any warranty issues or problems will be addressed after the work is done and the company is gone.
- Ask for references from previous jobs and check them out before signing the contract.
- Before work starts, have a signed, written contract including start and completion dates, exact costs, specific work to be done, and warranty information. Read any fine print carefully and understand all terms before signing.
- Get at least 3-4 quotes from contractors and insist that payments be made to the company, not an individual.
- If you have damage, check with your homeowner's insurance to have an adjuster sent to determine if and how much they will cover to repair or replace damaged property.
- Be highly suspicious of a contractor that asks you to pay for the entire job up front. They may take your money and never return.

Debris Removal Scams

Debris removal scams are common after disasters. If anyone approaches you about removing debris be skeptical. Here are some tips provided by the Federal Trade Commission:¹⁹³

- Check with local officials to find out whether tree and debris removal contractors need to be licensed in your area. If so, confirm that the license for the contractor you're considering is current. Never sign a document or pay a contractor before verifying their license.
- Call your local consumer protection governmental agency if one exists in your area.
- Ask a contractor to provide their license and certificate of insurance once they are on your property. If a contractor tells you certain work is covered by your insurance, call your provider to confirm.
- Get a written estimate and sign a written contract that includes a description of the work to be performed, what materials are included, when the work will be finished, the price, and the address and phone number of the contractor. Read all agreements carefully before you sign. Make sure all blanks in a bid or contract are filled in. Speak with your neighbors about what they are paying for similar work.
- Pay with a credit card or check, and be wary of contractors who ask for a deposit in cash or to be paid in cash. Negotiate a reasonable down payment with full payment to be made only upon satisfactory completion of work.
- Trust your gut. If you have any doubts about hiring someone or entering into a contract, take your business elsewhere.

Door-to-Door Sales (Cooling off rule)

Sometimes door-to-door salespeople come after disasters.

If:

- A door-to-door salesperson comes to your home or a place that is not the salesperson's permanent place of business (even if you invite them); and
- You buy something from them for more than \$25.

Then:

- According to the Federal Trade Commission, you can cancel your purchase and get a full refund if you sign and date one copy of the cancellation form and mail the form to the designated address "before midnight of the third business day after the contract date."

Salespeople are required to tell you about your right to cancel and they must provide you with 2 copies of a cancellation form. However, there are some exceptions.

The Cooling-Off Rule does not cover sales:

- Under \$25
- Of 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
- Resulting from prior negotiations made by you at the seller's permanent business location where the goods are regularly sold
- Needed to meet an emergency such as the sudden appearance of insects in your home, and you write and sign an explanation waiving your right to cancel
- Made as part of your request for the seller to do repairs or maintenance on your personal property (purchases made beyond the maintenance or repair request are covered)
- Involving real estate, insurance, or securities

- Involving the sale of automobiles, vans, trucks, or other motor vehicles sold at temporary locations, if the seller has at least one permanent place of business
- Involving arts or crafts sold at fairs or locations such as shopping malls, civic centers, and schools¹⁹⁴

If the salesperson does not follow the Cooling-Off rule, you can contact the Federal Trade Commission by phone at 1-877-382-4357, TTY: 1-866-653-4261 or online at www.ftc.gov.

For local business salespeople you may be able to file a complaint with your local consumer protection agency, if one exists.¹⁹⁵

Fake Disaster Officials

Some scam artists pretend to be NEMA, FEMA, or other governmental agency personnel like the US Small Business Administration (SBA). Please note that FEMA or SBA shirts or other gear are not proof that someone is with a particular agency or organization. Make sure if someone is claiming to be with a particular agency that they have a laminated photo identification card on their person. Employees of these agencies are required to have their photo identification card at all times.¹⁹⁶

Flood Restoration Scams

It is possible that you can restore many of your possessions. However, you must be extremely careful. After a flood, the foundation of your home may have been weakened, there may be electrical system shortages, and water may have left harmful residue that could make you sick.

See also American Red Cross, "Repairing Your Flooded Home" for more detailed information on this topic at www2.redcross.org/static/file_cont333_lang0_150.pdf.

While you are restoring your home, you should consider flood-proofing your home to prepare for the next flood that may happen. You should get flood insurance as well.¹⁹⁷

Home Ownership Issues

If you have a mortgage and your home is damaged, you still have to pay your mortgage. If your home is damaged and you can't live there, you still have a mortgage. It is important that you contact your mortgage lender right away to discuss the damage with them. They may give you a grace period in which your payments will be suspended for a period of time.

Mortgage help from FEMA may be available if you face foreclosure proceedings.

FEMA offers a Disaster Housing Program that helps homeowners who have been forced out of their homes by disasters. Disaster Home Repair Assistance is a part of this program. It provides grants for minor disaster-related repairs. Contact the FEMA Disaster Helpline at 1-800-621-FEMA.

"If you have a mortgage insured by the FHA (HUD) or VA, you may have additional protections, like a forbearance on the mortgage payments or a period of suspended payments. The FHA has extended its foreclosure moratorium and also offers extended payment plans on FHA mortgages. Call 1-888-297-8685 for further information."¹⁹⁸

The U.S. Small Business Administration offers low interest loans of up to \$200,000 to individuals whose homes were destroyed or damaged by disasters. If you are given a loan, be careful in using your home as security because if you can't repay the loan, you could lose your home. You should have a lawyer look over the loan documents as well.¹⁹⁹

Home Repair Scams

There are plenty of home repair scams after disasters. If someone offers to do any type of yard work, debris removal, or work around your home, never pay them up front. Never pay in cash. Typically once these scam artists get your money, you will never see them again.²⁰⁰

Instead of paying your contractor with your insurance check or cash, have your bank create a Certificate of Completion. This way the bank will pay your

contractor in installments for work completed after your approval.

FEMA offers a Disaster Housing Program that helps homeowners who have been forced out of their homes by disasters. Disaster Home Repair Assistance is a part of this program. It provides grants for minor disaster-related repairs. Contact the FEMA Disaster Helpline at 1-800-621-FEMA.

If you used a credit card to pay for a product or service in dispute, you may be able to recover your money. Write the credit card company a letter with the details of the matter; you must do this within 60 days after you get the disputed bill.²⁰¹

If you suspect a repair scam, call your local consumer protection agency or law enforcement. If you suspect fraud, waste, or abuse involving FEMA disaster assistance programs, report it to Dept. of Homeland Security's Inspector General's Office at 1-800-323-8603.²⁰²

Job Scams

Scam artists target disaster victims who are in need of jobs. They advertise in typical places where legitimate employers advertise; however, they require you to pay them before you are hired to hold your spot, for training materials, or for some sort of certification. Another way they scam those looking for work is by asking for their credit card or bank account information to pay for things. Scam artists also try to take peoples' money by posing as job placement services that promise services in exchange for up front fees.

Make sure to check out the legitimacy of anyone offering you a job or of a job placing service. Ask others in your community if they know of the employer offering the job. You can also try to look them up on Better Business Bureau.

To report a job scam, contact your local jurisdiction's consumer protection agency or law enforcement. You can also file a complaint with the FTC at www.ftccomplaintassistant.gov/#cmt&panel/1-1.²⁰³

Pest Control Scams

When disasters happen you may have to deal with pests. Before hiring any company you should:

- Be wary of exterminators who show up uninvited and offer a free inspection. They may use scare tactics to pressure you into authorizing immediate and costly treatments.
- Deal with a qualified and licensed pest management company.
- Ask friends and neighbors to recommend pest control companies they have used successfully and how satisfied they were with the service. You can do this online through a community bulletin board or neighborhood listserv.
- Get bids from several companies. Ask about their training and their approach to controlling pests.
- Be wary of choosing a company based on price alone. Quality is the most important factor.
- Before you sign a contract, get details on the extent of the infestation, the proposed work plan, and the number of visits required and anticipated to solve the problem. A reputable company will inspect your property before quoting you a price or beginning pesticide application. The company also should give you a written inspection report and a plan for preparing for treatment and preventing further infestation.
- Find out if the pest control company has liability insurance to cover damage that occurs to your home or furnishings during treatment.
- If you get a written “guarantee,” look for what it covers, how long it lasts, what you must do to keep it in force and what is required for continuing control, prevention, and management.
- Read the EPA’s *Citizen’s Guide to Pest Control and Pesticide Safety*, which offers more tips on how to choose a pest control company.²⁰⁴

Rental Listing Scams

Scammers can use rental listings to take advantage of disaster victims. Scammers promise to find people housing if they pay money up front either by wiring money or paying a security deposit or first month's rent before signing a lease. If you are given a contract make sure to read it carefully.

You can report scams to local law enforcement or to the Federal Trade Commission at www.ftccomplaintassistant.gov/#cmt&panel1-1.²⁰⁵

Utility Related Scams

Some scam artists pretend to be utility workers after a disaster. For example, they may offer to fix your service during a power outage if you pay them up front, but they never fix your power. Ask for identification before you let anyone in. In fact, it is better if you don't let anyone in your home who you do not have an appointment with. Do not pay any utility or service provider in cash. You should also be skeptical of any special promotions that come from multiple providers because competitors do not advertise together.

To report a scam contact the Nebraska Attorney General's Consumer Protection Office at 402-471-2682 or file a complaint with the FTC at www.ftccomplaintassistant.gov/#cmt&panel1-1.²⁰⁶

Water Treatment or Purification Devices

After a disaster you should check with your local water-utility office to learn about your water's condition before using it. Do not drink tap water unless local authorities say it is safe. After a disaster, scam artists often try to sell water treatment devices and offer "free" home water tests which turn out to be sales promotions. In-home testing cannot give you an accurate reflection of your water condition. In addition, be skeptical of any claims of government approval of water tests or water treatment products. If you see a product that has an EPA registration number on it, that only means the product has been registered with the EPA. However, being registered does not mean that it has been approved by the EPA.²⁰⁷

Victims of Scams

If you are or someone you know is a victim of one of the above scams, contact your local law enforcement or consumer protection agency. In Nebraska, you can call the Nebraska Attorney General's Consumer Protection Office at 402-471-2682 or file a complaint with the Federal Trade Commission at www.ftccomplaintassistant.gov/#cmt&panel1-1.

IDENTITY THEFT

Guarding Against Identity Theft in the Aftermath of a Disaster

In order to receive relief benefits or to replace important government documentation after a disaster, it is necessary to provide your personal information. However, you must be extremely cautious when doing so because scam artists can pretend to be government representatives in order to get access to your personal information. If you are approached by a person stating they are a government representative, ask for their identification. The best way to avoid scam artists is to contact the government agency in charge of relief benefits or replace important documentation yourself.²⁰⁸

Take care with your Social Security number. Scam artists will try to get it from you. If you mistakenly give your personal information to a scam artist or if your wallet or purse was stolen:

1. Call the credit card companies and notify them that your card was stolen
2. Place a fraud alert and get your credit report
 - **Equifax:** 800-525-6285
 - **Experian:** 888-397-3742
 - **TransUnion:** 800-680-7289

3. Report identity theft to the Federal Trade Commission
4. Close new accounts opened in your name
5. Remove bogus charges from your accounts
6. Correct your credit report
7. Consider adding extended fraud alert or credit freeze

For more detailed information regarding these steps, visit www.identitytheft.gov. In addition, visit www.consumer.ftc.gov/features/feature-0014-identity-theft or call 1-877-IDTHEFT for more information on how to respond or protect your personal information.²⁰⁹

Your local jurisdiction may have laws and other resources that can help people affected by identity theft.

If you have to leave your home for a while, it may be a good idea to place a hold on your mail. You can place a hold on your mail free of charge by:

- Visiting holdmail.usps.com/holdmail
- Completing a hold form at your local post office
- Calling 1-800-ASK-USPS (1-800-275-8777)

American Indian Probate Reform



What is AIPRA?

The American Indian Probate Reform Act (AIPRA) is a federal law that establishes a uniform probate code for all tribes, except those in Alaska and some in Oklahoma.²¹⁰ AIPRA controls how interests in Native American trust land are distributed when a person with these interests dies. AIPRA applies unless the tribe has their own probate code approved by the Secretary of the Department of Interior.²¹¹

One of the main purposes of AIPRA is to preserve the trust status of property and to reduce the number of small, fractionated interests in Indian lands.²¹²

What does AIPRA do?

AIPRA only affects property held in trust or restricted status by the United States for the benefit of Native Americans.²¹³ Examples include undivided interests in trust lands and Individual Indian Money (IIM) accounts.²¹⁴

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What does AIPRA not do?

AIPRA does not affect any property not held in trust or restricted status by the United States.²¹⁵ Examples include checking and savings accounts, vehicles, and fee land.²¹⁶ If a person dies without a will, such property will be distributed to his/her heirs under tribal law or state law.²¹⁷

Relevant Definitions

Undivided interest: two or more people own the same piece of property as co-owners and own a share in every part of the property.²¹⁸

Fee land: an individual owns land outright and land is not held in trust for a tribal member by the United States government.²¹⁹

Eligible heir under AIPRA:

1. Indian, or
2. Lineal descendants within two generations of an Indian (children, grandchildren, great-grandchildren, brothers/sisters, half-brothers/sisters by blood, and parents), or
3. Someone who already owns undivided trust or restricted interests in the same parcel of land.²²⁰

*To be eligible, a person does not have to be an enrolled member of the tribe.²²¹

Indian under AIPRA:

1. A member of a federally recognized Indian Tribe, or
2. Someone eligible to become a member of a federally recognized Indian Tribe, or
3. A person who was an owner of an interest in trust or restricted land on October 27, 2004, or
4. Someone meeting the definition of “Indian” under the Indian Reorganization Act of 1934, i.e.
 - a. Persons enrolled in a federally recognized Indian Tribe
 - b. Descendants of such members who were living on an Indian reservation in 1934
 - c. Persons having one-half or more Indian blood
5. A person who owns trust or restricted land in California.²²²

Trust Land:

- **Person owns an undivided interest in 5% or more of the trust or restricted land:**²²³
 - If married, the person’s spouse will receive a life estate in the trust or restricted land, and the person’s eligible heirs (usually their children)

will inherit the remainder interest in the property in equal shares. The land will remain in trust. If the person does not have any living eligible descendants, after his/her spouse passes, the interest in trust or restricted land will go to the tribe with jurisdiction over the land.

- If single, the person's eligible children will inherit the undivided interest in equal shares. If any children have passed away before the person did, that child's eligible children will inherit that undivided interest. If all children have passed away before the person did, then any eligible grandchildren will inherit the undivided interest. If there are no living grandchildren, then eligible great-grandchildren will inherit the undivided interest. If there are no living great-grandchildren, then the undivided interest will be divided equally among the person's living eligible parents. If there are no living eligible parents, the undivided interest will be divided equally among the person's eligible siblings. If there are no living siblings, the undivided interest will go to the tribe with jurisdiction over the trust or restricted land.
- **Person owns an undivided interest in less than 5% of the trust or restricted land:**²²⁴
 - **Single heir rule:** If a person passes away without a will and owns less than 5% of an undivided interest, then the interest passes to only one heir, starting with:
 1. Oldest living eligible child.
 2. If no living children, then the oldest living eligible grandchild.
 3. If no living grandchildren, then the oldest living eligible great-grandchild.
 4. If no eligible heirs, then the tribe with jurisdiction over the trust or restricted land (no payment goes to the estate).
 5. If no tribe has jurisdiction, then equal shares to the other co-owners of the trust parcel.
 - **Exception:** If the person's spouse is living on the land, the spouse receives a life estate, and the eligible heir receives a remainder interest.
 - Any heir who inherits under the single heir rule may renounce or disclaim the inheritance in favor of certain other individuals or the tribe.

Purchase Option: AIPRA provides a process for heirs, co-owners, or the tribe to purchase undivided interests during probate.²²⁵ The proceeds are distributed to heirs as designated in the will, or if there is no will, then according to AIPRA. If the share the person's heir will receive is less than 5%, then the heir's interest can be purchased without his/her consent.²²⁶ If the share the person's heir will receive is 5% or more, then the heir's consent is required.²²⁷ If an heir is living on the land, his/her consent is required.²²⁸ Any interest passing under a will always requires the consent of the heir.²²⁹

Partition: AIPRA provides a process that allows a tribe or co-owner to request a partition of a highly-fractionated parcel of trust or restricted land.²³⁰ The partition removes all other co-owners, and the consolidated 100% interest in the parcel goes to the tribe or the co-owner seeking the partition.²³¹ A highly fractionated parcel of land is one that either has 100 or more co-owners or 50-99 co-owners with no individual holding an undivided interest greater than 10%.²³²

Individual Indian Money (IIM) accounts: Individual Indian Money (IIM) accounts contain money collected by the federal government for activities that occur on land in which Indians have an interest.²³³ Such activities include farming and grazing leases, minerals, timber, and oil and gas production.²³⁴ IIM accounts are administered by the Bureau of Indian Affairs (BIA) and the Office of the Special Trustee for American Indians (OST) within the United States Department of Interior.²³⁵

In a written will, a person can leave money in an IIM account to anyone.²³⁶ If a person has no written will, AIPRA says who will receive the IIM account. If a person is married and has living children, then the spouse will receive 1/3 of the money in the IIM account and the remaining 2/3 of the money passes equally among the children.²³⁷ If the person is married and has no living children or grandchildren, then all of the money in the IIM account passes to the surviving spouse.²³⁸ If a person is not married and has living children, then the money passes equally to all living children.²³⁹ If a person is not married and has no living children, the money will pass first to any living grandchildren, and if none then to any living parents, and if none still, to the person's brothers and sisters.²⁴⁰

Wills: If a person does not leave a valid will, property owned in trust or restricted status will be distributed through the probate process according to AIPRA.²⁴¹ If a person does leave a valid will, the undivided interests in trust lands will be distributed according to that will.²⁴² Note that if the property owned in trust or restricted status is land from a tribe organized under the Indian Reorganization Act of 1934, the land cannot be left to anyone in fee status.²⁴³ All of the tribes located in Nebraska are organized under the Indian Reorganization Act of 1934. Therefore, the will should distribute property owned in trust or restricted status to any lineal descendent, any other trust land co-owner, the tribe where the land is located, or any 'Indian' defined by AIPRA.²⁴⁴

For a will to be valid, the person must be age 18 or older, the will must be in writing, and there must be two disinterested adult witnesses of the person signing the will.²⁴⁵ In addition, it is recommended that an affidavit be included with the will. In the affidavit, the person who the will is for, and the witnesses, testify that the paper being signed is the will of that specific person.²⁴⁶ This prevents the witnesses from having to be present to testify as to the competency of the deceased person if the will is not contested.²⁴⁷ If the will is contested, the witnesses will have to testify regarding the competence of the person who the will was for.²⁴⁸

An 'Indian will' discussing trust or restricted land or an IIM account can be combined or incorporated into a will concerning non-trust property.²⁴⁹ Provisions of wills dealing with trust or restricted land or an IIM account should be clearly worded to make clear they are affecting this property.²⁵⁰

Probate: When a person having interests in trust or restricted land passes away, whether with a will or not, these interests are probated by the BIA.²⁵¹ To begin a probate proceeding, any person can complete an application for probate and file it with the BIA.²⁵² If there is a will it can be submitted with the application.²⁵³ An administrative law judge will hold a hearing at which interested persons can be heard.²⁵⁴ The judge will ultimately issue an order distributing any trust or restricted land and the contents of the IIM account.²⁵⁵



Insurance Issues

Can I obtain immediate financial assistance from my homeowner's insurance company to pay for additional living expenses while I am displaced from my damaged or destroyed property?

Under your homeowner's insurance policy, you may be entitled to additional living expenses. It is important that you ask your insurance company about these benefits. After the disaster ask your insurance company for a copy of the policy so you can confirm what things are covered. Cash advances are not required of any company, although most companies do provide cash advances to their customers when necessary.

Do I have to continue paying my insurance premium even after the disaster?

Generally you must continue to pay your policy premiums, but there are circumstances under which some companies will grant extensions on payment deadlines.²⁵⁶

What is covered under the typical homeowner's policy?

The following things are generally covered by someone's homeowner's policy: the dwelling and any other structures on the property, personal property, additional living expenses, and comprehensive personal liability protection. Other miscellaneous additional coverages may also be included. It is important that the insured is familiar with his/her policy.²⁵⁷

What should I do to preserve my claims and protect my right to get paid under my policy?

It is very important that you call your insurance company, agent, or broker as soon as possible after a disaster to report your loss. It is a good idea to write down the date and names of anyone you speak to. Write down all claim numbers (your vehicles will be a separate claim from your home/personal property). Provide your insurance company with your updated contact information and check your phone and messages regularly, returning all missed calls in a timely fashion. Document all damages as thoroughly as possible, including taking several photos and documenting when/where the damage happened including as much detail as possible.²⁵⁸ Also, avoid disposing of any items until the insurance company has examined them. Doing so could jeopardize the settlement you receive. Keep in mind that the adjuster may see them when they first come out to inspect your property; however, unless they have specifically examined the damaged items and told you what to do, you should not dispose of them.

I have a renter's insurance policy. What does that do for me?

If you have a renter's insurance policy that you think may cover your damage, call your agent, insurance company, or broker as soon as possible to report your loss.²⁵⁹

Are there any special insurance considerations for condominium owners?

Condominium owners should check on coverage for damage under both the association policy and their individual coverage under their owner's insurance policy.²⁶⁰

What is "proof of loss?"

Upon the receipt of the notice of loss, the insurer should advise the insured (you) as to what is necessary to constitute proof of loss. Your policy may specify a timeframe in which the proof of loss must be submitted back to the insurance

company. Upon the receipt of the notice of loss, the insurer should advise the insured (you) as to what is necessary to constitute proof of loss. Your policy may specify a timeframe in which the proof of loss must be submitted back to the insurance company (This can vary from 6 months to 3 years. Be sure to read your policy, or check with your agent or company, to find what your specific policy provides).

Be sure to document all damages. Take detailed photos of all damages. If you have to remove or replace any property for mitigation purposes, take photos before and after you make any changes to the damages. Keep all receipts of anything you buy to mitigate damages. Avoid disposing of any items until your insurance adjuster has had a chance to look at them.

What are my duties as the insured?

An insured person has the burden of establishing any loss resulting from a peril insured against. Most policies include the duty to mitigate damages. This means that as the insured, you have the duty of preventing further damage to your property after it has been affected by a covered loss. For example, covering broken windows after a hail storm to avoid further water damage. For more information, or a more detailed explanation of your duties as the insured, consult your insurance company, agent, or broker. Your policy will also outline your duties after a loss.²⁶¹

What do I need to do in order to get an insurance adjuster to my house to look at my damage?

When you first contact your insurance company, request that they send an adjuster to take a look at your property. If you are having problems getting an insurance adjuster out to your home, contact your insurance company. Always try to resolve problems with your insurance company directly. Many jurisdictions have government agencies that provide oversight of insurance companies. If you are unable to reach a satisfactory agreement with your insurance company,

contact your local government agency overseeing insurance companies. In Nebraska, this is the Nebraska Department of Insurance. They can be contacted at 402-471-2201 or at their Consumer Affairs Hotline 877-564-7323.²⁶²

Someone claiming to be from my insurance company or the government has asked me to pay them money in order to expedite my claim. Is this legitimate?

No. You should be aware and wary of anyone who claims that they are working on behalf of the government, or your insurance company, and who asks for money to help expedite your claim. Ask this person for their name and credentials and immediately report them to your insurance company or insurance overseer. All people claiming to work for your insurance company should have an ID that identifies them as an employee of your insurance company.²⁶³

Is there anything that I should do in order to prepare for the insurance adjuster to come look at my property?

Try to make a list of all the damaged and destroyed property. Take pictures, collect names, addresses, and phone numbers of witnesses, obtain repair estimates, keep a record of expenses, such as alternative housing, etc., and locate bills and receipts for lost items if possible. Make a list of when and where you purchased things, as well as brand names, and model numbers. Be sure to mitigate damages to avoid further damage to your property. If your property is wet, attempt to get it dry to avoid mold damage. Document all damages with detailed photos before and after you complete any mitigating repairs.²⁶⁴

I have been approached by a “public adjuster.” What is this?

A public adjuster is an individual who, for a fee, represents homeowners in claims negotiations with their insurance companies. Public adjusters may offer to help customers get more money for their insurance claims. Their fee is usually a percentage of the claims payment.

You should always try to work directly with your insurance company to resolve a claim. If you cannot come to an agreement or you have difficulty resolving your claim, you may consider hiring a public adjuster. However, you should be aware that you will have to pay a fee.²⁶⁵

In many jurisdictions, public adjusters must be licensed by the local government's insurance overseer. Before signing a contract with a public adjuster, be sure to verify with this agency that the public adjuster is licensed as an insurance consultant. In Nebraska you may call the Insurance Consumer hotline at 877-564-7323 or visit www.doi.nebraska.gov.

How much can I be reimbursed by my insurance company for the repairs?

Most insurance companies will only pay 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. Be cautious if a contractor asks you to sign a document before giving you an estimate. The document may be a contract authorizing the contractor to do the work; or, it may be an assignment of benefits form authorizing the contractor to obtain payment from your insurer. 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.²⁶⁶

What is the difference between Replacement Cost and Actual Cash Value?

Replacement cost provides you with the dollar amount needed to go out and replace the damaged item with one of similar kind and quality without deducting for depreciation (the decrease in value due to age, obsolescence, wear and tear, etc.). An insurer will generally not pay full replacement cost until a repair is completed or the item replaced. You will be allowed a limited time to complete repairs or replace property. Consult your policy or ask the adjuster how long you have. In some instances, companies will grant an extension. Actual cash value policies pay you the amount needed to replace the item minus depreciation.²⁶⁷

I need money now and can't wait for an adjuster to look at the property. What should I do?

Some policies provide for reimbursement for temporary housing and relocation costs while your home is being repaired, and for car rental costs while your car is being repaired or replaced. It is also important that you try to mitigate damages as much as possible. Boarding up windows, tarping roofs, and other quick repairs to make the structure as secure and weatherproof as possible are very important. Clearing debris and moving property to secure areas are important to do. However, you should always check with the insurance company before taking any such actions. Also, avoid disposing of any items until the insurance company has examined them. Take photos of everything along the way in order to document the process.²⁶⁸

Will making emergency repairs on my own, or hiring someone to do so, negatively affect my insurance payout?

No. Most homeowner's policies cover materials and reasonable labor expenses for temporary and emergency repairs. If possible, try to get several estimates. When you make your initial call to the insurance company, ask the representative whether the company will reimburse you for work you do yourself. It is important to remember to keep all receipts.²⁶⁹

Are there any circumstances where I should just sign my insurance proceeds over to a contractor?

No! If you have extensive repair work to be done, the contractor may ask for periodic payments as the work progresses, but reputable contractors rarely ask for full payment in advance. Make sure you review the contract you sign with the contractor. Ensure that there are clear terms and that it calls for payment upon completion. If you have a mortgage on your home, it is imperative you also talk with your lender as they may have specific requirements as to how any insurance funds are distributed and paid out.²⁷⁰

My insurance company has offered to settle my claim and I'm not sure if it is a fair settlement amount. Who should I consult with?

You should consider consulting with an attorney before signing any releases or waivers and before cashing any checks from the insurance company which might be deemed the full and final payment of your claim. It is important that you have taken steps to be fully aware of the full extent of your damages and the full value of your claim before you attempt to settle with the insurance company. In some cases you may have to get estimates or physically get the work completed before you can agree to a specific figure with the insurance company.²⁷¹

My insurance company has offered me significantly less than I believe I am owed, or has denied my claim all together. What should I do?

Any denial or limiting of your claim by the insurance company should be given to you in writing. If you do not receive this in writing you should demand it, requesting the specific reasons. An attorney should review these reasons. Ask for any documents or reports prepared by the insurance company that factored in to their decision. Most policies require that you bring suit against the insurance company within one year from the date of occurrence of the damage. Also, when you and the company do not agree on the scope of the loss, most policies contain an Appraisal or Arbitration option that you may choose to invoke. Consult your policy to see which option is available to you and what your obligations are. You also may be able to file a written complaint to your local government's insurance overseer. In Nebraska this is the Nebraska Department of Insurance. You can also contact an attorney.²⁷²

I don't know if the damage to my home is covered by my insurance policy.

Homeowner's insurance policies generally cover most storm-related disaster damage with the exception of damage caused by flooding. You should check and see if you have a separate flood insurance policy. The federal government provides coverage for flooding under the National Flood Insurance Program.²⁷³

My policy is not going to cover all the damage to my home and personal property, what can I do?

It is possible that you are eligible for benefits from FEMA. See the FEMA section of this manual.

Is the damage my car received in the disaster covered under my auto insurance or my homeowner's insurance?

It depends on your policy. Consult with your insurer to see what is covered under your existing comprehensive policy. Damage to your car will not be covered by your auto insurance if you only have liability coverage on it.²⁷⁴

I have my insurance settlement but it's going to be six months before I can move back into my home. Where can I live in the meantime?

Additional Living Expense coverage will pay you for the costs you incur in excess of your normal living expenses. It is important that you find out from your insurance company if there are any restrictions on how long you can stay or how much you are allowed for a hotel room, etc. Other costs such as higher utility bills and the cost of storage of your personal belongings may be covered.

What should bids for repairs include?

If possible, get bids from reliable, licensed contractors. Ask around, get references, and check with local organizations to see if they are reputable. The bids they give you should include details of the materials to be used with prices on a line-by-line basis. The bid should include the amount of material to be used, price for the materials, the estimated time it will take, and pricing for labor. This increases the speed and simplicity of adjusting the claim.²⁷⁵

What about fallen trees? Does insurance pay to remove them?

The general rule is that the tree must cause damage to your home or property before the insurance company will pay for clean up or removal. If it is physically on your house the insurance company should pay for its removal.²⁷⁶

What happens when a tree on adjacent property falls and causes damage?

Unless you can prove that your neighbor was negligent in some way, the neighbor's policy covers his/her house and your policy covers your house, irrespective of where the fallen tree originated from. The general rule is that a person is not liable for injuries or damage caused by a disaster or an "Act of God" where there is no fault or negligence.

What happens when someone else's property ends up on my property?

When personal property is carried away by wind or flooding and comes to rest on the land of another, it still remains the property of the original owner and the original owner may enter and retrieve it. If the landowner refuses to let the original owner of the property enter or appropriates the property for the landowner's use, the original owner of the property will have an action against the landowner. On the other hand, the landowner has no obligation to preserve the property and may move the property if necessary to use the land, provided such action is taken in a reasonable manner.²⁷⁷

My business owns vehicles which were damaged in the disaster. Which of my insurance policies covers them?

This depends on the type of insurance coverage you have, and what caused the loss. Check with your insurance company to see what policies you have and what they cover.²⁷⁸

My business was damaged in the disaster. Does my commercial property policy cover the damage to the building and its contents?

Commercial property policies generally pay for direct physical loss or damage to the covered property resulting from a covered loss. Such properties often include exclusions. It is important for you to be aware of what those are.²⁷⁹

Does my business commercial property policy entitle me to replacement costs?

Policies typically pay cash value, which takes into consideration the depreciation of the property. However, endorsements may be available which will provide coverage on a replacement cost basis.²⁸⁰

My business cannot operate in light of the disaster. Will my insurance cover my lost business?

Business Interruption Insurance may entitle you to recover the net profits and fixed expenses you fail to earn because of the interruption of your business resulting from a disaster. The insured has the burden of establishing the business income loss incurred.²⁸¹



Personal Bankruptcy Issues

What is involved in the bankruptcy process?

A debtor who wants to file for bankruptcy must complete credit counseling at least 180 days before filing for bankruptcy, and need several documents including, but not limited to pay statements at least 60 days before filing for petition for bankruptcy.²⁸² Bankruptcy begins when a petition is filed in the bankruptcy court by an individual, a couple, corporation, or some other type of entity. Along with filing a petition, the debtor must file a statement listing assets, income, liabilities, and the names and addresses of all creditors and how much they are owed. Once this is done, debt collection actions, like lawsuits or wage garnishments, are prevented from proceeding. A debtor's creditors will be notified once the petition is filed. What happens next depends on the type of bankruptcy being filed.²⁸³

A Chapter 7 Bankruptcy is called Liquidation. A debtor must be under income maximums to be eligible for this type of bankruptcy. If a debtor's income is over the eligible amount, then they must file a Chapter 13 Bankruptcy. A trustee will take control of a debtor's assets and then liquidate those assets, meaning they will turn them into cash. The cash will then be used to pay off creditors who have secured claims. There is certain property that is exempt from being liquidated. If there are no assets to liquidate that is called a "no-asset" case. Creditors who have unsecured claims will only get payment if the case is an asset case, and then only if the creditor files a proof of claim with the court. When a bankruptcy court discharges an individual's debt, that individual no longer has to pay off that debt. Once the petition is filed, the process can take a few months to get the discharge.²⁸⁴

A Chapter 12 Bankruptcy is called Adjustment of Debts for a Family Farmer or Fisherman with Regular Annual Income. If a Nebraska family farmer with regular income is struggling to pay off their debt, he or she can file for this type of bankruptcy and propose a plan to pay back any debts over a maximum period of 3 years typically. A trustee will be appointed to make sure all is going according to plan as far as paying back creditors. This type of bankruptcy allows a family farmer to continue their business operations while the payback plan is going on.²⁸⁵

A Chapter 13 Bankruptcy is called Adjustment of Debts of an Individual with Regular Income. People tend to favor a Chapter 13 Bankruptcy rather than a Chapter 7 Bankruptcy because a Chapter 13 Bankruptcy allows a debtor to keep property that a Chapter 7 Bankruptcy would liquidate. A Chapter 13 Bankruptcy allows a debtor to create a plan to pay back the creditor over a time frame of usually 3-5 years. There will be a hearing where the court will approve or reject the debtor's repayment plan. The court will appoint a trustee as a middle man to make payments to creditors based on the individual's expected income. While Chapter 7 Bankruptcy will discharge most of the debt of the individual, a Chapter 13 Bankruptcy does not. The individual will still have to pay the debt, although some of the debt is eliminated. While the plan is in effect the individual cannot be sued or have their wages garnished by creditors.²⁸⁶

For further information regarding the process and for a checklist, go to www.neb.uscourts.gov/pdf/prosebp.pdf.

Which debts are not discharged in a bankruptcy?

For each chapter of bankruptcy there are different debts that are discharged. Section 523 of the Bankruptcy Code is the best source to determine which debts are and are not discharged for that particular bankruptcy. Typically, student loans, late child support or alimony payments, damages for willful and malicious injuries to person or property, debts gained from fraud, and government imposed fines or penalties are not dischargeable. But again, you should look at the Code provisions for the type of bankruptcy you wish to file for a complete list. You should also seek out a bankruptcy attorney to help you with the process.²⁸⁷

A grayscale photograph of a person, likely of Indigenous descent, seen from behind. They are wearing a large, fringed skirt and a shawl or poncho with a geometric pattern. Their arms are raised, and they appear to be in a dynamic pose, possibly dancing or performing. The background is blurred, suggesting an outdoor setting.

Family Concerns

My child is living with a relative. How can I ensure the relative has legal authority to make decisions?

If your child is living with a relative you may be able to sign a power of attorney document delegating your authority as the child's parent to the relative caring for your child. Doing so can delegate your authority to make decisions about your child. Getting a power of attorney is completely up to the parent and usually can be terminated by the parent at any time.

In the event that I must move, how can I arrange for child support payments to be sent to a new location?

If you have a child support caseworker assigned to your case, you should contact him or her to request that your child support payments be forwarded to you at a different address. If you do not have a child support caseworker, you should contact your local child support enforcement department. The child support enforcement number for Nebraska is 402-471-1120.

How can I get counseling for myself or for my family?

Consider contacting your nearest tribal health care or Indian Health Services facility, or your Tribe's social services department. Many tribes provide counseling services at no cost. You can also contact your local United Way office. Many local United Way organizations have resource guides or personnel that can help people locate the services they need. SAMHSA offers free phone-based crisis counseling at 1-800-985-5990 or text TalkWithUS to 66746.

What if there is violence in my home?

If there is violence in your home, whether due to a disaster, or other reasons, you may have several options. Consider contacting your local police department. In addition many tribes and states have domestic violence agencies with trained advocates that help people understand their options and develop a safety plan. To find the advocates closest to you, consider contacting the StrongHearts Native Helpline, a toll-free hotline that can help connect Native Americans with resources that can help. To contact the StrongHearts Native Helpline, call 1-844-762-8483. The StrongHearts Native Helpline is available Monday through Friday from 9 a.m. to 5:30 p.m. Central Time. If you need help during other times, consider contacting The National Domestic Violence Hotline, which is available 24 hours a day, every day, at 1-800-729-SAFE (7233); Spanish line 1-877-215-0167; TTY 800-787-3224, or the National Sexual Assault Hotline: 1-800-656-HOPE (4673).

If you want to call a hotline, or other persons for help, be sure to think about how to do so in a safe way. Call logs or internet browser history can reveal to an abuser that you are searching for help. Consider using a friend's phone, calling at work if possible, your local library, or any available public access computer.

What are protection orders? How can they help?

Many tribes and states allow people who have been the victim of violence, or threatened with violence, to seek a protection order. Protection orders are court orders that prohibit someone from contacting or being near another person. They are most commonly used by persons to protect them and their children from a violent partner.

In addition to prohibiting a violent partner from contacting you or being near you, in many places protection orders can exclude a violent partner from a shared home, even if the violent partner owns the home or is the head of household on the lease. In many places protection orders can prohibit a violent partner from possessing or owning weapons, including guns, and can order law enforcement to seize any such weapons.

I'm not safe in my home because of violence. Is there somewhere I can go?

If you need to leave your home because of violence, many places have shelters for people and their children who are escaping violence. To locate the nearest shelter contact the StrongHearts Native Helpline at 1-844-762-8483, Monday through Friday from 9 a.m. to 5:30 p.m. If you need help outside of the StrongHearts Native Helpline's hours, consider contacting The National Domestic Violence Hotline at 800-799-SAFE (7233); Spanish line 1-877-215-0167; TTY 800-787-3224, or the National Sexual Assault Hotline: 1-800-656 HOPE (4673).

What can be done about child abuse or neglect?

To report child abuse or neglect, you should consider contacting your local police department or child welfare agency, particularly if you believe a child is in immediate danger.²⁸⁸

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Federal Programs

BUREAU OF INDIAN AFFAIRS (BIA) FINANCIAL ASSISTANCE AND SOCIAL SERVICES

Managing Agency:

U.S. Department of the Interior

The Bureau of Indian Affairs (BIA) Financial Assistance and Social Services (FASS) program provides assistance to federally recognized American Indian and Alaskan Native (AI/AN) tribal members. General Assistance includes cash assistance to meet essential needs of food, clothing, shelter, and utilities. Additionally, each General Assistance recipient must work with a social services worker to develop and sign an Individual Self Sufficiency Plan (ISP) to meet the goal of employment. The plan must outline specific steps the individual will take to increase independence. Eligibility will be reviewed every three months, six months, or whenever there is a change in status that can affect eligibility. Recipients must immediately inform the social services office of any such changes. If a client refuses employment or quits a job they will be sanctioned and cannot receive

services for a period of at least 60 days but not more than 90 days.

For more information go to:

<https://www.benefits.gov/benefits/benefit-details/801>

FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS (FDPIR)

Managing Agency:

U.S. Department of Agriculture

The Food Distribution Program on Indian Reservations (FDPIR) provides USDA Foods to income-eligible households living on Indian reservations, and to American Indian households residing in approved areas near reservations or in Oklahoma. Many households participate in FDPIR as an alternative to the Supplemental Nutrition Assistance Program (SNAP), because they do not have easy access to SNAP offices or authorized food stores.

The Food and Nutrition Service (FNS), an agency of the U.S. Department of Agriculture, administers FDPIR at the Federal level. The program is

administered locally by either Indian Tribal Organizations (ITOs) or State agencies (SAs) on behalf of federally recognized tribes.

USDA purchases and ships USDA foods, selected from a list of available foods, to the ITOs and SAs. These administering agencies store and distribute the foods, determine applicant eligibility, and provide nutrition education to recipients. USDA provides the administering agencies with funds for program administrative costs and nutrition education.

For more information go to:

<https://www.fns.usda.gov/fdpir/food-distribution-program-indian-reservations-fdpir>

DIRECT HOME LOANS FOR NATIVE AMERICANS

Managing Agency:

U.S. Department of Veterans Affairs

The Native American Direct Loan (NADL) program makes home loans available to eligible Native American veterans who wish to purchase, construct, or improve a home on Federal Trust land or to reduce the

interest rate. Veterans who are not Native American, but who are married to a Native American non-veteran, may be eligible for a direct loan under this program.

For more information go to:

<https://www.benefits.va.gov/homeloans/nadl.asp>

HOUSING IMPROVEMENT PROGRAM

Managing Agency:

U.S. Department of the Interior

The purpose of the Housing Improvement Program is to eliminate substantially substandard Indian owned and inhabited housing for very low income eligible Indians living in approved tribal service areas. The Housing Improvement Program (HIP), is a home repair, renovation, replacement and new housing grant program administered by the Bureau of Indian Affairs (BIA) and federally-recognized Indian Tribes.

For more information go to:

<https://www.benefits.gov/benefits/benefit-details/798>

INDIAN HOME LOAN GUARANTEE PROGRAM

Managing Agency:
**U.S. Department of Housing
and Urban Development**

The Indian Home Loan Guarantee Program provides and operates cost-effective, decent, safe and affordable dwellings for lower income families through an authorized local Public Housing Agency (PHA).

For more information go to:
<https://www.benefits.gov/benefits/benefit-details/847>

INDIAN HOME LOAN GUARANTEE PROGRAM (SECTION 184)

Managing Agency:
**U.S. Department of Housing
and Urban Development**

The Indian Home Loan Guarantee Program (Section 184) provides home ownership opportunities to Native Americans, Tribes, Tribally Designated Housing Entities (TDHEs), and Indian Housing Authorities on Indian land, through a guaranteed mortgage loan program available through private financial institutions.

For more information go to:
<https://www.benefits.gov/benefits/benefit-details/2706>

INDIAN HOUSING BLOCK GRANTS

Managing Agency:
**U.S. Department of Housing
and Urban Development**

Indian Housing Block Grants provide Federal assistance for Indian Tribes for the right of tribal self-governance, housing-related services such as housing counseling, self-sufficiency services, energy auditing, and the establishment of resident organizations.

For more information go to:
<https://www.benefits.gov/benefits/benefit-details/844>

INDIAN LOAN GUARANTY, INSURANCE, AND INTEREST SUBSIDY PROGRAM

Managing Agency:
U.S. Department of the Interior

The purpose of the Indian Loan Guaranty, Insurance, and Interest Subsidy Program is to help

Indian-owned businesses obtain commercially-reasonable financing from private sources to promote economic development on or near an Indian community's reservation or service area.

For more information go to:

<https://www.benefits.gov/benefits/benefit-details/800>

TRIBAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

**Managing Agency:
U.S. Department of Health
and Human Services**

The Tribal Temporary Assistance for Needy Families (TANF) program, formerly Aid to Families with Dependent Children, program provides a variety of benefits and services to federally-recognized tribes, American Indian, and Alaska Native families. Benefits may include childcare assistance, job preparation, and work assistance.

For more information go to:

<https://www.benefits.gov/benefits/benefit-details/627>

WEATHERIZATION ASSISTANCE PROGRAM FOR LOW-INCOME PERSONS

**Managing Agency:
U.S. Department of Energy**

The Weatherization Assistance Program (WAP) enables low-income families to reduce their energy bills by making their homes more energy efficient. Funds are used to improve the energy performance of dwellings families in need, using the most advanced technologies and testing procedures available in the housing industry. The U.S. Department of Energy (DOE) provides funding to states, U.S. overseas territories, and Indian tribal governments, which manage the administration of the program. These governments, in turn, fund a network of local community action agencies, nonprofit organizations, and local governments that provide these weatherization services in every state, the District of Columbia, U.S. territories, and among Native American Tribes.

For more information go to:

<https://www.benefits.gov/benefits/benefit-details/580>

Nebraska Programs

NEBRASKA CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP)

Managing Agency:
**Nebraska Department of
Health and Human Services**

In Nebraska, CHIP is an expansion of Medicaid as health care coverage for qualified children who are without other health insurance and who do not qualify for Medicaid. Federally called the Children's Health Insurance Program (CHIP), it provides the same services covered under Medicaid.

For more information go to:
***[https://www.benefits.gov/benefits/
benefit-details/1560](https://www.benefits.gov/benefits/benefit-details/1560)***

NEBRASKA LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

Managing Agency:
**Nebraska Department of
Health and Human Services**

The Nebraska Low Income Energy Assistance Program (LIHEAP) helps

people with limited incomes offset the cost of heating and cooling their homes. The program will partially pay the cost of electricity, fuel oil, gas, coal, wood, kerosene, propane, or other fuel source.

For more information go to:
***[https://www.benefits.gov/benefits/
benefit-details/1560](https://www.benefits.gov/benefits/benefit-details/1560)***

NEBRASKA MEDICAL ASSISTANCE PROGRAM

Managing Agency:
**Nebraska Department of
Health and Human Services**

The Nebraska Medical Assistance Program, also known as the Medicaid Program, is a program that is jointly funded by the state and federal government to provide medical coverage to those who meet certain categorical eligibility criteria and who cannot afford to pay for medically necessary services. Covered services include inpatient and outpatient hospital services, nursing facility care, prescription drugs, services

of physicians, dentists and other practitioners, screening and diagnostic services, home health services, mental health and substance abuse treatment, and medical supplies.

For more information go to:

<https://www.benefits.gov/benefits/benefit-details/130>

NEBRASKA TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

Managing Agency: Nebraska Department of Health and Human Services

The Temporary Assistance for Needy Families (TANF) in Nebraska is called Aid to Dependent Children (ADC). The program provides cash assistance to low-income families with minor children. ADC income is used to pay for family living expenses like rent, utilities, food, clothing, and other necessities.

For more information go to:

<https://www.benefits.gov/benefits/benefit-details/1670>

NEBRASKA SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

Managing Agency: Nebraska Department of Health and Human Services

The Supplemental Nutrition Assistance Program (SNAP) offers nutrition assistance to millions of eligible, low-income individuals and families and provides economic benefits to communities. SNAP is the largest program in the domestic hunger safety net. The Food and Nutrition Service (FNS) works with state agencies, nutrition educators, and neighborhood and faith-based organizations to ensure that those eligible for nutrition assistance can make informed decisions about applying for the program and can access benefits. FNS also works with State partners and the retail community to improve program administration and ensure program integrity.

For more information go to:

<https://www.benefits.gov/benefits/benefit-details/1300>



DISASTER RELIEF PROJECT

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