

# **Mississippi Disaster Legal Assistance Reference Manual**



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Edition**

**prepared by**

The Mississippi Bar



Young Lawyers Division

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## I. INTRODUCTION TO MISSISSIPPI'S DISASTER LEGAL ASSISTANCE PROGRAM

### A. Disaster Declarations and Volunteer Legal Assistance

Whenever the President declares a "major disaster" in any part of the country, federal assistance is made available to supplement the efforts and resources of state and local governments and voluntary relief organizations. Federal assistance, including legal assistance, is coordinated by the Federal Emergency Management Agency (FEMA).

On December 15, 1972, the Young Lawyers Division of the American Bar Association signed an agreement with Federal Emergency Management Agency (FEMA) to mobilize local attorneys to render volunteer legal assistance to disaster victims when requested. This Agreement was renewed in 2007 and a copy of the Memorandum of Agreement between the Federal Emergency Management Agency and the American Bar Association Regarding Disaster Legal Services is included in Section III of this Manual. The responsibility for performance of the ABA/YLD obligations is vested in the various state young lawyer organizations. In Mississippi the Disaster Legal Assistance Committee of the Young Lawyers Division of the Mississippi Bar coordinates the disaster legal assistance efforts through County Coordinators and the Mississippi Bar Center.

Once a major disaster is declared, a federal coordinating officer (FCO) is appointed to coordinate the administration of relief activities. All relief efforts for declared major disasters, including those authorized by separate statutes provided by other federal agencies and volunteer organizations (such as the Young Lawyers Division) are coordinated by the FCO to provide as unified and comprehensive a service as possible to reduce response time and to eliminate duplication of efforts.

To make it easier for individuals to obtain information and help from the various relief agencies, FEMA, in conjunction with the State of Mississippi, usually establishes one or more Disaster Recovery Centers (DRC) in the county where the disaster occurred. Representatives of federal agencies, state and local governments, private relief agencies and other organizations which can provide assistance or counseling are available to advise the disaster victims. These "one-stop" centers are kept in operation as long as the situation requires.

A lawyer participates by voluntarily providing legal assistance at a DRC. Lawyer volunteers are generally required to spend several hours at a Disaster Recovery Center (DRC) providing legal guidance to individual victims, or if the population of a county is not sufficient to warrant "in-person" manning of the DRC by volunteer lawyers, then lawyer volunteers may be requested to provide telephone counseling. Typical legal assistance which may be requested includes: assistance with insurance claims; replacement of wills and other important legal documents; assistance with home repair contractors; and counseling on landlord/tenant problems.

## B. Sequence of Assistance Delivery and Duplication of Benefits

Disaster assistance programs for individuals, families, and businesses often overlap in their coverage and purpose. Section 5155 of the Stafford Act prohibits the disbursement of disaster assistance that duplicates assistance from insurance or any other source. FEMA has established a policy for preventing and rectifying duplication of benefits under 44 CFR §206.191. The duplication of benefits policy excludes expendable items from being considered duplicative. Expendable items include clothing, linens, and basic kitchenware.

FEMA's duplication of benefits policy includes the concept of a sequence of delivery, which establishes the order in which the major forms of assistance should be provided. The agency that has primary responsibility for delivering a certain type of assistance should provide that assistance first, and may do so without regard to other agencies with similar assistance that are lower in the sequence. Agencies are not prohibited from disrupting the sequence of delivery when it serves to expedite the recovery of an applicant. However, the agency that disrupts the sequence of delivery must take corrective action. The sequence of delivery is:

### 1. Voluntary Organizations

Voluntary organizations provide emergency assistance in the form of food, clothing, shelter, medical, and transportation needs.

### 2. Private Insurance Benefits

Insured applicants must file a claim with their insurance company before receiving federal assistance. They may be eligible to receive disaster assistance if they have insufficient coverage or have items not covered by their insurance policy.

### 3. Temporary Housing Assistance

FEMA funds and administers the Temporary Housing program. The Temporary Housing program is designed to help alleviate the suffering imposed by the effects of a disaster by providing disaster applicants with a grant for their housing needs. There are five forms of Temporary Housing: (1) Lodging Expense Reimbursement; (2) Disaster Housing; (3) Rental Assistance; (4) Manufactured Homes and (5) Mortgage and Rental Assistance.

### 4. Lodging Expense Reimbursement

An eligible applicant may receive a check for the cost of short-term lodging, such as hotel rooms, incurred due to damage or inaccessibility to the residence or an officially imposed prohibition against returning to the residence. Expenditures for food, transportation, telephone, separately billed utilities, and other services are not eligible for reimbursement.

### 5. Minimal Repairs Assistance

Applicants eligible for this program will receive financial assistance to help make immediate emergency repairs to live in their residence while permanent repairs are being completed.

NOTE: This assistance is not intended to address all of the damage to the home or to restore damage items to their pre-disaster condition.

#### 6. Rental Assistance

An eligible applicant will receive financial assistance (based on the fair market rental value in the disaster area) to rent a dwelling for the pre-disaster household to live for a limited time. If the applicant has difficulty finding a place to live, FEMA may provide a listing of available rental properties in the area. Rental assistance is available for up to 18 months based on need, which, in turn, is reviewed and evaluated quarterly.

#### 7. Manufactured Housing

When rental properties are unavailable, FEMA may provide in-kind assistance in the form of a travel trailer, a manufactured home or other readily fabricated dwelling. Applicants receiving in-kind assistance are not eligible for financial assistance. Manufactured homes can be used as temporary housing for up to 18 months subject to re-certification of continuing eligibility.

#### 8. Mortgage and Rental Assistance (MRA)

When a disaster causes economic injury to an area, there may be substantial changes in household income. Mortgage and Rental Assistance provides a means to keep people in their homes, by assisting with their mortgage or rental payment and preventing foreclosure or eviction. The application period for this program is up to 6 months after the date of declaration. Mortgage and Rental Assistance is available for up to 18 months based on need.

#### 9. Small Business Administration (SBA)

SBA provides low interest, long-term disaster loans for individuals to repair/replace real and personal property, and for non-farm businesses. If SBA determines that an applicant is ineligible for an SBA loan or if the loan amount is insufficient, SBA refers the applicant to FEMA for additional consideration. Borrowers are required to maintain appropriate hazard insurance. Under certain circumstances, flood insurance may also be required. SBA can only approve a loan to aid applicants with a reasonable ability to repay the loan.

#### 10. Individual and Family Grant (IFG) Program

The IFG Program is administered by the state to cover the necessary expenses and serious needs that cannot be met through other forms of disaster assistance or other means, such as insurance. The state funds 25% of the expenses for this program, while FEMA funds the remaining 75%. This assistance covers repairing/rebuilding of real and personal property, transportation, medical, dental and funeral expenses incurred by applicants as a result of the disaster. The maximum amount for this grant is adjusted each fiscal year and is based on the Consumer Price Index.

## 11. Voluntary Organizations

Voluntary organizations, including community-based groups, provide assistance during recovery. They also establish an unmet needs committee to provide additional assistance benefits when a need is still there after going through the programs listed above.

## 12. Cora C. Brown Fund

In 1979, Cora Brown died and bequeathed part of her estate to the federal government to be used as a special fund solely for the relief of human suffering caused by natural disasters. The Cora Brown Fund is used for disaster victims who have exhausted all avenues of assistance, but who still have unmet needs. FEMA uses these funds under the authority of 42 USC §5201(b) of the Stafford Act and 44 CFR 206.181.

### C. Other Individual Assistance Programs

#### 1. Disaster Unemployment Assistance (DUA)

DUA provides financial help and employment services to people who are otherwise ineligible for regular state unemployment compensation. DUA provides help for workers and those who are self-employed if they become unemployed as a direct result of a declared major disaster. DUA is funded 100% by FEMA and administered by the Department of Labor through the State Employment Security Agency (SESA). Benefits can extend up to 26 weeks after the date of declaration or until the individual becomes re-employed, whichever is earlier.

#### 2. Crisis Counseling (CCP)

The purpose of the Crisis Counseling program is to help relieve any grieving, stress or mental health problems caused or aggravated by the disaster or its aftermath. Funds are provided by FEMA as a grant to state and local mental health agencies. This program is administered by the Center for Mental Health Services of the Substance Abuse and Mental Health Services Administration under the Department of Health and Human Services. Services provided include screening, diagnostic testing, counseling, and outreach services such as disseminating public information and community networking. There are two types of programs offered through CCP:

- (1) **Immediate Services** are intended to enable the state or local agency to respond to the immediate mental health needs of victims of a disaster. This funding is provided for up to 60 days after the date of the disaster declaration.
- (2) **Regular Services** are designed to provide up to 9 months of services to victims of a disaster.

Other national, state and local voluntary agencies have similar programs and coordinate with the Center for Mental Health Services to reduce or eliminate duplication of efforts.

### 3. Citizenship Verification

Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 USC §1601 et seq., (“the Act”), requires that federal public benefits be provided only to United States Citizens, Non-Citizen Nationals and Qualified Aliens. Such benefits include, but are not limited to, grants and loans provided by the U.S. Government, and those provided by the state government, but funded, whole or in part, by the federal government. FEMA programs considered federal public benefits include Temporary Housing and the Individual and Family Grant program. The Act also applies to SBA loans and Disaster Unemployment Assistance.

FEMA fulfills its requirements under the Act by auditing a sampling of individuals receiving assistance. At the time of the inspection, applicants self-certify their legal status on the Declaration of Applicant form, also known as FEMA Form 90-69D. If, at the time of the audit, FEMA discovers an individual received a grant, and is not a United States Citizen, Non-Citizen National or a Qualified Alien, FEMA will recover the grant funds.

#### D. The Role Of County Coordinators

The Disaster Legal Assistance Committee of the Young Lawyers Division of the Mississippi Bar coordinates the state’s disaster legal assistance efforts through County Coordinators for each of the 82 counties. Each County Coordinator receives a copy of the Disaster Legal Assistance Reference Manual, which is a vital resource prior to and immediately following a natural disaster. The manual contains contact information for Mississippi government entities, relief organizations, insurance companies, banks and other institutions that need to be reached after a disaster. The manual also provides important documents for volunteer lawyers such as the layout for a local Disaster Recovery Center and the intake forms to be provided to disaster victims. In addition, the reference manual contains contact information for each of the County Coordinators from Mississippi’s 82 counties. In the case of a disaster, the County Coordinator can be contacted to assess the situation and determine what resources are needed in that particular county. In addition, County Coordinators from other counties can assist in efforts to locate volunteer attorneys in their county to serve at Disaster Recovery Centers in affected counties. A list of the current County Coordinators and their contact information is included in Section III of this Manual.

The County Coordinator is not to be the sole volunteer attorney for the affected county but instead serves as a local contact for the Disaster Legal Assistance Committee, the Mississippi Bar and volunteer attorneys. This role may consist of updating the Mississippi Bar on the status of the affected county, providing directions to the Disaster Recovery Center or even informing volunteer attorneys if lodging is available. In most instances, the County Coordinator’s role is simply to serve as the eyes and ears of the Disaster Legal Services Committee for his/her designated county.

#### E. The Role Of Volunteer Lawyers

##### 1. Sequence of Events for Disaster Legal Assistance

Although each disaster is unique, the usual sequence of events is as follows:

- (1) The President of the United States declares a major disaster.
- (2) The declaration is forwarded immediately to the ABA's YLD Disaster Legal Services Committee Chairperson.
- (3) The FEMA Regional Director requests that the YLD Committee Chair activate the appropriate local disaster legal services providers. In Mississippi, the Young Lawyers Division of the Mississippi Bar Association has a Disaster Legal Assistance Committee ("DLA Committee") which coordinates these efforts.
- (4) The DLA Committee proceeds to hold volunteer training meetings immediately.
- (5) If necessary, the DLA Committee asks volunteer attorneys to report to the local FEMA Disaster Recovery Center ("DRC") to staff the legal services desks during the DRC's operation hours. The YLD, upon agreement with FEMA, will also provide a toll-free telephone number for victims to call for disaster legal assistance or referrals to other volunteer lawyers. County Coordinators will assist in locating volunteer attorneys to serve at the DRC or provide legal assistance by telephone.
- (6) The availability of free legal services to disaster victims is publicized, via television, radio and/or local newspapers. This publicity is coordinated between FEMA, the DLA Committee and the Mississippi Bar Association.
- (7) At the legal services desk, the disaster victim completes a Legal Services Intake Form. If the disaster victim qualifies and has a non-fee-generating case, a volunteer lawyer at that desk may proceed to answer basic questions and provide preliminary legal advice and consultation if the problem is relatively simple. Administrative support is provided by FEMA at the DRC.
- (8) If the problem is relatively complex or concerns an area of law with which the volunteer lawyer is unfamiliar, the lawyer will retain the intake form and the issue will be delegated to another volunteer lawyer who can contact the disaster victim to provide further assistance.
- (9) Some of the services available at the various desks established in the DRC (i.e., IRS, insurance, consumer and other representatives), might overlap those provided by the volunteer lawyers. Therefore, the volunteer lawyers are encouraged to consult with other service desks or refer victims to those desks as appropriate.
- (10) If the disaster victim fails to qualify for free disaster legal services, due either to economic status or to the fee-generating nature of the case, the volunteer lawyer should refer the victim to the FEMA Regional Director for referral to a private lawyer via the local or Mississippi Bar lawyer referral service.



- (11) Any dispute as to the non-fee-generating status of the victim's case should be resolved by the FEMA Regional Director (in consultation with the state or local bar associations, if necessary).
- (12) The volunteer lawyer should keep careful notes regarding the intake, recommendations, and disposition in each case for her/his own benefit and the benefit of any lawyer who may subsequently handle the case. The volunteer lawyer will ultimately forward a copy of each Intake Form to the Mississippi Bar who may forward it to another volunteer lawyer if needed.
- (13) For statistical and public information purposes, each lawyer should keep a record of total number of hours volunteered for forwarding to the DLA Committee.
- (14) The ABA's YLD State Representative should provide an interim report (60-day) and final report (when all claims have been resolved) to the FEMA Regional Director or Federal Coordinating Officer on the number and types of cases resolved and the number and types referred. The Disaster Legal Services Assistance Summary may be useful in preparing these summaries, but narrative analyses of the services provided and unique challenges met should also be included.

F. Guidelines for Providing Disaster Legal Assistance

- (1) Cases unrelated to a disaster in a federally-declared Mississippi county are not eligible for the disaster legal assistance program (for example: damage to home in DeSoto County following a hurricane in Harrison County) nor are legal issues that were not caused by the disaster (for example: basement floods after toilet overflows). Additionally, cases that are potentially fee-generating are not eligible, nor can volunteer lawyers counsel disaster victims regarding suits against federal or state government or any federal or state agency, which includes the appeal of a FEMA decision.
- (2) Whether the caller lives on an Indian reservation does not affect the caller's eligibility for disaster legal assistance, though this may affect jurisdictional and housing issues and, therefore, is crucial information for any volunteer attorney involved.
- (3) The volunteer attorney should keep careful notes regarding the intake, recommendations, and disposition in each case for her/his own benefit and for the benefit of any lawyer who may subsequently handle the case. The Intake Form and Case Closure Form are included in this manual for your reference.
- (4) This manual provides general information that may be helpful in providing volunteer legal assistance. Keep in mind that many of the victims of this disaster cannot otherwise afford legal representation so a volunteer attorney may be the one who guides them through this difficult time.

- (5) Although the legal services are provided on a pro bono basis, the Mississippi Rules of Professional Conduct still apply in the representation of the victims. Professionals cannot ignore conflicts of interest even in a disaster situation. For example, the mortgage that the disaster victim wants assistance with may be owned or serviced by a bank that is represented by a volunteer attorney's firm; the landlord with whom the victim has a potential dispute may be a real estate client of a volunteer attorney's firm; or the insurance policy the victim wants assistance with may be issued by one of the volunteer attorney's insurance clients. Please ask questions early to determine the parties to any potential claims. In the event of a conflict of interest, or if you are otherwise unable to handle the assigned matter, immediately refer the matter back to the Mississippi Bar by calling (866) 255-4495 for reassignment to another volunteer lawyer. Disaster victims should NOT be directed to FEMA, the Office of General Counsel for The Mississippi Bar, or the Consumer Assistance Program for The Mississippi Bar because of an attorney's conflict of interest.
- (6) The disaster victim may be subject to great personal trauma. Therefore, the volunteer lawyers should be sensitive to the feelings and behavior of the victim, as well as responsive to each victim's legal needs.
- (7) Lawyers are strongly cautioned against engaging in solicitation of disaster victims. Solicitation, whether by the lawyer personally or by someone else on behalf of the lawyer, is prohibited by Rule 7.3 of the Mississippi Rules of Professional Conduct. Solicitation includes in-person contact or live telephone contact with prospective clients with whom the lawyer has no family, close personal, or prior professional relationship when a significant motive of the lawyer's involvement is for the lawyer's pecuniary gain. Solicitation by written or recorded communication is prohibited if the prospective client has made known to the lawyer the desire not to be solicited by the lawyer or the solicitation involves coercion, duress, or harassment. A written or recorded communication from a lawyer soliciting professional employment from the prospective client known to be in need of legal services in a particular matter with whom the lawyer has no family, close personal, or prior professional relationship shall include the words "solicitation material" on the outside envelope or at the beginning and ending of the communication. Anyone with information that a lawyer is engaging in prohibited solicitation should report the lawyer in writing to the Office of General Counsel of the Mississippi Bar in accordance with the duty outlined in Rule 8.3, MRCP. Volunteer lawyers who are offering their services to disaster victims at no charge do not violate the anti-solicitation rules.

#### G. Providing Disaster Legal Services by Telephone

The ABA/YLD in collaboration with the Young Lawyers Division of the Mississippi Bar Association has set up the following process of providing disaster legal assistance by phone:

- (1) Following a federal disaster declaration, the Mississippi Bar will setup a toll-free telephone number for disaster victims to call for legal services. This number is

provided to FEMA to publicize the service and the phone number in its Disaster Recovery Centers. The availability of free legal services to disaster victims can also be publicized, via television, radio and/or local newspapers.

- (2) When a victim calls the toll-free number, the staff at the Mississippi Bar takes initial information from the victim on the Intake Form which is included in this manual. The staff then immediately emails or faxes the intake form to volunteer attorneys.
- (3) After receiving the Intake Form from the Mississippi Bar, volunteer attorneys are instructed to contact the victim within 48 hours of the initial call to the Mississippi Bar to determine if the individual is eligible for assistance.
- (4) Volunteer attorneys should assess whether the victim's legal services involve a fee-generating matter and if so, the victim should be referred to the local bar referral service or Mississippi Bar's referral service.
- (5) The volunteer should then assist the victim with their legal needs. Once the victim's legal issues have been addressed, the volunteer attorney should fill out the Case Closure Form and return it to the Mississippi Bar.

## II. LEGAL ASSISTANCE MATERIALS

### A. Consumer Finance

#### 1. General

Sections 89-1-301 to 891-329 of the Mississippi Code of 1972, as amended, should be referred to when answering specific questions dealing with mortgages or deeds of trust on real property which affect persons or property damaged in a disaster. The provisions of these sections apply to any such mortgage or deed of trust executed prior to the date of a disaster declaration by the President of the United States and to any such instruments executed after the date of the declaration by the Governor which renew or extend any mortgage or deed of trust executed prior to the date of the disaster declaration.

#### 2. Relief for Foreclosure of Real Property

A mortgagee, holder, owner, trustee or other person attempting a foreclosure must follow the law as provided in Section 89-1-301 to 89-1-329 of the Mississippi Code of 1972, as amended. Any attempt to foreclose except as provided for therein may be enjoined by the mortgagor by petition in the appropriate Chancery Court as provided by Section 89-1-301 or the Mississippi Code. The provisions of Sections 89-1-301 to 89-1-329 further allow the mortgagor a two (2) year period after the declaration of disaster within which to redeem property subject to foreclosure.

The provisions of Section 89-1-301 to 89-1-329, however, do not apply to mortgages or deeds of trust held by the United States government or agency thereof, i.e. Farmers Home Administration, Veterans Home Purchasing Board.

The mortgagor may be required to pay carrying charges (i.e. taxes, insurance and interest) on the mortgage indebtedness under court order for a period not to exceed two (2) years from the date of the declaration of disaster. During this time the injunction to halt the foreclosure will continue.

If during this two (2) year period, the mortgagor defaults in payment of the carrying charges or commits any waste to the property, then the mortgagee has a right to conclude the foreclosure proceedings within thirty (30) days after any such default. If an individual debtor is unable to make regular payments on personal loans, revolving charge accounts or other loans secured by property other than a debtor's residence or business, etc., he or she should contact the creditor and explain the situation. However, the creditor has a right to possession of the security or collateral or payment of the note for which the security was given. Whether or not the creditor must advise you or any action it takes prior to filing suit would be contained in the "security agreement" signed by the debtor at the time the credit was given. If the secured property of any description was damaged or destroyed as a result of the disaster, contact the creditor and your insurance company.

#### 3. Debt Collection

A debt collector is governed by the Fair Debt Collection Practices Act 15 USCS § 1682 et seq, which sets forth the procedures for the manner in which a debt may be collected. Under 15

USCS § 1682(5) a debt collector is prohibited from engaging a person in telephone conversation repeatedly or continuously. Debt collectors may only contact debtors between the hours of 8:00 a.m. and 9:00 p.m., and must cease communications with the debtor if the debtor requests in writing that communication be stopped. Under this Act, creditors and their officers and employees are not defined as debt collectors. The act excludes from the definition of “creditor” any person to the extent that he receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt for another.

A debt collector may not use any false or misleading statements in attempting to collect a debt, nor can a debt collector threaten to take any action that cannot be taken legally or that is not intended to be taken. 15 USCS § 1682e.

## B. Insurance

### 1. General

The terms and provisions of a disaster victim's contract of insurance must be given primary consideration when answering specific questions relative to payment of claims for personal or business property damaged or destroyed in a disaster scenario. One should keep in mind, however, that an insurance company cannot sell policies of insurance in Mississippi which contain exclusions of coverage that violate Mississippi law. Following is a summary of some of the important legal rights of insureds in Mississippi, as set forth by the Mississippi Code of 1972 (through the 1999 Regular Legislative Session):

### 2. Rates ("Percentage" Deductibles)

(1) The issue of "percentage deductibles" came to the public light in Mississippi in the aftermath of Hurricane Georges. Mississippi lawmakers responded with an amendment to M.C.A. § 83-2-3. Effective January 1, 2000, the 1999 amendment addresses the issue of "percentage deductibles" for the peril of windstorm from a named storm. The amendment provides that any insurance company filing a homeowner's insurance policy offering a "percentage deductible" for the peril of windstorm from a named storm shall offer a "buy-back provision" for that deductible. This means that insurance companies utilizing a "percentage deductible" for this type of coverage (most major carriers now do) must offer insureds an opportunity to "buy back" their stated deductible coverage for a higher premium. However, note that the Commissioner of Insurance has the discretion to grant a waiver of the mandatory buy back provision to any such insurance company, upon said company's application and request.

(2) Note that the Mississippi Insurance Department responded to this legislation. First, in Bulletin 99-4, the Commissioner put insurance companies writing homeowner's windstorm insurance in Mississippi on notice that the Mississippi Insurance Department requests companies provide a minimum buyback deductible of \$500.00 for named windstorms. Additionally, the Commissioner advised such companies that they shall provide their policyholders an opportunity to request changes to the windstorm deductible from January 1, 2000, until June 1, 2000, and at renewal thereafter. Finally, the Commissioner instructed insurance companies to send a notice to policyholders prior to January 1, 2000, with an explanation of the separate percentage windstorm deductible and the availability of optional deductibles as low as \$500.00, for an additional premium.

(3) Note that is the untested opinion of the Mississippi Department of Insurance that the "mandatory buy back provision" referenced above does not apply to policies of insurance of manufactured homes. In Bulletin 99-7, the Commissioner advised all property and casualty companies writing Mobile Home Insurance in Mississippi to issue a special notice to policyholders informing them about the existence and function of the mandatory "Wind and Hail" percentage deductible contained in most manufactured home policies. The required notice includes a detailed explanation, with examples, of exactly how the "percentage deductible" works. The bulletin requires companies to provide this informational notice on all

new business as of March 1, 2000, and that it is to be sent to policyholders at the time of renewal of existing business.

3. Statutes of Limitation

M.C.A. § 83-5-3: Insurance companies doing business in Mississippi are required to execute an agreement to be bound by the statute laws of the State of Mississippi pertaining to periods of limitation.

4. Notice of Cancellation, Reduction or Non-renewal

M.C.A. § 83-5-28: Any cancellation, reduction in coverage or nonrenewal of liability insurance coverage, fire insurance coverage or single premium multiperil insurance coverage is NOT EFFECTIVE as to any coverage issued or renewed after June 30, 1989, UNLESS notice is mailed or delivered to the insured by the insurer not less than thirty (30) days prior to the effective date thereof. This requirement shall be included in any such policy issued or renewed after June 30, 1989, and shall be deemed incorporated if not expressly stated in the policy. This notice requirement does not apply to nonpayment of premium.

5. Accident/Health Insurance

a. M.C.A. § 83-9-5 Grace Period

A grace period of seven (7) days for weekly premium policies; ten (10) days for monthly premium policies; and thirty-one (31) days for all other policies will be granted for the payment of each premium falling due after the first premium, during which grace period the policy will continue under force.

b. M.C.A. § 83-9-5 Claim Forms/Proof of Loss

An insurer, upon receipt of notice of claim, must furnish the claimant appropriate claims forms. If no forms are provided within fifteen (15) days after the giving of such notice, a claimant shall be deemed to have complied with the requirements of the policy, as to proof of loss, upon submitting, in the time fixed in the policy for providing proof of loss, written proof covering the occurrence, the character and the extent of loss for which the claim is made. Note that written Notice of the claim ordinarily must be submitted within thirty (30) days of loss. Always refer to the policy for applicable time periods for filing notice of claim and proof of loss. This does not apply for a flood insurance policy.

6. Automobiles

M.C.A. § 83-11-501: No insurer can require its insured to have repairs to a damaged vehicle, including glass repairs or replacements, made at a particular repair shop, as a condition of payment. However, the most an insurance company is required to pay for such repairs is the lowest amount that such vehicle or glass could properly and fairly be repaired or replaced by a contractor or repair shop within a reasonable geographical or trade area of the insured. M.C.A. § 83-11-501 Update: A case has been decided concerning the statutory holding. In *Christmon v. Allstate Ins. Co.*, 82 F. Supp. 2d 612 (S.D. Miss. 2000), a “priority repair option” program, in

which the insurer pre-approved certain automobile body repair shops to perform repairs, was found to not be in violation of § 83-11-501. The Court ruled that the insured did not present any evidence that the insurer required the insured to have repairs performed at particular body shops.

7. Fire Loss

a. M.C.A. § 83-13-5 Total Loss

When buildings or structures in Mississippi are totally destroyed by fire, the company providing insurance thereon is required to pay full value of the amount for which said buildings or structures were insured, and may not deny that the buildings and structures insured were worth the full value upon which the insurance was calculated at the time the policy was issued. “Three Quarter” value clauses are not permitted for insurance of this kind, and any fire insurance company or agent who sells a policy containing such a clause is guilty of a misdemeanor. The Mississippi Supreme Court holds that, in order for there to be only a “partial loss,” wherein an insured may only recover the value of his/her actual loss, within the meaning of this statute, there must be a substantial, usable remnant of the building surviving, and such surviving part must be susceptible to reasonable repairs and reconstruction. *Home Ins. Co. v. Greene*, 229 So.2d 576 (Miss. 1969).

b. M.C.A. § 83-13-7 Mortgage Protection

Each insurance policy on buildings taken out or renewed on or after July 1, 1989 by a mortgagor or grantor in a deed of trust shall have a clause specifically designating a mortgagee or trustee as the payee of any insurance proceeds payable thereon. M.C.A. § 83-13-7 dictates that insurance companies owing such proceeds shall, after satisfactory proof of the rights and title of the parties, pay all mortgages protected by such policy in the order of the priority of their claims, but not beyond the amount for which the insurance company is liable.

8. Insurance Checklist

a. Identify Coverages.

Do you have a flood policy, or just a homeowner's policy? If you have a policy, what is your policy number? If you do not have a policy number, call the insurance company and request your policy number and the form identifier for your policy. Most insurance policies are forms and have an identifier (i.e. FP-6627). You may be able to access the policy online or at a disaster helpdesk or local insurance office.

b. Identify Insurers

Who provides your coverage? Call your agent if possible.

c. Notify

Let the insurance company know that you have suffered a loss. If you call, write down the name of the person you spoke to, their telephone number and the claim number. **IT IS BEST TO FOLLOW UP THE CALL IN WRITING. IT IS ALSO ADVISABLE THAT YOU LOG ALL**



COMMUNICATIONS YOU HAVE WITH INSURANCE REPRESENTATIVES, WHETHER THEY OCCUR IN PERSON OR TELEPHONICALLY. Make certain to identify the date, the name of the representative and the topic of the discussion. Do this because the insurance company will keep a log whether or not you do.

d. Protect

If the loss is partial to a home, is the insured in a position to protect the dwelling from further loss?

Ask the insurer if you will be reimbursed for boarding up property. Keep all receipts for what you expend in protecting the property from further loss.

e. Causation

Do not describe the loss as being caused by water (if you do not have flood insurance); describe the loss as being caused by the Hurricane. Do not reference a water mark and point that out as evidence water in the home. There may be other damage in your home caused by other causes and it is best not to provide an excuse to the insurer for them to preclude your claim prematurely.

f. Claim Forms

Ask the insurance company to deliver to you personally claim forms if any. If you are making a flood claim, pay attention to any media announcements made by the Federal Insurance Administrator regarding waiver of the requirement that a sworn proof of loss be submitted within 60 days.

g. Candor

Be absolutely honest in reporting your claim – do not make claims for property you did not own. Make the best estimations that you can. Remember that you can supplement your claim if you remember additional items.

h. Inventory

Do a complete household inventory of lost or damaged or (looted) property. Recommend that photographs or video be taken of the damaged property room by room, if possible, along with preparing an itemized list. Even if property in the inventory is not covered by insurance, FEMA may allow a reimbursement for that property. May also be able to claim casualty loss as a tax deduction.

i. Damage Inventory

The damage inventory should be for:

- (1) dwelling and surrounding buildings, including garages out buildings, fencing within the property,

- (2) landscaping features (trees and shrubs),
- (3) personal property (clothes, furniture, toys, household items)
- (4) some property, such as guns insured only to \$2500
- (5) some business property in home subject to special limit; so too for jewelry, bonds, and the like
- (6) property assessment (homeowners association and condo assessments)
- (7) property owned by others destroyed on the premises
- (8) property owned by insured, destroyed elsewhere
- (9) rental value for property, if a portion of the property was rented
- (10) debris removal (limit on liability)
- (11) cost of storage for personal property
- (12) unauthorized use of credit card expenses
- (13) if family has pictures, use pictures to identify property; gifts

**BIGGEST PROBLEM WITH THESE CLAIMS IS THAT HOMEOWNER FORGETS WHAT HE/SHE OWNED OR CANNOT PROVE THAT SHE OWNED IT.**

The insurance company will be skeptical and should be. It is advisable to write out an itemized list of damaged property, room by room, as soon as possible. This includes a list of all perishable items (food, prescriptions, etc.).

#### j. Living Expenses

Homeowner should make a claim for temporary living expenses. Payment is for shortest time to repair/replace insured premises. Keep all receipts for lodging, food, additional clothing and other necessities. Additional living expenses will not be provided if there is not a covered loss under the policy. If an additional living expense is advanced, ask the insurance company if they plan to deduct those proceeds out of the covered portion of the loss after the deductible applies. Also, make sure to review your policy to see if any time limit applies.

#### k. My Neighbor's Tree Issue

There is no liability if your neighbor's tree falls onto your home by natural causes (i.e., due to hurricane winds), unless they had reason to know or should have known that the tree was diseased and likely to fall. If this was the case, then your neighbor needs to put their carrier on notice. As a general rule, if an act of God knocks an otherwise healthy tree down, then it is the responsibility of each of homeowner to clean the debris and deal with the damage on his/her own property.

1. Flood Insurance

Flood insurance claims are governed by federal law. The federal government is not subject to claims of waiver and estoppel, and so, flood claims should be filed with the time provided in the policy. Unless informed otherwise, a sworn proof of loss must be submitted within 60 days.

9. Other Issues

a. Settlement issues:

Be cautious about accepting quick single lump sum payments for all claims.

b. Mortgage issues

Keep in mind if the bank owns the house (or more of it than the homeowner does), the check for the loss will include the bank. Find out who the representatives are that will be endorsing the check. If you have not made a mortgage payment as a result of a natural disaster, it is important to contact the mortgage company and ask them to suspend your payments, so that they do not begin foreclosure proceedings.

10. Auto

- (1) Collision coverage may be included.
- (2) Comprehensive coverage covers Vandalism, Fire, Theft, Missiles, Falling objects, Larceny, Explosion, Earthquake, Windstorm, Hail, Water, Flood, Malicious mischief, Riot, Contact with bird or animal.

## C. Post-Disaster Insurance Issues – Frequently Asked Questions

### 1. *How do I recover from my insurance policy?*

#### **(1) Provide notice to your insurer**

Immediately provide notice in writing to your insurance company that you plan to file a claim. See “Correspondence Guidelines” below for assistance. You may also request that the insurance company send an insurance adjuster.

#### **(2) Correspondence Guidelines**

Filing a claim begins a process of corresponding with your insurance company. Below are general guidelines for communicating with your insurance company.

Each letter you send to your insurance company should include: your name, address, and telephone number; a description of your loss; your policy number; if supported by the facts, a statement that your loss is covered by your policy; and a clear request that the insurance company pay for the loss immediately. You may want to use stationery from an attorney or the Mississippi Center for Justice if available.

- (a) It is important to keep detailed records of all correspondence (letters, e-mails, and phone calls) with your insurance company. This will be important evidence of your attempts to negotiate if you file a complaint, participate in mediation, or file a lawsuit. Record the dates and times of your phone calls, with whom you spoke, and his or her supervisor’s name. Keep notes of the conversations, any promises the insurance company made, and any numbers assigned to your case. Write letters to follow up any phone calls in order to verify and summarize the conversation.
- (b) Your insurance company may send you documents to sign. You should look at these documents very carefully before signing them, and you may wish to consult legal counsel, if possible.

You should not sign documents that release or waive any of your claims against the insurance company without fully reviewing and understanding them. Your insurance company may also ask you to sign documents acknowledging that flooding caused some or all of your damages. If your homeowner’s insurance policy does not compensate you for flood damage, the insurance company may use your admission to deny some or all of your claim. Your damage may have been caused by a combination of factors, including those covered by your insurance policy. If you sign documents acknowledging that your damage was caused by flooding, you may be prevented from receiving all that you are entitled to under your policy.

- (3)** Do not feel rushed into a quick settlement as it may result in your getting less money than you are entitled. See “*Developing an Insurance Claim File and Making Your Case*” below for help in determining what you should receive.

- (4) Document your expenses carefully. It may take time to settle your insurance claims, and you may be reimbursed for any expenses in the meantime, such as temporary housing, rental cars, or meals.
- (5) Continue to contact your insurance company, even if it ignores your letters or phone calls. Send a letter every few weeks. This may encourage them to reply; if not, their failure to reply despite your continued efforts may be useful to you in a future legal claim.
- (6) **Find and examine your insurance policy**

Your insurance policy will help you determine what you are entitled to. As an initial matter, ensure that you have a complete copy of the policy with all pages and endorsements, or signatures. When you examine your insurance policy, you will want to ask yourself the following questions:

**(a) What is covered by your insurance policy?**

- Is the cause of your loss (wind damage or flooding) covered under the policy?
- Are there any exclusions in your policy (e.g., storm surge)?
- What property (dwelling, other structures, or personal property) is covered?
- Are things you did to prevent damage or minimize the damages covered?
- Are you entitled to recover replacement costs or actual cash value?

Replacement Costs entitles you to receive payments to replace your losses with items and structures of similar kind and quality. Thus, if you have lost a refrigerator, you are entitled to receive the amount it takes to purchase another refrigerator of similar kind and quality. If you receive less than replacement costs that you are entitled to, you may wish to file a supplemental claim with your insurance company for additional payment.

Actual Cash Value entitles you to the amount that your refrigerator was worth on the day of the storm. The value of your refrigerator likely depreciated with time, so cash value is often less the replacement costs.

Repair Costs entitles you to receive the amount it takes to repair your refrigerator. If your refrigerator needs replacing and your insurance company is not letting you replace it, get an estimate of the repair and replacements costs, and send copies to your insurance company.

**(b) What are the policy limits?**

What limits apply to the amount an insurer will reimburse for covered losses?

What is the deductible or retention (the portion of the loss assumed by the Policyholder)?

**If you can't find your insurance policy:**

Call your insurance agent or insurance company – they should provide you with a copy. Otherwise call your mortgage lender, your bank, or the Mississippi Department of Insurance at 866-856-1982.

(c) **How do you collect your insurance money?**

What procedures do you need to follow?  
Your claim may not be barred for failure to adhere to the requirements, but you should follow them if possible.

(d) **Submit proof of loss**

A “proof of loss” is a statement to the insurance company detailing your losses. The insurance company may waive this requirement or send you a proof of loss form to complete. Regardless, submitting proof of loss may strengthen your claim and help you calculate your losses. See part 1:G on how to create a file for proving your losses.

(e) **Cooperate with your insurance company’s investigation**

You may have to allow your insurance company to access your records, interview you or other witnesses, and inspect your property. **You may wish to contact an attorney if you are asked to be interviewed under oath.** In cooperating with the insurance company’s investigation, follow the “Correspondence Guidelines.”

(f) **If your claim is denied or you do not get as much as you think you should**

You have many options. Be advised that certain options (such as suing your insurance company) may foreclose other options (such as mediation), so you should consider each carefully. This list of options is not exclusive; consult legal professionals if possible.

(1) **Write the insurance company immediately, explaining why you disagree.** In all of your correspondence with the insurance company, follow the “Correspondence Guidelines.”

(i) If your insurer makes a payment that is less than you are entitled to, your letter could include:

“I recently received a check in the amount of [*amount*] from [*insurance company claims service*]. Please be advised that this amount is grossly insufficient to reimburse me for the covered damages to [*structure or items damaged*], located at [*address of property*].

According to my policy, I am entitled to up to [*policy limit*]. I believe that I am entitled to [*amount you have determined*] because [*state reasons supporting your argument that their amount is insufficient: your estimate of your losses, any appraisals or valuations you have done, etc.*]. I await your response.”

You may wish to consult an attorney before cashing or depositing insurance payment checks. If you cash a check from your insurance company, the company may argue that you accepted the check as full payment, or full satisfaction, of the company's obligations to you. If possible, do not cash the check and write the insurance company telling them that the check is insufficient. If, however, it is essential for you to cash a check that is less than what you are entitled to, write on the back of the check: "I do not accept this as full and final satisfaction." Copy both sides of the check and send a copy to your insurer, explaining that you do not accept the check as full and final satisfaction and that you are entitled to an additional payment of \$ \_\_\_ under your policy. This may preserve your rights to additional compensation later on.

- (ii) If your insurer denies your claim entirely, ask for justification in writing and any reports or documentation associated with the valuation. A letter could contain language such as:

"I filed a claim for insurance proceeds under [*name of the policy*] on [*date of you sent the claim*]. I recently received a notice that the claim was denied.

I now request that an authorized representative send to me, in writing, an explanation for why my claim was denied; any documents associated with the investigation and denial of my claim; and the reports of any inspection that was done of my property and my insurance policy. Please promptly send the report to the following address: [*name, address, contact information*]."

- (iii) Continue to correspond with the insurance company. Even if you do not receive a response from the insurance company, send letters every few weeks, such as the following example:

"On [*date the first letter was sent*] I sent you information regarding my claim under policies issued by your company for covered damage to my property located at [*address of property*]. This letter explained that I do not agree with your decision regarding coverage for my losses.

I have not yet received a response from you regarding my claim and continue to await your prompt reply. Your delay in providing insurance coverage contributes substantially to the continuing hardship I face resulting from hurricane-related losses. For the reasons stated in my prior letter, I continue to believe that my claim is covered in full by the policies issued by your company subject only to applicable policy limits or retentions, if any. If you have any questions, please contact me."

**(2) Demand an appraisal.** In the appraisal process, you and the insurer appoint an appraiser to re-evaluate the damages. Your insurance policy should detail this process. Your insurer may want to participate in mediation instead of providing for an appraisal. However, the mediation program is optional; thus, if you wish to get an appraisal before participating in mediation or choose not to participate in mediation, your insurance company must provide an appraisal according to your policy terms in the event of a disputed valuation.

**(3) Participate in the Mississippi Insurance Department Mediation Program** (if available – this was a program initiated after Hurricane Katrina, but this may not always be an

option). Consider this option carefully. If you choose to participate in mediation, you may wish to bring an attorney or a skilled appraiser. Or, talk with an expert before your mediation and have them prepare information to bring. If you are unassisted or unrepresented, you may receive less than you are entitled to receive.

If you choose to participate in mediation, be prepared. Talk with neighbors who had similar damages and the same insurer. Ask them how the insurance company treated them and how they prepared for mediation. If their damage was similar to yours, ask the insurance company to justify any differences in payments. See “Developing an Insurance Claim File and Making Your Case” for additional information on how to prepare a claim file.

Do not allow the insurance company to advise you on your legal rights. Seek your own advice. Do not feel pressured to accept a settlement with which you are not comfortable.

Any settlement reached at the mediation conference will become binding and final after three (3) business days or when you cash or deposit an insurance payment check. *Do not cash or deposit a check if you are unsatisfied with the amount you received.* Contact your insurance company within three days if you change your mind regarding a settlement. You may wish to talk with an attorney.

You are eligible to participate in mediation if: (a) your insurance claim does *not* involve: commercial insurance, private passenger motor vehicle insurance, claims involving liability to third-parties, or claims with the National Flood Insurance Program; (b) you have a disputed claim, (c) the difference between what you believe you are entitled to and what the insurance company has agreed to pay you is \$500.00 or more; and (d) you have not filed a legal action against an insurance company relating to a claim.

For information on how to participate in mediation, see [www.doi.state.ms.us](http://www.doi.state.ms.us) or call 601-359-2012. For more information on how to prepare, see [www.adr.org](http://www.adr.org). If you wish to participate in the program, contact the American Arbitration Association, who is administering the program: 800-426-8792 (phone); 972-490-9008 (fax); [Msinsmediation@adr.org](mailto:Msinsmediation@adr.org); American Arbitration Association, ATTN: MS Insurance Mediation, 13455 Noel Road, Suite 1750, Dallas, TX 75240.

**(4) File a complaint with the Mississippi Insurance Commission.** You may file a complaint in one of two ways: (1) visit the National Association of Insurance Commissioners’ (NAIC) Consumer Information Source site to file your complaint with the Mississippi Department of Insurance, <http://www.naic.org/cis>, or (2) download and send the form at <http://www.doi.state.ms.us/consumer/consumerinfo.htm>. The Insurance Department will assign your complaint to an investigator who will notify you in writing of his or her findings. For further questions, call the Consumer Help Line at 800-562-2957 or 601-359-2453.

**(5) Sue your insurance company.** If your efforts to receive insurance proceeds fail, you may consider legal action. Consider this option carefully, as lawsuits take considerable time and money. You may decide that, on balance, it is better to accept a smaller amount of money now instead of the possibility of a larger amount in the future.



- (a) **Join a currently pending lawsuit.** If you have a policy with an insurance company that is already being sued, you may be able to join one of these lawsuits.
- (b) **File your own lawsuit.** You may also consider filing your own lawsuit. According to the Mississippi Department of Insurance, you have three years from the time that your cause of action accrues to file a lawsuit. You may want to consult an attorney to determine the specific date by which you must file, which depends on when your cause of action accrued.

If you think you might file a lawsuit, it is important that you document all of your communications with the insurance company to establish that your insurance company wrongfully denied your claim. You may also have a claim that the insurance company acted in bad faith, although this is very difficult to prove.

You may also have a cause of action under the Mississippi Consumer Protection Act § 75-24-5 if your insurance agent represented to you that your insurance policy covered flood damage or water damage from hurricanes or if your insurance agent incorrectly told you that you did not have to buy flood insurance. You may wish to consult a lawyer about your options.

**(g) Developing an Insurance Claim File and Making Your Case**

**(1) Determine your losses.** Gather copies of your policy, letters, contractor estimates, bills, reports, etc. Retain all receipts, estimates, and documents related to the costs and repairs. Develop an inventory of damaged property.

*Personal Property:* Compile a detailed list of your home’s contents that were damaged or lost, including furniture, clothing, appliances, jewelry, art work, books, etc. It may help to visualize each room. Identify quantities and values of damaged property (prices may be available online, in stores, or catalogs).

<p>www.knowyourstuff.org will help you to remember and document all of your personal property losses.</p>
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*Physical Structures:* Also document damage to your home itself. Take pictures or videotape the property and, if possible, compare them to “before” photos. Get a detailed estimate of repair and replacement costs from a reliable contractor.

*Living Expenses:* Keep receipts and records of all living expenses incurred due to hurricane damage, such as hotel bills, meals, and rental payments.

**(2) Determine the cause of your losses.** Insurance companies may attempt to avoid payment by classifying damage as “flood” damage, which is not covered under most insurance policies. Gather evidence to indicate what caused your damage. Evidence suggesting that *wind* caused your damage will help your claim. Write a detailed estimate of damages you have *above* the flood line. Collect weather data about wind speeds and rainfall. Collect statements about wind damage from neighbors who stayed during the storm. Have them include a time line indicating when the wind and rain occurred and when the flooding occurred and note if the water rose slowly or gently. Have them include their contact information and sign and date the written statement. Consider getting it notarized if possible.

Hiring a public adjuster to look at your losses may be helpful at many stages in the process: in the initial submission of a proof of loss; if there is a dispute between you and the insurance company and you want an appraisal; in mediation proceedings between you and the insurance company; and in any lawsuit you may file against the insurance company. For a list of public adjusters, visit: [http://www.napia.com/docs/PA\\_firms\\_hurricane\\_claims\\_gulf\\_states.pdf](http://www.napia.com/docs/PA_firms_hurricane_claims_gulf_states.pdf) or call 703-433-9217.

**2. *Do I keep paying premiums?***

Insurance companies may cancel your coverage if you fail to pay premiums. If you are unable to make payments, contact your insurance company (following the “Correspondence Guidelines” in part 1:B), explain the situation, and inquire about your options.

**3. *Should I make repairs now or wait?***

It is generally better to make repairs now and avoid further damages, but you should still be able to recover if you do not make repairs immediately. Take photos before making repairs and keep your receipts. If you are unsure about your coverage, contact your insurer.

**4. *What if I find additional damage after receiving insurance payments?***

File a Supplemental Claim with your insurance company as soon as possible. Include documentation of the additional damage and explain why it was not discovered sooner.

**5. *What if I rent-to-own?***

Check your rental agreement to see if it discusses insurance or a duty to make repairs. Obtain the insurance policy; look to see if you are a named insured. If possible, work with the owner to file an insurance claim. If the owner refuses to file a claim, you may have a claim to the insurance payments as a third-party beneficiary of the insurance policy, especially if you have been making insurance payments. Collect evidence that you have been paying premiums, such as cancelled checks and rental agreements. If you had an oral agreement, document what you remember of the conversations.

Your rental agreement may require that the owner make necessary repairs. Notify the owner of the necessary repairs and inquire if you can expedite the process by getting an estimate or contacting the insurance company. If the owner still refuses, you may wish to contact an attorney.

**6. *I already cashed my insurance check, even though it was for much less than I am entitled to. Do I have any remedies? What action should I take?***

It may be difficult to collect additional insurance payments, but build a claim by contacting your insurer following the “Correspondence Guidelines” in part 1:B. Notify your insurer that you do

not consider the payment to be full and final satisfaction of your claim. After documenting the correspondence, you may wish to contact an attorney, especially if your payment was grossly inadequate and/or if you can demonstrate that you did not know the check constituted final payment. A court may consider your cashing of the check to be acceptance of the check to be full and final satisfaction of your claim against the insurance company; but, raising this issue as soon as possible may preserve your right to additional compensation in the future.

**7. *Will my insurance company pay for additional living expenses?***

Check your policy to see if temporary housing costs are covered. Keep your receipts and records.

**8. *What about my auto insurance?***

Check your policy. Comprehensive car insurance coverage typically covers flood, theft, and vandalism.

**9. *My insurance check was also made out to my mortgage company. How do I prevent the company from keeping the entire amount?***

Check your insurance policy and lending agreement to see if your mortgage company is entitled to your insurance payments. Check your policy to see if your lender is a named insured on the insurance of the structure (your home) and/or its contents (your personal belongings). Your policy and lending agreement may also provide that you can use insurance payments for rebuilding or repairing your home.

If the mortgage lender retains payments it is not entitled to and prevents you from making repairs, contact both your lender and the insurance company to inquire about your options. Request that the lender release the insurance payments unrelated to the structure (such as insurance payments made for damages to your personal belongings) and payments in excess of the loan amount. Your mortgage company may put large insurance payments in escrow to be used for repairs. Get a repair estimate and send a copy to your mortgage lender. Your lender may wish to inspect the finished job before releasing the funds.

If you are behind on your mortgage payments and your lender has your insurance money in escrow, you may also want to talk with your lender about restructuring your mortgage payment schedule. You may choose to contact an attorney about this or other alternatives if your lender and insurance company are uncooperative. Refer to the question below about the possibility of getting your mortgage payments delayed by the Chancery Court.

**10. *I am late on my mortgage payments. What should I do?***

Contact your lender and ask about your options. Perhaps the lender would modify your payment schedule, waive your late fees, and/or delay reporting negative information to credit agencies. Housing Counseling Agencies may be able to assist you. You can contact HUD at (601) 965-4757 or <http://www.hud.gov>.

If you fear foreclosure (your mortgage lender selling your home to pay the mortgage), you may wish to file for a preliminary injunction to prevent foreclosure in the Chancery Court. If possible, contact an attorney for assistance. You may avoid or delay foreclosure even though you cannot pay the amount on the mortgaged debt if: (1) you have tried unsuccessfully to refinance the mortgage, and (2) your home has lost more than 15 percent of its value due to disaster damage. The Chancery Court may also allow you to pay a reasonable “carrying charge,” which may include interest charges and processing fees, instead of your mortgage payments.

**11. *I cannot locate my contractor. How do I recover funds from his or her insurance company for work done in an un-workmanship like manner?***

You may not be able to recover directly from your contractor’s insurance or bonding company, so it may be best to file a claim against your contractor for breach of contract. If the contractor does not contest the proceedings, the court will enter a default judgment, and you can request a writ of garnishment, which may allow you to access payment from the contractor’s insurance company.

If you suspect that you have been the victim of fraud, file a police report and complaints with the Federal Trade Commission ([www.ftc.gov](http://www.ftc.gov)) and the Mississippi Office of the Attorney General, Consumer Protection Division (<http://www.ago.state.ms.us/divisions/consumer/how.php>).

**12. *I do not have sufficient insurance coverage. Is other assistance available?***

*FEMA:* FEMA provides some cash and other assistance to victims of disasters. Eligibility for FEMA assistance depends on the type of assistance that you need. To register for FEMA and to learn more about your eligibility, call 800-621-FEMA or register at [www.fema.gov](http://www.fema.gov). To receive FEMA funds, you must have already filed an insurance claim and been denied coverage for the full amount of your damage.

*SBA (Small Business Administration) Home Disaster Loans:* For information on federal loans that may help you rebuild or repair your property, visit the SBA site at [www.sba.gov/disaster](http://www.sba.gov/disaster).

*Mississippi Home Corporation:* This state organization provides loans and other financial assistance that may help you rebuild or repair your property. For more information, visit [www.mshomecorp.com](http://www.mshomecorp.com).

D. Landlord-Tenant

1. Lease Termination Issues

- a. Must a tenant pay rent for a home that has been destroyed?

No. A tenant will not be required to pay rent for a building after it has been destroyed, or to pay for the cost of rebuilding, unless the tenant expressly agreed to do so or was responsible for the destruction. *See* Miss. Code Ann. § 89-7-3 (2005).

- b. If a tenant's home is currently uninhabitable because of damage, may the tenant cancel the lease?

Landlords are required to maintain and provide a habitable dwelling. If a landlord does not (or cannot) maintain the leased premises in a habitable condition, the tenant may deliver a written notice to the landlord (1) specifying the conditions which make the home uninhabitable and (2) stating that the lease will terminate if the landlord does not restore the home to a habitable condition within thirty days. If the landlord does not make the leased premises habitable within thirty days of receiving the notice, then the rental agreement will terminate. On the other hand, if the landlord does make the repairs necessary, the lease will not terminate. *See* Miss. Code Ann. § 89-8-23 (2005) and Miss. Code Ann. § 89-8-13 (2005).

- c. May a landlord cancel a tenant's lease to allow someone else (such as a family member) to live in the rental property?

The answer depends upon whether the lease is for a fixed term or is a month-to-month lease. The grounds for terminating a fixed term residential lease are set out in the Mississippi Residential Landlord and Tenant Act, which provides that a landlord may terminate a lease if there is a “material noncompliance” by the tenant with respect to the rental agreement or the obligations imposed on the tenant by Miss. Code Ann. § 89-8-25 of the Act. *See* Miss. Code Ann. § 89-8-25 (2005).

However, either the landlord or the tenant may terminate a week-to-week tenancy simply by giving the other party written notice at least seven days before the termination date. Similarly, the landlord or the tenant may generally terminate a month-to-month tenancy simply by giving the other party written notice at least thirty days before the termination date. *See* Miss. Code Ann. § 89-8-19 (2005).

- i. What happens if a tenant's home is currently uninhabitable because of storm damage, the tenant wants to move back in when the damage is repaired, but the landlord cannot afford to make repairs-may the landlord cancel the lease even though the tenant wants to return?

Technically, the landlord probably does not have the right to terminate the lease (see question 3. above). Practically though, if the landlord cannot afford to make the repairs necessary to make the leased premises habitable, it might be best for the tenant to terminate the lease (see question 2. above).

If the storm-damage is minor, however, the tenant should refer to § 89-8-15 of the Mississippi Code, which allows tenants to repair minor damages and deduct the cost from their rent. *See* Miss. Code § 89-8-15 (2005).

## 2. Payment of Rent

- a. If a tenant's home is currently uninhabitable because of storm damage, and the tenant wants to return when the damage is repaired, must the tenant pay rent while the property is not habitable?

The Landlord and Tenant Act does not expressly authorize a tenant to withhold rent while the premises are uninhabitable. However, one tenant remedy for uninhabitability is damages equal to the amount by which the value of the housing is reduced. Section 89-8-13(2) of the Mississippi Code provides in part: “If there is a material noncompliance by the landlord, with...the obligations imposed by § 89-8-23, the tenant may...resort to any other remedy at law or in equity...” Thus, a tenant's rental obligation may be effectively offset by the right to damages, if the housing is so damaged that it is worth almost nothing.

- b. If a tenant's home was not destroyed, but the tenant is unable to return to the rental property because of a mandatory evacuation, must the tenant pay rent while he or she is barred from returning?

There do not appear to be any Mississippi statutes or cases which address this issue. However, if government officials have determined that an area is so unsafe that it must remain evacuated, it seems probable that homes within the evacuated area would be considered “uninhabitable” for the purposes of the Landlord and Tenant Act. If this is the case, then the tenant’s rental obligation should be offset by the amount of damages as discussed above. *See* Miss. Code Ann. § 89-8-13 and Miss. Code Ann. § 89-8-23 (2005).

## 3. Security Deposits

- a. Can a tenant whose lease has been cancelled as a result of the storm get his or her security deposit back?

Probably. A tenant is generally entitled to the return of a security deposit when the lease terminates. However, § 89-8-21(3) of the Mississippi Code provides that:

The landlord, by written notice delivered to the tenant, may claim of such payment or deposit only such amounts as are reasonably necessary to remedy the tenant’s defaults in the payment of rent, to repair damages to the premises caused by the tenant, exclusive of ordinary wear and tear, to clean such premises upon termination of the tenancy, or for other reasonable and necessary expenses incurred as the result of the tenant's default, if the payment or deposit is made for any or all of those specific purposes. The written notice by which the landlord claims all or any portion of such payment or deposit shall itemize the amounts claimed by such landlord. Any remaining portion of such payment or deposit shall be returned to the tenant no later than forty-five (45) days after the termination of his tenancy, the delivery of possession and demand by the tenant. Miss. Code § 89-8-21(3) (2005).

- b. What should a tenant do if his or her landlord refuses to return the security deposit?

The remedy for a tenant whose landlord wrongfully refuses to return that tenant's security deposit is provided for by § 89-8-21(4) of the Mississippi Code, which states that: "The retention by a landlord or transferee of a payment or deposit or any portion thereof, in violation of this Section and with absence of good faith, may subject the landlord or his transferee to damages not to exceed Two Hundred Dollars (\$200.00) in addition to any actual damages." Miss. Code Ann. § 89-8-21(4) (2005).

4. Personal belongings

- a. Is a landlord responsible for damage caused by a storm to the tenant's belongings inside the rental home?

The Landlord and Tenant Act does not appear to impose a duty of this nature on the landlord. Accordingly, unless the lease, or some other agreement, specifies that the landlord will be liable for damage to the tenant's personal property, the landlord will probably not be responsible for this type of damage. This will be especially true if the lease provides that the tenant is to have renter's insurance covering any damage to personal property or another provision which clarifies that the landlord will not be responsible.

- b. If the tenant's lease has been cancelled, but the tenant cannot return to retrieve his or her belongings for several weeks, is the landlord required to store the tenant's property?

The Landlord and Tenant Act does not appear to require a landlord to store a tenant's property once the lease terminates; thus, the landlord is probably not under any obligation to do so. Tenants should make every effort to contact a landlord to notify him or her of the intention to return for personal items and to make arrangements with the landlord for storage.

**NOTE: THE MAJORITY OF LANDLORD TENANT DISPUTES ARE RESOLVED IN JUSTICE COURT. IT IS ADVISABLE THAT WHENEVER POSSIBLE DOCUMENTATION BE CREATED AND/OR MAINTAINED EVIDENCING WHAT TRANSPIRED (i.e., repairs made by the tenant should be supported by a receipt). JUSTICE COURT JUDGES FIND DOCUMENTARY EVIDENCE PERSUASIVE.**

- E. Property

1. Use of Force to Protect Property

- a. May I use force to protect my property?

You may use reasonable and necessary force to protect property if the danger is real and imminent.

Factors in determining whether a danger is real and imminent include the defender's age and size compared to the aggressors, the inaction of law enforcement, and whether the defender is

outnumbered. The use of guns is almost never justifiable, even if used simply to threaten an individual. *Tate v. State*, 784 So. 2d 208 (Miss. 2001); *Woodard v. Turnipseed*, 784 So. 2d 239 (Miss. Ct. App. 2001).

b. May I use force to remove trespassers?

The property owner has a right to use force to evict a trespasser. First, trespassers must know that they are unwelcome. Then a property owner may use reasonable force to evict the trespasser, but in almost all instances a defender cannot use force that causes serious injury or death. *Woodard v. Turnipseed*, 784 So. 2d 239 (Miss. Ct. App. 2001).

i. Does the law provide a criminal defense for individuals who may need to use the property of another?

There is a criminal necessity defense in Mississippi. The defense requires that individuals: (1) must have sought to prevent a significant evil; (2) had no adequate alternative; and (3) the harm caused must not have been disproportionate to the harm avoided. The criminal activity may be justified if these three elements are shown. *McMillan v. City of Jackson*, 701 So. 2d 1105 (Miss. 1997).

c. When does the defense of necessity cease?

The defense of necessity ceases if other alternatives (such as shelters) become available to the person. *McMillan v. City of Jackson*, 701 So. 2d 1105 (Miss. 1997).

2. Abandoned, Mislaid or Lost Property

What is financial personal property?

Examples of financial property are bonds, checks, deposits, interest, dividends, income, credit balances, gift certificates, security deposits, refunds, credit memos, unpaid wages, amounts due and amounts payable under the terms of insurance policies, unused airline tickets, monies deposited to redeem stocks, bonds, coupons, and other securities.

a. Can I lose ownership rights to my financial personal property if I fail to claim it?

Probably not. You will not lose your rights to these items unless you wait 5 years to notify the current holder of the item.

Owners of these types of personal property have 5 years to make written contact and claim ownership with the holder of the property. This applies to businesses, governmental agencies, or individuals who possess your property and/or owe you a debt obligation. If you, the owner, fail to do this, then you can lose your ownership rights to that personal property.

To avoid losing ownership in your personal property, the owner must:



- Contact, in writing (preferably certified mail), the holder of your personal property; and
- Assert ownership of the property.

Mississippi's "Uniform Disposition of Unclaimed Property Act" governs issues involving intangible personal property. Miss. Code Ann. § 89-12-1 (2005) *et. seq.*

- b. Can I lose ownership rights to tangible personal property that has been recovered by state or municipal authorities?

You can lose property if you fail to claim your tangible personal property within 120 days of authorities posting notice of receipt. Miss. Code Ann. § 21-39-21 (2005).

When the governing authority of a municipality receives property that has been lost, stolen, abandoned, or misplaced, it is required by law to post notice of the receipt in 3 public places within the municipality. The notice must contain a detailed description of the property. Governing authorities must post notice by mail directly to that owner in addition to the public notices.

The state may auction the property if you do not claim your property within 120 days, (Or 90 days for a motor vehicle or bicycle). Notices of the auction must be posted for 10 days in three public places within the municipality.

If you discover your property has been sold at auction within 90 days of the sale, you can receive proceeds from the sale provided you have proof of ownership.

Obviously, a state of emergency may impact the procedures outlined by each of these statutes. Miss. Code Ann. § 33-15-17(b) (2005).

### 3. Accretion and Avulsion

- a. What happens if some of my water-edged land has been washed away because of water movement? What happens if I have gained additional land as a result of water movement?

Avulsion is the sudden change in land caused by water movement. Events such as hurricanes will likely be categorized as avulsive. You do not lose title to a part of a water-edged property that has been washed away suddenly. You do not gain title to the additional portion.

Accretion is a slow and imperceptible process by which soil (called alluvion) is deposited somewhere new. You lose title to the part of your land that has been washed away slowly. You gain title to additional land that has slowly accrued on your property.

Evidence such as survey, maps, charts, expert testimony, and lay witness testimony has been used to determine whether the process was avulsion or accretion. States vary dramatically in what constitutes accretion and avulsion and Mississippi is no exception.

Both doctrines are recognized in Mississippi, as well as in federal common law. See generally, *Sharp v. Learned*, 14 So. 2d 218 (Miss. 1943).

4. Responsibility for Removal

- a. As a property owner, do you have a right to sue other property owners if their property, debris or fallen trees are transported on to your land as a result of a natural disaster?

Probably not. Although adjacent property owners generally have a duty to exercise reasonable care and remove dangerous conditions from their property, an unprecedented storm will deny liability for the damage. *City of Hattiesburg v. Hillman*, 76 So. 2d 368 (Miss. 1954). No one is liable for an injury proximately caused by an act of God, which is defined as an injury due directly and exclusively to natural cases without human intervention, which could not have been prevented by the exercise of reasonable care and foresight. *Id.* at 370. *Hillman* prevents any recovery for injuries caused by extreme weather conditions, or extraordinary and unprecedented winds. *Id.*

Visibly dead or decaying trees are the exception to the rule. A city or property owner that has actual knowledge (i.e., visible signs of defects or a dangerous state) will be held liable for damages if they failed to exercise ordinary due care before the storm. *Warren v. City of Tupelo*, 194 So. 293 (Miss. 1946).

In the event of a natural disaster, the governing authorities of any county or municipality adversely affected by such disaster may venture onto private property to aid in removing debris and to prevent further damage to such property at the request of the property owners. Miss. Code Ann. § 33-15-49 (2005).

5. Property Within the Context of Emergency Damage

- a. Can the state be held liable for property damage as a result of their emergency management activities?

Neither the state, nor any of its political subdivisions, nor other agencies, or their respective agents, employees or representatives can be held liable for property damage, except in cases of willful misconduct, if they are complying with the Emergency Management Law. Miss. Code Ann. § 33-15-21 (2005).

- b. If I voluntarily open my property as a shelter during a natural disaster, am I liable to others for any resulting personal injury or property damage?

No. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons or providing assistance to persons during or in recovery from an actual natural disaster, cannot be held liable for causing the death or injury of another person. Miss. Code Ann. § 33-15-21 (2005).

- c. Who is responsible for removing the debris from property in disaster areas?

Under the Emergency Management Law, the governing authorities of any county or municipality adversely affected by a natural disaster occurring in the state or within any portion of it may venture onto private property to aid in the removal of debris. Miss. Code Ann. § 33-15-49 (2005). In order for this statute to be in effect, a proclamation must be issued by the governing authorities of the county, the governing authorities of the municipality, the office of the Governor of the state, or the President of the United States declaring the areas to be disaster areas.

The governing authorities may use county or municipally owned equipment and such public employees as necessary to aid in removing debris from private property and to prevent further damage to such property at the request of the property owners. The governing authorities may also use that equipment to venture onto private property to remove debris and to perform any other necessary and needed services to prevent the spread of disease or any other health hazard to the community at large. Governing authorities may request aid from other counties and municipalities not adversely affected by the natural disaster, but are willing to provide the needed services.

If the Governor determines that the governing authorities of such adversely affected counties still lack sufficient equipment and personnel, any state agency or instrumentality, when directed by the Governor, is authorized to enter upon publicly or privately owned land or water and to use state-owned equipment and state employees as necessary to clear or remove debris and wreckage. These employees are authorized to enter upon private or public land or water and perform any tasks necessary to the removal or clearance operation.

- d. Are government authorities involved in the clearance and removal operation liable for personal injury or property damage incurred as a result of their actions?

Under the Emergency Management Law, except in cases of willful misconduct, gross negligence, or bad faith, any state employee or agent performing duties related to the removal operation will not be liable for property damage. Miss. Code Ann. § 33-15-49 (2005).

## F. Banking

### 1. What do I need to do if my bank was destroyed?

The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller, the Office of Thrift Supervision, and the Conference of State Bank Supervisors are reminding the public that deposit insurance is in full force and that money in FDIC or NCUA insured banks are protected.

Try calling your bank phone numbers as many banks have provided information via telephone.

You may also contact FEMA or Red Cross for assistance if you are not able to reach your bank.

### 2. How should I go about banking at a place of relocation?

If you are trying to bank in an area of relocation, it will be concerned as to whether you have sufficient funds in your account. It will need to contact your bank to verify funds. Also, you may have your bank wire funds to the relocation bank and establish an account there.

#### a. What if I have lost my identification and/or banking information?

- The U.S. Department of the Treasury has encouraged banks to ease identification normally needed to make banking transactions.
- Banks are encouraged to call the Social Security Administration's hotline (1-800-772-1213) with the customer's information to verify identification.
- Please see other relevant portions of this manual such as Document Replacement and the Banking Appendix containing bank contact information.
- Banks will be granted flexibility should a check forgery reclamation action arise.

#### b. Will my deposits and/or drafts still be functioning normally? What if I am not able to pay them?

- Regulators are encouraging banks to work with customers that were heavily affected by disasters.
- The FDIC has asked banks to allow some loan payments to be skipped without affecting credit history, extend the term of loans, and to restructure loans.

- Do NOT skip a payment without trying to contact your bank first. Please see the Banking Appendix containing bank contact information.
- c. What happens if I had property in a safety deposit box at my bank? Will insurance cover it?
  - Deposit insurance does not cover contents in your safety deposit box. Contact your bank to determine whether contents are salvageable.
  - Many banks' safety deposit boxes are within vaults and are well protected from water and fire damages.

**Please contact the following for more information:**

- (1) Federal Deposit Insurance Corporation (FDIC), [www.fdic.gov](http://www.fdic.gov), 1-800-ASK-FDIC
- (2) Federal Reserve, [www.federalreserve.gov](http://www.federalreserve.gov), 1-800-827-3340
- (3) Social Security Administration, [www.socialsecurity.gov](http://www.socialsecurity.gov), 1-800-772-1213
- (4) Mississippi Department of Banking, [www.dbcf.state.ms.us](http://www.dbcf.state.ms.us), 1-601-359-1031 or 1-800-844-2499
- (5) Louisiana Office of Financial Institutions, [www.ofi.louisiana.gov](http://www.ofi.louisiana.gov), 1-225-925-4660 or 1-866-783-5530
- (6) State of Alabama Banking Department, [www.bank.state.al.us](http://www.bank.state.al.us), 1-334-242-3452

## G. Transportation

### 1. Airline Issues

- a. I have airline tickets on a flight from an airport which is currently closed due to a disaster. Will I be able to reschedule or get a refund without penalty?

This depends on the airline. Most airlines are accommodating rescheduling and refunds without penalties, however this is subject to meeting certain conditions, and may be restricted. As accommodations are not federally regulated, each carrier has its own specific travel policies regarding disasters. Therefore, it is imperative to check with the airline itself.

Also, since airlines are usually declare natural disasters as force majeure (an unexpected event or condition beyond the airline's control such as, but not limited to, meteorological conditions, acts of God, etc.), each carrier's policies are subject to change, and are extremely fluid. Therefore, it is important to check with the airline frequently.

- b. I have airline tickets on a flight from an airport which is not closed. However as I was affected by a disaster, I cannot make that flight. Will I be able to reschedule or get a refund without penalty?

See answer above.

- c. I bought an airline ticket through Expedia/Travelocity/ Orbitz/etc. The flight has been affected by a disaster. Will I be able to reschedule or get a refund without penalty?

As with airlines, each travel search engine has different policies for disasters. Many of them will waive their change and cancel fees, as long as certain conditions are met. It is important to check with travel search engine directly. However, such travel search engines do not have the authority to waive airline imposed fees, but they will work with the airlines on your behalf.

### 2. Highway Issues

- a. I will be moving personnel, supplies, or material in support of the relief efforts for the natural disaster. Can I move oversized or overweight commercial vehicles on the highways without getting the requisite permits? Are emergency permits available?

Permits are required for moving oversized or overweight commercial vehicles through the highways of disaster areas. Vehicles must follow state guidelines for transportation even during emergency situations.

In Mississippi, one may apply for an Express Pass online at <https://www.expresspass.ms.gov/trucking/> or by phone at (888) 737-0061 or (601) 359-1717. NOTE: Following Hurricane Katrina, MDOT provided a document allowing the holder to transport overweight commercial vehicles through state routes for hurricane relief. Check with

MDOT's permit office at (888) 737-0061 or (601) 359-1717 to find out if MDOT is offering any special privileges for disaster relief.

- b. I have bus tickets to or from an affected area. Will I be able to reschedule or get a refund without penalty?

Bus service to or from the affected areas is often limited due to natural disasters. Many bus lines experience schedule delays and cancellations. As airlines, each has its policy in place. Therefore, it is important to check with the individual bus line for the most updated service information.

- c. I have bus tickets to/from an area which has not been affected by a disaster but I was affected by the disaster and cannot make that trip. Will I be able to reschedule or get a refund without penalty?

See answer to above.

### 3. Maritime Issues

- a. I booked tickets on a cruise which was scheduled to depart, or arrive, in an affected port. Will I be able to reschedule or get a refund without penalty?

As with the airlines, natural disaster policies depends on the cruise line. Most of them will allow you to cancel and receive a full refund, or rebook. It is wise to contact the individual cruise line directly for specific information as certain restrictions and conditions may apply to any changes.

- b. I have tickets on a cruise from a port which is not closed, however as I was affected by the natural disaster, I cannot make that cruise. Will I be able to reschedule or get a refund without penalty?

See answer to above.

### 4. Railway Issues

- a. I booked rail tickets to or from an affected area. Will I be able to reschedule or get a refund without penalty?

If there is infrastructure damage to railroads due to a disaster, passenger rail service will be affected. Amtrak may offer full refunds and waiver of all penalties for passengers with reservations traveling to or from areas served by affected trains. Certain restrictions and conditions apply, and this may change as the situation changes, so it is wise to contact Amtrak directly for specific information.

- b. If I am able to rebook, will alternate transportation be provided if the rail service books me to city different than originally booked to?

Amtrak will often modify its service to and from affected areas following a natural disaster. Railway points of origin or destinations may change to other cities. Because alternate transportation to and from some of the cities will not be provided, it is wise to contact Amtrak directly for specific information.

**AIRLINE, BUS LINE, CRUISE LINE, RAIL LINE,  
TRAVEL SEARCH ENGINE INFORMATION**

<b>Airline</b>	<b>Web</b>	<b>Phone</b>
Air Canada	www.aircanada.com	1-888-247-2262
Air Tran Airways	www.airtran.com	1-800-247-8726
American Airlines	www.aa.com	1-800-433-7300
American Eagle Airlines	www.aa.com	1-800-433-7300
America West	www.usairways.com	1-800-428-4322
ATA	www.onetravel.com	1-866-794-6049
Continental Airlines	www.continental.com	1-800-523-3273
Delta Airlines	www.delta.com	1-800-221-1212
Frontier Airlines	www.frontierairlines.com	1-800-432-1359
Grupo Taca	www.taca.com	1-800-400-8222
Jet Blue Airways	www.jetblue.com	1-800-538-2583
Midwest Airlines	www.midwestairlines.com	1-800-452-2022
Northwest Airlines	www.nwa.com	1-800-221-1212
Southwest Airlines	www.southwest.com	1-800-435-9792
United Airlines	www.united.com	1-800-864-8331
US Airways	www.usairways.com	1-800-428-4322
<b>Bus Line</b>	<b>Web</b>	<b>Phone</b>
Greyhound	www.greyhound.com	1-800-231-2222
<b>Cruise Line</b>	<b>Web</b>	<b>Phone</b>
Carnival Cruise Line	www.carnival.com	1-888-227-6482
<b>Rail Line</b>	<b>Web</b>	<b>Phone</b>
Amtrak	www.amtrak.com	1-800-872-7245
<b>Travel Search Engine</b>	<b>Web</b>	<b>Phone</b>
Expedia	www.expedia.com	1-800-397-3342
Orbitz	www.orbitz.com	1-888-656-4546
Priceline	www.priceline.com	1-800-774-2354
Travelocity	www.travelocity.com	1-888-872-8356

H. Health Benefits/Cobra

1. What health coverage options are available to individuals who possessed health insurance through employer-provided plans, but whose employers were ultimately destroyed by a disaster?



Disaster victims have several options for securing health insurance in the aftermath of the event. It should be emphasized, however, that all individuals should make a choice as soon as possible. Federal laws provide that once a person goes without health insurance for a period of sixty-three (63) days, health providers may exclude coverage for preexisting conditions. See 29 U.S.C. § 1181. A brief overview of available options follows:

*COBRA - Consolidated Omnibus Budget Reconciliation Act - 29 U.S.C. § 1161-1169.*

- a. COBRA applies to employers with 20 or more employees and extends to employees who have been involuntarily terminated for reasons other than gross misconduct.
- b. Where applicable, it is up to the employers to notify their employees of their COBRA rights, which guarantee individuals the right to purchase health coverage for up to 15 months at their employer's group rate. Individuals under COBRA are responsible for paying 35% of the coverage premiums. COBRA benefits are not traditionally this generous, but coverage was expanded under ARRA and covers terminations and qualifying events through May 31, 2010.
- c. For more questions on your rights under the U.S. COBRA law, visit <http://www.dol.gov/ebsa/COBRA.html>.

Where an employer has discontinued all of its health care plans, COBRA rights are no longer available and employees will have to seek other coverage. Individuals without COBRA rights are encouraged to do the following:

- a. Convert their group plan to an individual plan. Again, however, individuals should be warned that this course of action is likely to result in higher premium payments and less coverage.
- b. Some individuals may also qualify for special enrollment in their spouses' health plans under the portability provisions of HIPAA.

Families who reach certain poverty levels may qualify for TANF B temporary assistance for needy families. Those families who qualify will be able to obtain Medicaid benefits for themselves and their children. Families with children under eighteen (18), very few resources and low income are encouraged to apply. To see if you qualify for TANF, visit [http://www.mdhs.state.ms.us/ea\\_tanf.html](http://www.mdhs.state.ms.us/ea_tanf.html)

2. I, or a family member, was seriously injured and will have to take time off from work; what sorts of assistance can I expect?

Under the Family and Medical Leave Act (FMLA), an employee may be permitted to take up to 12 weeks unpaid leave when unable to work due to a serious medical condition, or to care for an immediate family member (spouse, parent, or child) with a serious medical condition. During those 12 weeks, the employee's group health benefits through the employer will still be in effect,

though other benefits of the employment may not. The employee cannot be fired for going on unpaid leave under the FMLA.

However, not all individuals may be eligible under this federal law. The employee must have worked at a covered employer at least 1,250 hours in the past 12 months to be eligible. To be covered, an employer must employ at least fifty employees within 75 miles of the applying employee's worksite.

3. Is there any way to get paid leave under the FMLA?

The FMLA provides an option for employees and employers to opt for using accrued paid leave in lieu of some or all of the unpaid leave. Check with your employer to determine their policies.

4. How can I apply for leave under the FMLA?

Usually, an employee must provide his or her employer with at least 30 days notice before taking an FMLA leave. However, if the need was not foreseeable, then the employee must simply provide notice as soon as practicable; often this means some sort of verbal or written notification within at least one to two days of when the need for the leave becomes known.

The employer may ask the employee to provide medical certification to document the need for an FMLA leave; a copy of the medical certification form - WH-380 B is available in the forms section of this guide. If the employer was the individual injured, then the employer may also request a statement from a doctor that the employee is well enough to return to work.

I. Education And Employment

1. Education

- a. Do I still have to send my child to public school?

Yes, if the schools are still open. Please check with the local district for the status of your school. If the school is not open, please see the next question below.

- b. What requirements are there for children of hurricane victims to enroll in K-12 public schools in Mississippi which are not their local schools?

Very little to none. Most school districts in Mississippi will temporarily waive normal residency requirements. Additionally, parents have an indefinite period to supply the necessary immunization forms, although parents should check with the specific school district to see what individual requirements might be.

- c. What requirements apply to higher education students?

You should contact both the school you wish to attend and the Institute for Higher Learning for specific details.

2. Employment

- a. Unemployment Benefits

DUA provides financial assistance funded by FEMA via the Department of Labor to individuals whose employment or self-employment has been lost or interrupted as a direct result of a major disaster and who are not eligible for regular unemployment insurance benefits. Qualifying interruptions to employment may be an inability to reach the place of work, damage to the place of work, or injury resulting from the disaster. In addition, an individual is also qualified if he or she became the head of household due to the disaster-related death of the former head of household and is seeking work as a result. Benefits may be paid until the individual regains employment up to 26 weeks. Applicants should contact the State Employment Insurance Agency to apply.

- b. Job Searching

***Job retraining/search programs available through the Government:***

The US Department of Labor runs the Job Career One-Stop Center, which is a federal job matching program. This is available to all workers - not just those in disaster-affected areas. Those interested may either go to <http://www.servicelocator.org> or call 1-877-US-2JOBS.

The State of Mississippi encourages all those searching for employment in Mississippi to look for jobs online at the Mississippi Department of Employment Services at <http://www.mdes.ms.gov/Home/index.html#null&state=Mississippi>.

Job seekers may also attend a Governors Job Fair; information and dates are available at <http://www.jobfairs.ms.gov/>

J. Immigration

1. Immigration related to 8 U.S.C 1611:

- a. I'm an alien. Can I still get some form of disaster assistance?

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

However, certain forms of non-cash assistance, including emergency medical needs are available under EMTALA regardless of status.

- b. I am an alien currently in the US on an H-1B visa for temporary work, and my employer has gone bankrupt or no longer exists. What should I do?

If your visa is an H-1B visa your status terminates immediately. You should speak with an immigration attorney immediately to review your options.

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnexto id=73566811264a3210VgnVCM100000b92ca60aRCRD&vgnnextchannel=73566811264a3210VgnVCM100000b92ca60aRCRD>

- c. My green card was lost or destroyed; how can I replace it?

You will need to fill out a Form 1-90, which is available in the forms appendix, and mail the completed form along with fees (\$290) to U.S. Citizenship and Immigration Services. Full instructions are on the form.

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnexto id=b3f7ab0a43b5d010VgnVCM10000048f3d6a1RCRD>

Beware of an abundant number of scams seeking to replace green cards. Only correspond with U. S. Citizenship and Immigration Services, a division of the U. S. Department of Homeland Security.

- d. I am an alien who is not subject to Special Registration and I will need to change my address; how do I notify the government?

You will need to fill out a Form AR-11, which is available at the link below and in the forms appendix. The completed form should be mailed via USPS to:

U.S. Department of Homeland Security  
Bureau of Citizenship and immigration  
Change of Address  
PO Box 7134  
London, KY 40742-7134

<http://www.uscis.gov/files/form/ar-11.pdf>

- e. I need to get a replacement for my Declaration of Intent, Naturalization Certificate, Certificate of Citizenship, or Repatriation Certificate.

You'll need to file a N-565 form, which is available in the forms appendix. You will need to mail the form and fee (\$380) to;

DHS/USCIS Texas Service Center  
PO Box 851182  
Mesquite, TX 75185-1182

## K. Environmental And Coastal Issues

### 1. Oil Spills

Mississippi requires all spills of any pollutant, not just hazardous materials, that may affect state waters, land, air, or public health, to be reported to the proper authorities. Spills should be reported to the 24-hour State Warning Point at the Mississippi Emergency Management Agency (601) 933-6362 or 1-800-222-6362.

Spills can also be reported to the National Response Center in Washington, D.C. at (800) 424-8802 (toll free), (202) 267-2180 (direct), or (202) 267-4477 (TTD). The NRC is the sole federal contact for reporting spills and is responsible for forwarding the information to the appropriate agency for action. When reporting a spill, provide the NRC with as much information as possible including:

- Your name, location, organization, and telephone number
- Name and address of the party responsible for the incident
- Date and time of the incident
- Location of the incident
- Source and cause of the release or spill
- Types of material(s) released or spilled
- Quantity of materials release or spilled
- Danger or threat posed by the release or spill
- Number and types of injuries (if any)
- Whether conditions at the incident location
- Any other information that may help emergency personnel respond to the incident

### 2. Fish Kills

To report a fish kill, please call the 24-hour State Warning Point number at the Mississippi Emergency Management Agency 1-800-222-6362. The reported information will then be routed to the Mississippi Department of Environmental Quality.

### 3. Emergency Disinfection Of Drinking Water

Use only water that has been properly disinfected for drinking, cooking, making any prepared drink, or for brushing teeth

- Use bottled water that has not been exposed to flood waters if it is available.
  - If you don't have bottled water, you should boil water to make it safe. Boiling water will kill most types of disease-causing organisms that may be present. If the water is cloudy, filter it through clean cloths or allow it to settle, and draw off the clear water for boiling. Boil the water for one minute, let it cool, and store it in clean containers with covers.
  - If you can't boil water, you can disinfect it using household bleach. Bleach will kill some, but not all, types of disease-causing organisms that may be in the water. If the water is cloudy, filter it through clean cloths or allow it to settle, and draw off the clear water for disinfection. Add 1/8 teaspoon (or 8 drops) of regular, unscented, liquid household bleach for each gallon of water, stir it well and let it stand for 30 minutes before you use it. Store disinfected water in clean containers with covers.
  - If you have a well that has been flooded, the water should be tested and disinfected after flood waters recede. If you suspect that your well may be contaminated, contact your local or state health department or agriculture extension agent for specific advice.
4. Avoid Problems From Mold, Bacteria And Insects

Standing water is a breeding ground for a wide range of micro-organisms and insects, such as mosquitoes. Mosquitoes can spread diseases like West Nile Virus. Micro-organisms, including bacteria and mold, can become airborne and be inhaled. Where floodwater is highly contaminated, infectious disease is of concern.

If you find yourself in circumstances of standing water or flooding from a storm, follow these necessary actions to best protect you and your family.

- Remove standing water as quickly as possible.
- Remove wet materials and discard those that cannot be thoroughly cleaned and dried, ideally within 48 hours. While smooth, hard surface materials such as metal and plastics can often be cleaned effectively, virtually all building contents made of paper, cloth, wood and other absorbent materials that have been wet for longer than 48 hours may need to be discarded as they will likely remain a source of mold growth.
- Dry out the home or building. Heavily contaminated flood waters contain micro-organisms and other contaminants that can penetrate deep into soaked, porous materials and later be released into air or water. Completely drying out a building that has been immersed in contaminated flood waters will take time and may require the extensive removal of ceiling, wall, insulation, flooring and other materials as well as, in some cases, extensive disinfection. The growth of micro-organisms will



continue as long as materials remain wet and humidity is high. If a house or building is not dried out properly, a musty odor, signifying growth of micro-organisms, can remain long after the flood. When fumes are not a concern and if electricity is available and safe, closing windows and running a dehumidifier or window air conditioner can be an effective way to remove moisture if the damage is moderate.

- Reduce your exposure to air and water contaminants. Every effort should be made to limit contact with flood water. This includes the breathing of water vapors or mists formed from the contaminated water; this may occur when water is pumped or sprayed. If removing materials or furnishings already contaminated with mold or when cleaning significant areas of mold contamination or generally disinfecting areas soiled by flood waters, federal authorities recommend limiting your exposure to airborne mold spores by wearing gloves, goggles, and wearing an N-95 respirator, if available, or a dust mask.
  - Thoroughly clean all hard surfaces (such as flooring, concrete, molding, wood and metal furniture, countertops, appliances, sinks, and other plumbing fixtures) with hot water and laundry or dish detergent.
5. Avoid Problems From The Use Of Cleaners, Disinfectants, And Pesticides

When performing cleanup efforts after a hurricane, employ caution with your use of disinfectants, sanitizers, and other pesticides which can contain toxic and potentially hazardous substances.

- Mixing certain types of household cleaners and disinfectants can produce toxic fumes and result in injury and even death. Do not mix them or use them in combination.
- Read and follow all label instructions carefully.
- Provide fresh air by opening windows and doors. Remain in a room no longer than necessary. Allow adequate time for the area to air out.
- If there is no standing water in the building and it is safe to use electricity, use fans both during and after the use of disinfecting, cleaning, and sanitizing products. Be sure that before using any electrical appliances, that they are properly grounded, and where possible, connected to a ground break equipped electrical source.
- Keep all household products locked, out of sight and out of reach of children. Use child-resistant packaging properly by closing the container securely after each use. Keep items in original containers. Call 1-800-222-1222 immediately in case of poisoning.

- Do not dump chemicals down drains, storm sewers or toilets, as can will further contaminate the ground and drinking water.
- Do not attempt to burn household chemicals or their containers and clearly mark and set aside unbroken containers until they can be properly disposed of.
- Leave damaged or unlabeled chemical containers undisturbed whenever possible.

6. Hygiene And Infectious Disease Issues

- After completing the cleanup, wash with soap and water. If there is a boil-water advisory in effect, use water that has been boiled for 1 minute (see EMERGENCY DISINFECTION OF WATER ABOVE).
- If you have any open cuts or sores that were exposed to floodwater, wash them with soap and water and apply an antibiotic ointment to discourage infection.
- Seek immediate medical attention if you become injured or ill.
- Wash all clothes worn during the cleanup in hot water and detergent. These clothes should be washed separately from uncontaminated clothes and linens.

## L. Bankruptcy

In the wake of a natural disaster, Mississippians may find themselves jobless, with significantly less property than they had before the disaster, and in debt. Fortunately, the bankruptcy process is available to provide relief to those who are unable to pay their debts. This information is intended to answer simple questions about bankruptcy. It is not intended to substitute for consultation with a qualified bankruptcy lawyer.

### 1. What is bankruptcy?

Generally speaking, bankruptcy is a process in which you (1) are relieved of most or all of your debts, and (2) arrange for repayment to creditors by reorganizing your finances or liquidating your assets. A debt that has been discharged in a bankruptcy proceeding does not have to be repaid.

When you file bankruptcy, you gain immediate protection from your creditors. This is an important benefit for people who experience sudden financial devastation as a result of a natural disaster.

The right to file bankruptcy is provided in Title 11 of the U.S. Code. You may have heard people refer to “Chapter 7” or “Chapter 13.” These are chapters of Title 11 and describe different forms of bankruptcy. If you have internet access, you can view the bankruptcy laws at <http://caselaw.lp.findlaw.com/cascode/uscodes/11/toc.html>.

### 2. What type of bankruptcy should I file?

The most common types of personal bankruptcy filed by individuals are Chapter 7 and Chapter 13. Which type you file depends on your specific situation.

#### a. Chapter 7

Under Chapter 7 (“straight” bankruptcy or “liquidation”) you file a petition to the court in which you ask the court to discharge your debts. A trustee collects your property, sells (or “liquidates”) the property that is not exempted by state law (see below), and distributes the proceeds to your creditors. You are not legally obligated to repay debts that are actually discharged.

The advantage to Chapter 7 is the complete discharge of your debt. The disadvantage is the liquidation of your non-exempt property. You may choose to reaffirm some or all of your secured debts, in which case you can keep the property (car, house, furniture, etc.) that secures the debt. Payments must be up-to-date on any debt you choose to reaffirm.

A debtor cannot obtain a discharge in a Chapter 7 case if the debtor obtained a discharge in a Chapter 7 case filed within the past 8 years or a Chapter 13 filed within the past 6 years. The time periods in either case are measured from the commencement dates of the respective cases. There is no minimum debt required.

Chapter 7 is typically utilized by people whose debt is largely unsecured (that is, for which there is no collateral) and who have little non-exempt property. People with valuable, non-exempt property, high income, and/or non-dischargeable debt may prefer Chapter 13.

b. Chapter 13

Under Chapter 13 (or “debt adjustment” or “reorganization”) your creditors agree to allow you to payoff all or part of your debts over a period of three to five years (five year plans are most common), out of income you receive during that time. After that time your remaining debt is discharged.

You must have a regular source of income to file Chapter 13, because you will be making payments under your repayment plan.

A debtor cannot obtain a discharge in a Chapter 13 case if the debtor obtained a discharge in a Chapter 7 case filed within the past 4 years, or a Chapter 13 case filed in the past 2 years. The time periods in either are measured from the commencement dates of the respective cases.

Chapter 13 is typically utilized by people who have non-exempt property that they wish to keep. Such property may include a home or car in which your equity (the amount you have paid on the loan, if any) is greater than the amount exempted by statute. For example, in Mississippi tangible personal property (which includes motor vehicles, clothes, household goods, and other items) is exempt only up to a value of \$10,000. The homestead exemption is \$75,000. If the value of your tangible personal property or home exceeds these limits, Chapter 13 may be a better choice than Chapter 7.

c. Others

Other bankruptcy provisions include Chapters 11 and 12, but they are less commonly utilized than Chapters 7 and 13. Chapter 11 is more useful to businesses and individuals with very large debts, and Chapter 12 applies only to family farmers.

3. If I file bankruptcy, will I have to repay my debts?

Under Chapter 7, no. Your debts will be discharged, except for any secured debts that you have chosen to reaffirm. Under Chapter 13, you will repay your debt as specified in your repayment plan.

4. What debts cannot be discharged?

Although the right to declare bankruptcy is created by federal law, under state law there are some debts that cannot be discharged. In Mississippi, the following debts cannot be discharged in Chapter 7 or Chapter 13 bankruptcy:

- Back child support, alimony obligations and other debts dedicated to family support.
- Debts for personal injury or death caused by driving while intoxicated.

- Student loans, unless it would be an undue hardship for you to repay.
- Fines and penalties for violating the law, including traffic tickets and criminal restitution.
- Recent income tax debts (within three years) and all other tax debts.
- Debts you forget to list in your bankruptcy papers, unless the creditor learns of your bankruptcy case.

In addition, under Chapter 7 (but not Chapter 13) the court may declare the following debts non-dischargeable if the creditors challenge your petition:

- Debts you incurred on the basis of fraud.
- Credit purchases of \$1,150 or more for luxury goods or services made within 60 days of filing.
- Loans or cash advances of \$1,150 or more taken within 60 days of filing.
- Debts from willful or malicious injury to another person or another person's property.
- Debts from embezzlement, larceny or breach of trust.
- Debts you owe under a divorce decree or settlement unless after bankruptcy you would still not be able to afford to pay them or the benefit you'd receive by the discharge outweighs any detriment to your ex-spouse (who would have to pay them if you discharge them in bankruptcy).

#### 5. Will I lose my property?

Under Chapter 7, you will lose property that is not protected by the exemptions, except for property that is security for a debt that you choose to reaffirm. Under Chapter 13, you may keep as much property as you can afford to under your repayment plan.

#### 6. What property is exempt?

Federal and state law provide for exemptions of some property. Exempt property is protected from your creditors. This means that you may keep this property if you declare bankruptcy.

Property exempted by federal law includes:

- Certain retirement benefits, including civil service employees, military service employees, veteran's benefits, and Social Security.
- Certain death and disability benefits.
- Certain survivor's benefits.

- Miscellaneous exemptions, including military deposits in savings accounts while on permanent duty outside the continental U.S., military group life insurance, seaman's wages pursuant to a written contract, and 75% of earned but unpaid wages.

Property exempted by Mississippi law includes:

- Occupied homestead up to \$75,000. The homestead need not be occupied if the owner is over 60 and married, a widow, or a widower.
- Certain insurance benefits including disability.
- Certain pension benefits.

7. What does it cost to file?

It costs \$299 to file under Chapter 7. It costs \$274 to file under Chapter 13.

8. Do I need a lawyer?

You are not required by law to hire a lawyer to file for bankruptcy. However, depending on the complexity of your situation it may be wise for you to consult a knowledgeable attorney. Chapter 13 bankruptcy is generally more complicated than Chapter 7 and is more likely to require legal assistance.

9. How can I find a bankruptcy lawyer?

If you already have a relationship with an attorney, he or she may be able to do the work for you or recommend a bankruptcy attorney.

If you have Internet access, the Mississippi Bar website has a directory at <http://www.msbar.org/lawyerdirectory.php>. Unfortunately, the directory is not categorized by practice area.

You can consult your local Yellow Pages for bankruptcy attorneys in your area.

## M. Child Custody

### 1. Temporary changes in address

In the event of a threat, disaster, or other emergency, such as a hurricane, which causes an emergency evacuation, any party who has custody of a minor child (physical custody or while exercising visitation) has a duty to notify the other parent of the location and well being of the minor(s) as soon as reasonably possible. MUCCR 8.06.

### 2. Permanent changes in address

In all domestic cases involving custody or visitation of minors and even though no order for custody or visitation may have been entered, each party shall keep the other informed of his/her full address, including state, city, street, house number, and telephone number, if available, unless excused in writing by the Court. MUCCR 8.06.

- Within five days of a party subject to this rule changing his/her address, he/she shall, so long as the child or children remain minors, notify in writing the Clerk of the Court which has entered the order providing for custody and visitation, of his/her full new address and shall furnish the other party a copy of such notice. The notice shall include the Court file number. The Clerk shall docket and file such notice in the cause. MUCCR 8.06.
- Willful failure to comply with MUCCR 8.06 may be treated as a contempt.
- Each party to a paternity or child support proceeding shall notify the other within five (5) days after any change of address. In addition, the noncustodial and custodial parent shall file and update, with the court and with the state case registry, information on that party's location and identity, including social security number, residential and mailing addresses, telephone numbers, photograph, driver's license number, and name, address and telephone number of the party's employer. This information shall be required upon entry of an order or within five (5) days of a change of address. MCA § 93-11-65 (as amended) .

### 3. Rights And Obligations Of A Parent

When advising a parent of his/her custodial rights and/or obligations, you must first determine the type of custody the parent has. There are two types of custody, physical custody and legal custody, and one parent may have (sole) custody or the parents may have joint custody. MCA § 93-5-24 (as amended) sets forth the different types of custody and the rights and obligations of the parents.

### 4. Types of Custody

- Physical and legal custody to both parents jointly;

- Physical custody to both parents jointly and legal custody to either parent;
- Legal custody to both parents jointly and physical custody to either parent; and
- Physical and legal custody to either parent.

5. Joint Custody Means Joint Physical And Legal Custody.

- Physical custody means those periods of time in which a child resides with or is under the care and supervision of one (1) of the parents.
- Legal custody means the decision-making rights, the responsibilities and the authority relating to the health, education and welfare of a child.
- Joint legal custody means that the parents or parties share the decision-making rights, the responsibilities and the authority relating to the health, education and welfare of a child.
- An award of joint legal custody obligates the parties to exchange information concerning the health, education and welfare of the minor child, and to confer with one another in the exercise of decision-making rights, responsibilities and authority. An award of joint physical and legal custody obligates the parties to exchange information concerning the health, education and welfare of the minor child, and unless allocated, apportioned or decreed, the parents or parties shall confer with one another in the exercise of decision-making rights, responsibilities and authority.

6. A Parent's Access To Minor Child's Information

- A parent shall have access to his/her minor child's records and information, including, but not limited to, medical, dental and school records, although that parent is not the child's custodial parent. MCA § 93-5-24 (as amended).
- Notwithstanding any other provisions of law, except those provisions protecting the confidentiality of adoption records and except for cases in which parental rights have been legally terminated, access to records and information pertaining to a minor child, including but not limited to medical, dental and school records, shall not be denied to a parent because the parent is not the child's custodial parent if such parent's parental rights have not



been terminated by adoption or by a termination of parental rights proceeding. MCA § 93-5-26 (as amended).

7. Temporary Emergency Jurisdiction When Two Or More States May Have Jurisdiction

When there is more than one state involved, such as the parents live in different states, the child lives in a different state than the parents, or there is a previous child custody determination from another state, the UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA) should be carefully reviewed to determine whether a Mississippi Court has jurisdiction.

a. Temporary emergency jurisdiction. MCA § 93-27-204 (as amended).

- A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.
- If there is no previous child custody determination that is entitled to be enforced under this chapter and a child custody proceeding has not been commenced in a court of a state having jurisdiction under Sections 93-27-201 through 93-27-203, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under Sections 93-27-201 through 93-27-203. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under Sections 93-27-201 through 93-27-203, a child custody determination made under this section becomes a final determination, if it so provides and this state becomes the home state of the child.
- If there is a previous child custody determination that is entitled to be enforced under this chapter, or a child custody proceeding has been commenced in a court of a state having jurisdiction under Sections 93-27-201 through 93-27-203, any order issued by a court of this state under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under Sections 93-27-201 through 93-27-203. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.
- A court of this state which has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of a state having jurisdiction under Sections 93-27-201 through 93-27-203, shall immediately communicate with the other

court. A court of this state which is exercising jurisdiction pursuant to Sections 93-27-201 through 93-27-203, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of another state under a statute similar to this section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

b. Temporary visitation. MCA § 93-27-304 (as amended).

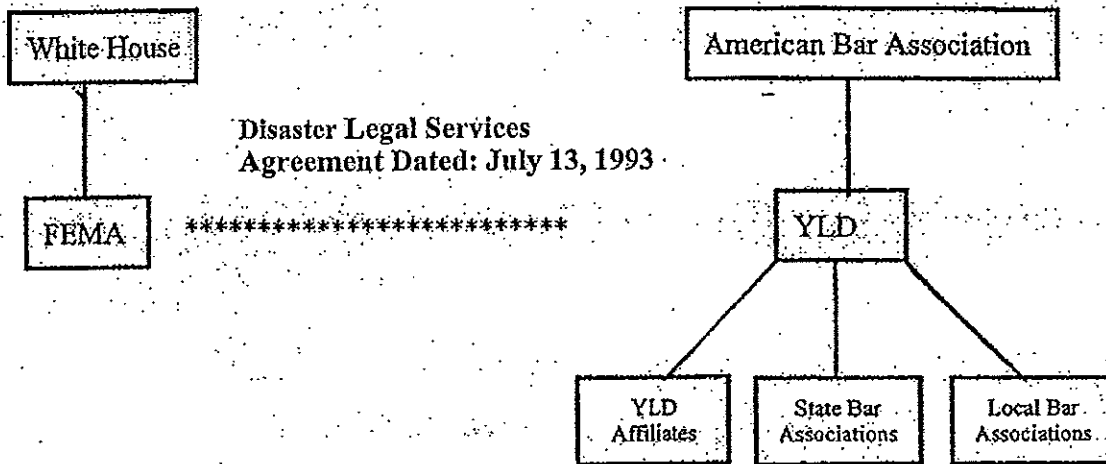
- A court of this state which does not have jurisdiction to modify a child custody determination, may issue a temporary order enforcing:
  - A visitation schedule made by a court of another state; or
  - The visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.
- If a court of this state makes an order under subsection (1) (a), it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in Article 2. The order remains in effect until an order is obtained from the other court or the period expires.

### III. FORMS AND RESOURCE MATERIALS

- A. Chart: FEMA/YLD Relationship
- B. Declaration of a Major Disaster
- C. Frequently Needed Phone Numbers
- D. Insurance Company Phone Numbers
- E. Bank Phone Numbers
- F. Mississippi YLD Disaster Hotline Flyer
- G. Attorney General Consumer Protection Disaster Tips and Forms

**DISASTER DECLARATION AND PARTICIPANTS**

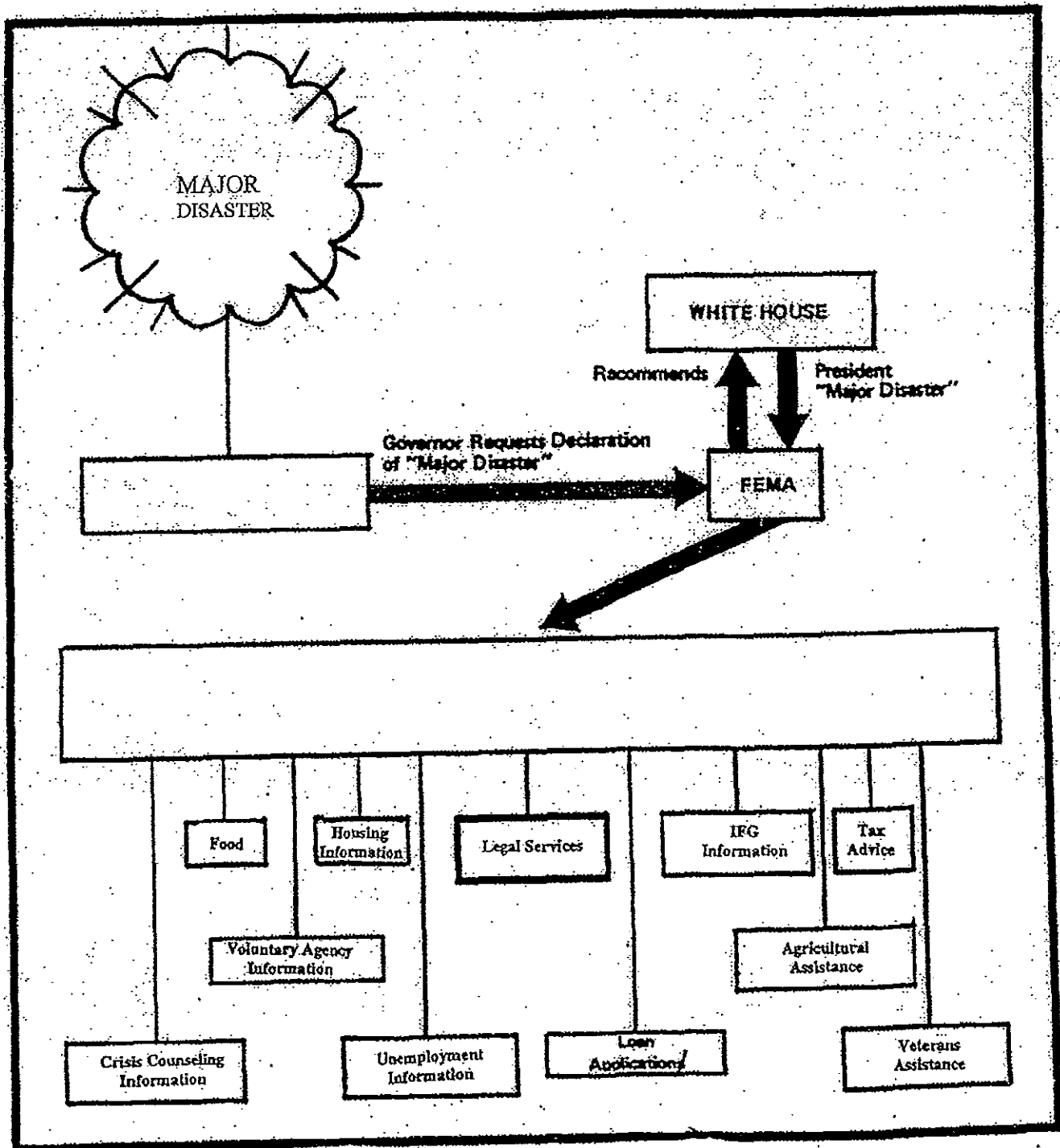
**CHART: FEMA/YLD RELATIONSHIP  
YLD/AFFILIATES, STATE and LOCAL BAR  
ASSOCIATION RELATIONSHIP**



# DISASTER DECLARATION AND PARTICIPANTS

## DECLARATION OF A MAJOR DISASTER

The following chart depicts the normal sequence of events which may result in the establishment of a Disaster Recovery Center (DRC), and the potential representation by other agencies active in disasters:



**DISASTER AGENCIES CONTACT NUMBERS**

MS Bar YLD Disaster Legal Assistance	1-877-691-6185
Red Cross	1-800-Red Cross; 1-800-733-2767
FEMA	1-800-621-FEMA; 1-800-621-3362
MEMA	601-933-6362; 1-800-222-6362
Salvation Army	1-800-725-2769
Alabama Disaster Legal Assistance Hotline (State Bar)	1-800-354-6154
Louisiana Disaster Legal Assistance Hotline (Civil Justice Ctr)	1-800-310-7029
Texas Disaster Legal Assistance Hotline (State Bar)	1-800-504-7030
MS Dept of Insurance (Consumer Service Division)	601-359-3569; 1-800-562-2957
MDOT Traffic Service #	601-359-7017
Attorney General	
AG General #	601-359-3680
AG Consumer Protection	1-800-281-4418; 601-359-4230
MESC	1-888-844-3577
USDA (Mississippi)	601-965-4562
Food Stamps (Complaint Line)	1-800-948-3050
Replacement Card	1-866-512-5087
Social Security Information	1-800-772-1213
Medical Personnel: Doctors call (State Medical Board)	601-987-3079
INS (N.O. Office relocated) 842 Virginia Run Cove Memphis, TN 38122  Hours of Operation: Mon – Thurs: 7:00 a.m. – 2:00 p.m., Fri: 7:00 a.m. – 1:00 p.m.  If no green card, can't get FEMA; INS determines what they get.	1-800-375-5283
Legal Services (for open cases)	1-800-959-6752 ext. 232

## LICENSED INSURANCE COMPANIES

### **A**

AAA Insurance (Auto Club Family Insurance Company) 800-222-7623 ext. 5000  
Acadia Insurance Company 800-444-0049, ext. 2600  
ACE USA Clients receive individual 800 numbers or call 800 433-0385 (ACE USA/INAMAR Marine claims); 800 234-7354 (Disaster Mortgage Protection claims)  
Acuity 800-242-7666  
Alabama Department of Insurance 334-269-3550  
Alabama Municipal Insurance Corporation 866-239-AMIC  
Alfa Insurance Group 888-964-2532  
Allmerica 800-628-0250  
Allstate 800-54-STORM (800-547-8676)  
Allstate Floridian Insurance Company 800-54-STORM (800-547-8676)  
America's Health Insurance Plans (AHIP) 800-644-1818  
American Bankers Insurance Company 800-245-1505  
American Federation Insurance Company 800-527-3907  
American General Property Insurance Company of Florida 800-321-2452  
American International Group, Inc. (AIG) 877-244-0304  
American National Property & Casualty Company & Affiliates 800-333-2860  
American Reliable Insurance Company 800-245-1505  
American Security Insurance Company 800-326-2845  
American Skyline Insurance Company 888-298-5224  
American States Insurance Company 888-557-5010  
American Strategic Insurance 866-ASI-LOSS (274-5677)  
American Superior Insurance 954-577-2202  
Arch Insurance 800-817-3252  
Argus Fire & Casualty 866-291-4609  
Armed Forces Insurance Exchange 800-828-7736  
Atlantic Mutual Insurance Company 800-945-7461  
Atlantic Preferred Insurance Company 800-673-4952  
Auto Club Family Insurance Company (ACFIC) 800-222-7623 ext. 5000  
Auto Owners Insurance Group (Palm City) 800-783-1269  
Auto Owners Insurance Group (Ft. Meyers) 800-437-2256  
Avemco Insurance Company 800-874-9124  
AXA Re Property and Casualty 800-216-3711

### **B**

Bankers Insurance Company 800-765-9700  
Bankers Security Insurance Company 800-765-9700  
Bituminous 800-475-4477  
Bristol West Insurance Group 800-BRISTOL (800-274-7865)

## C

Capital Preferred 800-734-4749 or 888-388-2742  
Catawba Insurance 800-711-9386  
Catlin US 800-216-0652  
Century Surety Insurance Company 800-850-0432  
CHUBB Insurance Group 800-252-4670 (800-CLAIMS-0)  
Church Mutual Insurance 800-554-2642  
Citizens Property Insurance Corp. 866-411-2742 (866-411-CPIC)  
Cincinnati Insurance Company (call your local agent first and then 877-242-2544)  
Clarendon National Insurance Company 800-216-3711  
Clarendon Select Insurance Company 800-509-1592  
CNA (First Notice Systems) 877-CNA-ASAP (877-262-2727); (non-toll-free, for those experiencing difficulties accessing the FNS number) 413-858-4137  
Coast National General Agency 800-BRISTOL (800-274-7865)  
Colony Insurance Company 800-577-6614 ext. 1715  
Companion Property & Casualty 800-649-2948  
Continental Western Insurance Company 800-444-0049, ext. 2600  
Cotton States Mutual Group 800-282-6536  
CUNA Mutual 800-637-2676  
Cypress 888-352-9773

## D

Dairyland Insurance Company (see Sentry Insurance)  
Drive Insurance from Progressive 800-925-2886

## E

EMC Insurance Companies 800-910-4988  
Encompass Insurance Company 800-588-7400  
Erie Insurance Group 800-367-3743

## F

Farmers 800-435-7764  
FCCI (first report of injury) 800-226-3224  
Federal Mutual 888-333-4949  
Federated National Insurance Company 800-420-7075  
FEMA 800-427-4661  
Fidelity & Casualty Insurance Company 800-725-9472  
Fidelity National Insurance Company 800-220-1351  
Fidelity National Property and Casualty Insurance Company 800-725-9472  
Fireman's Fund 888-347-3428 (888-FIREHAT)  
First Floridian 800-252-4633 (800-CLAIM33) (personal); 800-238-6225 (business)  
First Premium Insurance Group (Lloyd's Mobile Home) 800-432-3072  
First Protective Insurance Company 877-744-5224  
First Trenton 800-468-7341  
Florida Department of Insurance 800-342-2762



Florida Family Insurance Company 888-486-4663 or 888-850-4663  
Florida Farm Bureau Insurance Companies 800-330-3327  
Florida Select 888-700-0101  
Florida Preferred Property Insurance Company 800-673-4952  
FM Global 877-639-5677 (877-NEWLOSS)  
Foremost Insurance Company 800-527-3907  
Forest Insurance Facilities, Inc 888-892-4381

## **G**

GE Employers Re 866-413-8978  
GEICO 800-841-3000  
General Star Indemnity Company 800-624-5237  
General Star National Insurance Company 800-624-5237  
Georgia Casualty & Surety 800-279-8279 (claim reporting); 866-458-7506 (claim dept.)  
Georgia Farm Bureau 866-842-3276  
Germania Insurance 877-437-6264  
GMAC Insurance (Auto Claims) 800-468-3466  
Granada Insurance Company 800-392-9966  
Great American 800-221-7274  
Guardian Life Insurance Company of America 866-367-4077; (610-807-7954)  
Guide One 888-748-4326

## **H**

The Hanover Insurance Company 800-628-0250  
Harbor Insurance Company 800-216-3711  
The Hartford 800-243-5860; Flood claims – 800-759-8656; Life Insurance Claims – 800-541-6757 X14758; Group Life, Disability & Accident Claims – 800-523-2233  
Hartford Insurance Company of the Midwest 800-637-5410 or 800-243-5860  
Hartford Steam 800-HSB-LOSS  
Holyoke Mutual 800-225-2533  
Hull & Company 800-241-4855

## **I**

ICAT 866-789-4228  
IDS Life Insurance Company (Ameriprise Financial) 800-862-7919  
IDS Life Insurance Company of New York (Ameriprise Financial) 800-541-2251  
Imperial Fire & Casualty Insurance Company 800-960-5677  
Industrial Risk Insurers 860-520-7347 (Business claims)  
Infinity Insurance Companies 800-334-1661  
Interstate Fire & Casualty 800-456-8458, ext. 770

## **K**

Kemper Auto and Home 888-252-2799

## **L**

Liberty Mutual 800-2CLAIMS (800-225-2467)

Liberty Mutual Fire Insurance Company 800-637-0757 (in state); 800-633-1833 (24 hour)

Lloyd's America Helpline 866-264-2533

Louisiana Citizens Property Insurance Corporation 800-931-9548

Louisiana Department of Insurance 800-259-5300 (toll-free inside Louisiana only); 225-342-5423

Louisiana Farm Bureau 866-275-7322

## **M**

Main Street America Group 877-282-3844

Massachusetts Bay Insurance Company 800-628-0250; or 508-855-2288

Mercury Insurance Group 800-987-6000

MetLife Auto & Home 800-854-6011

Middlesex Insurance Company (see Sentry Insurance)

Mississippi Farm Bureau 866-275-7322

Mississippi Residential Property Insurance Association 800-931-9548

Mississippi Windstorm Underwriting Association 800-931-9548

## **N**

National Automotive Insurance 800-577-9471

National Casualty Company 800-423-7675

National Flood Insurance Program (NFIP) 800-621-3362

National Insurance Company 800-239-2121

National Security Underwriters 800-256-8277 (Alexandria); 800-738-8555 (South Bunkie)

Nationwide 800-421-3535

North Pointe Insurance Company 877-878-1991

## **O**

Ohio Casualty and West American Insurance Company 888-701-8727

Old Dominion Insurance Company 877-425-2467 or 800-606-7992

Omaha Property & Casualty 800-638-2592 (Flood only)

Omega Insurance Company 800-216-3711

OneBeacon 877-248-3455 (Commercial Claims only)

## **P - Q**

Patriot General Insurance Company (see Sentry Insurance)

Pharmacists Mutual Insurance Company 800-247-5930

Poe Financial Group 800-673-4952

Progressive 800-PROGRESSIVE (776-4737); or 719-432-0264

QualSure Insurance Corp. 877-563-0150

## R

Regency (Tower Hill) 800-216-3711  
Republic Fire & Casualty (Homeowners, Dwelling Fire, Auto & Commercial) 800-451-0286  
Republic Group (Republic Fire & Casualty, Republic Underwriters Southern Ins Co, Southern Underwriters Ins) 800-451-0286  
Republic Underwriters (Commercial) 800-451-0286  
RLI Insurance Company 800-84-ROYAL (800-444-0406)  
Royal & SunAlliance 800-847-6925

## S

Safeco 800-332-3226; or 425-376-9000  
Safeway Insurance Company 800-252-3251  
Scottsdale Insurance Company 800-423-7675  
Security National Insurance Company 800-BRISTOL (800-274-7865)  
Selective 866-455-9969  
Sentry Casualty Company (see Sentry Insurance)  
Sentry Insurance a Mutual Company (Transportation claims) 800-638-8763; (Life claims) 800-533-7827; (Other claims) 800-638-8763  
Sentry Life Insurance Company (see Sentry Insurance)  
Sentry Select Insurance Company (see Sentry Insurance)  
Service Insurance Company 800-780-8423  
Shelter Insurance Group 800-SHELTER (800-743-5837)  
Sompo Japan 800-444-6870  
Southern Family Insurance Company 800-673-4952  
Southern Fidelity 866-874-7342  
Southern Insurance Company (Commercial) 800-451-0286  
Southern Underwriters (Commercial) 800-451-0286  
Southwest Business Corp. (Lloyd's Excess Flood) 800-527-0066 ext. 7389  
St. Johns Insurance Company 800-748-2030  
St. Paul Insurance Companies 800-CLAIM 33 (800-252-4633) - Auto and Home Claims; 800-STPAUL (800-787-2851) - Business Claims  
St. Paul Travelers 800-CLAIM33 (800-252-4633) - Auto and Home Claims; 800-787-2851 - Business Claims; 800-356-6663 - Flood Claims; 800-772-4483 - Boat/Yacht Claims  
State Farm Insurance 800-SF-CLAIM (800-732-5246)  
Sunshine State Insurance Company 877-329-8795

## T

TAPCO 888-437-0373  
Texas Department of Insurance Consumer Help Line 800-252-3439  
Texas Farm Bureau 800-266-5458  
Texas Select Lloyds Insurance Company 866-887-7276  
Texas Windstorm Insurance Association 800-788-8247  
The Timbermen Fund (Louisiana Safety Association of Timbermen-SIF) 877-628-6730  
Tower Hill Insurance Companies 800-216-3711 or 800-509-1592  
Travelers 800-252-4633 (800-CLAIM33) - Home and Auto Claims; 800-238-6225 - Business

Claims; 800-505-0193 - Flood Claims  
Travelers Boat & Yacht 800-772-4482  
Travelers WC (first report of injury) 800-238-6225

## **U**

Unemployment Insurance 866-4-USA-DOL (866-432-0264)  
Union Insurance Company 800-444-0049, ext. 2600  
United Fire Insurance Company 800-343-9131  
United Property and Casualty Company 800-861-4370  
Universal Insurance Company 888-846-7647  
USAA 800-531-8722  
USF&G 800-787-2851; 800-631-6478 (homeowners claims); 407-660-9000 (customer service)  
USLI 800-523-5545  
Utica National (Southeast: AL, FL, GA, KY, MS, SC, TN) 800-477-1914; (Southwest: AR, KS, LA, MO, OK, TX) 800-678-8422

## **V - Z**

Valley Forge Life Insurance (Subsidiary of CNA) 800-437-8854  
Vanguard Fire & Casualty Company 888-343-5585  
XL Insurance 800-688-1840  
Zenith (first report of injury) 800-440-5020  
Zurich Insurance Company 800-987-3373 or email [usz\\_carecenter@zurichna.com](mailto:usz_carecenter@zurichna.com)

**Bank Contact Information**  
**Banks with Branches Potentially Affected in Mississippi**

Bank	Customer Service Phone Number	Website
Bank of Anguilla	662-873-4346	<a href="http://www.Bankofanguilla.com">www.Bankofanguilla.com</a>
Bancorp South Bank	888-797-7711	<a href="http://www.bancorpsouth.com">www.bancorpsouth.com</a>
Bank of Yazoo City	662-751-1045	<a href="http://www.bankofyazoo.com">www.bankofyazoo.com</a>
BankPlus	888-811-7587	<a href="http://www.bankplus.net">www.bankplus.net</a>
Century Bank	800-841-8353 or 903-838-5505	<a href="http://www.centurybank.com">www.centurybank.com</a>
Citizens National Bank	601-736-2601	<a href="http://www.citizensbk.com">www.citizensbk.com</a>
Community Bank Gulfport	228-896-7759	<a href="http://www.communitybank.net">www.communitybank.net</a>
The Citizens National Bank of Meridian	601-693-1313	<a href="http://www.citizensnationalbank.com">www.citizensnationalbank.com</a>
The Citizens Bank of Philadelphia	601-656-4692	<a href="http://www.thecitizensbankphila.com">www.thecitizensbankphila.com</a>
First Bank & Trust of MS	662-283-6704	<a href="http://www.fbtmonline.com">www.fbtmonline.com</a>
First Federal for Savings	547-223-2128	<a href="http://www.firstfederalbanking.com">www.firstfederalbanking.com</a>
The First, A National Banking Association	601-450-9207	<a href="http://www.thefirstbank.com">www.thefirstbank.com</a>
Grand Bank for Savings	601-264-0179	<a href="http://www.grandbankfsb.com">www.grandbankfsb.com</a>
Great Southern National Bank	601-693-5141	<a href="http://www.gsnb.com">www.gsnb.com</a>
Hancock Bank	800-448-8812	<a href="http://www.hancockbank.com">www.hancockbank.com</a>
Keesler Federal Credit Union	888-Keesler	<a href="http://www.kfcu.org">www.kfcu.org</a>
Merchants & Farmers Bank	662-289-5121	<a href="http://www.mfbank.com">www.mfbank.com</a>
Newton County Bank	601-683-3101	<a href="http://www.newtoncountybank.com">www.newtoncountybank.com</a>
Pike County National Bank	601-684-7575	N/A
The Peoples Bank	228-435-5511 or 800-873-6468	<a href="http://www.thepeoples.com">www.thepeoples.com</a>

Regions Bank	800-Regions	<a href="http://www.regions.com">www.regions.com</a>
Richton Bank & Trust Co.	601-788-6301	<a href="http://www.richtonbank.com">www.richtonbank.com</a>
State Bank & Trust Co.	601-453-6811 or 800-366-4967	<a href="http://www.statebank1898.com">www.statebank1898.com</a>
Trust Mark National Bank	601-961-6000 or 800-844-200	<a href="http://www.trustmark.com">www.trustmark.com</a>
Wells Fargo Mortgage	800-869-3557	<a href="http://www.wellsfargo.com">www.wellsfargo.com</a>

**If you need**  
**Legal Assistance due to**  
**A Natural Disaster**

Please contact  
The Mississippi Bar  
Disaster Legal Services Hotline

---

**1-877-691-6185**

---

Monday-Friday  
9:00 a.m. – 4:00 p.m.

a program of  
The Mississippi Bar  
Young Lawyers Division  
Disaster Legal Services Committee

**MISSISSIPPI ATTORNEY GENERAL**

**CONSUMER PROTECTION DISASTER**  
**TIPS AND FORMS**



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Download and print the **Mississippi Hurricane Preparedness Guide.**

<b>National Hurricane Center</b> Ready.gov (FEMA)	<b>Mississippi Public Broadcasting</b> 601-326-1184	<b>Arkansas State Police</b> 501-618-8000
<b>MDOT</b> MDOT Traffic online 866-521-MDOT (6368)	<b>MS Wildlife, Fisheries &amp; Parks</b> 800-GO-PARKS (467-2757)	<b>Tennessee DOT</b> 615-741-2848
<b>American Red Cross</b> 1-866-GET-INFO (438-4636)	<b>MS Board of Animal Health</b> 888-722-3106	<b>Tennessee Highway Patrol</b> 800-342-3258
<b>Mississippi Emergency Management Agency</b> 800-222-MEMA (6362)	<b>Louisiana DOTD</b> 877-4LA-DOTD (452-3683)	<b>Georgia DOT</b> 866-635-8287
<b>Federal Emergency Management Agency</b> 866-877-6075	<b>Louisiana State Police</b> 800-469-4828	<b>Georgia State Patrol</b> 404-624-7000
<b>MS Highway Safety Patrol</b> 601-987-1212 (*hp from any cell phone)	<b>Alabama DOT</b> 334-242-6358	<b>Florida DOT</b> 866-374-FDOT (1-866-374-3368)
<b>MS Tourism</b> 866-SEE-MISS (6477)	<b>Alabama Highway Patrol</b> 334-242-4371	<b>MS Division of Medicaid</b> 800-421-2408
	<b>Arkansas DOT</b> 800-245-1672	<b>MS Insurance Department</b> 800-562-2957

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# Consumer Tips For Storm Victims

Even in emergency situations it pays to be a smart consumer. Unscrupulous contractors prey on people who are down on their luck. The following tips have been compiled by Mississippi's Office of Attorney General to help protect you from becoming a victim of fraud or deception. More tips and information can be found by logging on to [www.agjimhood.com](http://www.agjimhood.com). If you feel you have been a victim call the Consumer Protection Division at 1-800-281-4418.

550 High Street  
Jackson, MS 39201  
Consumer Protection  
1-800-281-4418  
[www.agjimhood.com](http://www.agjimhood.com)

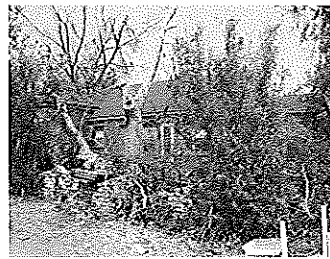
## Guidelines for Home Repair Contracting

If your home has been damaged by a natural disaster, chances are you are in the market for a reputable contractor. The demand for qualified contractors is at an all time high and will surely exceed the supply. Be aware that these conditions are ripe for home repair contractors who may overcharge, perform shoddy work or simply skip town with your money.

The Consumer Protection Division of the Office of the Attorney General offers these guidelines and the Model Contract as suggestions to help consumers avoid possible misunderstandings about home improvements. If you follow these guidelines and insist upon a written contract, some of the most common problems with home repair contractors might be avoided. If your contractor does not offer you a written contract, you should ask him to complete and sign the model contract form on the reverse side of these guidelines. If in doubt, or if you are agreeing to spend a lot of money, you should have a local attorney

go over your contract before you sign. Since our honest builders are so busy, many people are hesitant to demand all of the suggested information for fear of losing the builder. If you have this same concern, just hand the builder this brochure and tell him/her, "The Attorney General said this information is essential."

1. Get at least three estimates (bids). Be certain each contractor bids on exactly the same work. ALL bids should be itemized and detailed.
2. Know with whom you are dealing and verify the contractor's address. Request and check references (previous customers, bank references). Inspect work done for others when possible. Make sure the contractor is licensed through the Mississippi Board of Contractors (1-800-880-6161) If he/she is not licensed, do not do business with him/her.
3. Get the name of the contractor's insurer and bonding company. Call the bonding company and verify that the contractor is insured and for what amount.
4. A reputable contractor can usually charge building materials and does not normally



- require a large down payment. Where one is required, it should not exceed 10%-25% of the total price. Better yet, accompany the contractor to the building supply store and pay the store for materials yourself. Have the materials delivered to your jobsite rather than the contractor's shop.
5. Be specific. Have samples, model numbers, pictures or anything else that will show the contractor exactly what you want. If you don't specify the quality of materials in the contract, you are leaving it up to the contractor to decide what material will be used.
  6. Be certain the materials you have selected are what you want. Changing your mind in the middle of a construction project is costly. If you do change your mind, be prepared to pay more.
  7. Get a **guarantee in writing**. Any contractor not willing to guarantee his/her work is not someone with whom you

Should be doing business. Accept no verbal agreements. Any changes in the contract should be in writing and initialed by both parties.

8. Specify in the contract a beginning and completion date, exact description of work to be done, total cost of job, exact schedule for payment and warranty or guarantee that can be expected. (If contract is for an hourly rate or on a cost plus basis, get an estimate of the total cost.)
  9. Always pay by check or money order and keep a receipt. Write all checks to the company, not the individual worker. Make sure all subcontractors are paid to prevent a lien from being placed against your property.
  10. Keep a signed, legible copy of the contract in a safe place.
  11. **DO NOT sign a certificate of completion or make final payment until you are satisfied with all work performed.** Save copies of all material receipts so you can be sure you received goods and services for which you paid.
- NOTE: Often on large projects payment is based on portions of completed work, i.e., 25% of total payment is due when 25% of the work has been satisfactorily completed.

**MODEL CONTRACT**

Company's Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
Telephone Number \_\_\_\_\_  
Representative's Name \_\_\_\_\_

Buyer's Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone Number \_\_\_\_\_

This model contract is distributed by the Consumer Protection Division of the Office of the Attorney General. The Consumer Protection Division does not endorse or recommend any company or individual who might use this form.

**PROPOSAL:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Starting Date: \_\_\_\_\_

Completion Date: \_\_\_\_\_

**ITEMIZED COSTS**

Materials: Type, Description, Quantity

Labor: Description

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Total Cost:      Material & Labor      \_\_\_\_\_  
                                 Down Payment      \_\_\_\_\_  
                                 Balance Due:      \_\_\_\_\_

(to be paid on satisfactory completion or schedule based on completed work)

**Warranty/Guarantee**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ACCEPTANCE OF PROPOSAL:** The above prices, specifications and conditions are satisfactory and I accept them as written. Any additional to this proposal will be in writing and initialed by both parties.

Buyer's Signature \_\_\_\_\_  
Date of Acceptance \_\_\_\_\_

Signature of Seller \_\_\_\_\_  
Date \_\_\_\_\_

\*\*\*\*\*

**RECEIPT FOR CASH DOWN PAYMENT  
(NOT TO EXCEED 25% OF TOTAL CONTRACT)**

Received from \_\_\_\_\_ \$ \_\_\_\_\_

Signature of Seller \_\_\_\_\_

Date \_\_\_\_\_

## Price Gouging

- Price gouging often accompanies natural disasters. Gouging is when someone charges exorbitant and unjustified prices for products or services that disaster victims have little choice but to buy.
- Mississippi's Consumer Protection Act outlaws unfair and deceptive practices like price gouging. Penalties for violations include up to \$10,000 fine per violation, cease and desist orders, refunds and injunctive relief.
- Report price gougers to

our Consumer Fraud toll-free number: 1-800-281-4418.



**Highway 90 linking Biloxi and Ocean Springs after Hurricane Katrina.**

## Fake Officials

- Ask for identification.
- Some con artists portray themselves as officials to obtain access into your home. This is a common ploy for burglars and individuals selling expensive and unnecessary repairs.
- Others represent themselves as brokers who say they can obtain FEMA Funds. FEMA does not charge an application fee.
- Verify credentials of people offering low-interest government loans. Call the agency if necessary.

## Phony Phoners

- Dishonest telemarketers call flood victims offering "flood-safety kits" for hundreds of dollars. Say Good-bye.
- Do not give your credit card or checking account number to anyone you don't know.
- Ask for details in writing and be wary when the term "government approved" is used.
- Do not fall for prize promotions where you have to buy something to get a prize.

## Appliances

- If a repair person says an expensive appliance should be replaced, get the opinion and replacement cost in writing and get a second opinion.
- For all repair work, make sure the contract lists materials to be used and completion date.
- Ask to see a license.

## Foundation

- Check identifications of workers.
- Get all proposals and contracts in writing and get a second opinion.
- Visually inspect foundation work before it is covered. If possible, get an independent, qualified individual to double check any work.

## Pest Control

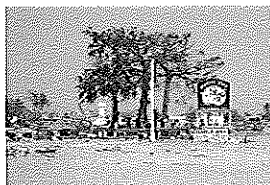
- Receding flood waters will bring out pests.
- Beware of free inspections that could result in unnecessary and expensive treatments.
- Get a second opinion.

*"Don't be hesitant to demand all of the suggested information from your contractor. It is in your best interest."*

Attorney General  
Jim Hood

## Basement Waterproofing

- If your basement has been flooded, it may or may not need to be re-waterproofed. If possible, use fans to help dry out the basement and wait until the next heavy rain to see if



**Famous Joes in Biloxi after Hurricane Katrina**

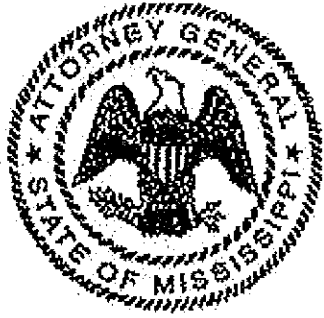
there is a leak before contracting a waterproofing contractor.

- Do some research and get several opinions as to how the problem can be handled before you take any action.

- Ask the waterproofing contractor for a written analysis of the problem, details on how they intend to correct it and a breakdown of all costs before you sign a contract.
- Review the terms of the written guarantee before agreeing to have the work done and note which conditions are

and are not covered. Remember, only those basement areas that are water proof treated will be covered.

- Under most circumstances, the pressure pumping method of waterproofing is usually not effective and should not be used unless you have a verified engineer's analysis stating it is the most effective method to correct the problem.



P.O. Box 22947  
550 High Street  
Jackson, MS 39201

Consumer Protection Division  
Phone: 1-800-281-4418  
601-359-4230

[www.agjimhood.com](http://www.agjimhood.com)

## Water Treatment Devices

- Beware of unscrupulous companies selling water treatment devices.
- If you think your drinking water may have been affected by the storms, contact the public health or water department before purchasing a water treatment unit.
- Offers to test the tap water in your home for free are almost always a part of a sales promotion. Home water treatment is seldom needed for health protection and no single device can solve all kinds of water problems.
- Contact the health department with questions concerning private wells.
- If in doubt, boil your water vigorously for one full minute or drink bottled water until you can follow the guidelines



## Auto Repair

- If your car was submerged or standing in a foot or more of water for more than an hour, have the car checked out by a car dealer or a repair shop. Even if the car runs, there may be hidden damage that could pose serious problems at some later date.
- Be sure to get detailed written estimates and keep copies of all receipts and invoices.
- If you are in the market to buy a used vehicle, inspect it carefully. Look at hidden parts or crevices to check for mud or silt, an indication the car has been water damaged.

## Job Referrals

- Beware of job listings offered through 800 or 900 phone numbers.
- Classified ads asking you to call a 900 number may be nothing more than an expensive way to hear someone read you the classified ad listings for which you are charged a per-minute fee for the call.

More consumer  
information on our  
website:

[www.agjimhood.com](http://www.agjimhood.com)

STATE OF MISSISSIPPI



**JIM HOOD**  
**ATTORNEY GENERAL**

**MEREDITH ALDRIDGE, DIRECTOR**  
**CONSUMER PROTECTION DIVISION**

---

Dear Consumer,

Thank you for bringing your complaint to our attention. It is our intent to help you reach a prompt resolution of this matter. In order for this office to properly consider your case, it will be necessary for you to follow the directions outlined below. While we may be able to offer advice, we cannot take action to assist you until the following steps have been completed.

1. Write a letter of complaint to the business which sold you the item or performed the service. Ask for specific and reasonable action from the company. Send the letter by certified mail with a return receipt requested.
2. If the business does not respond within ten working days, or if it indicates an unwillingness to work with you, complete the enclosed complaint form and mail it to the address indicated. Enclose **copies** of your letter to the business and any contracts, bills, receipts, or canceled checks. Remember, send copies, do not send originals. Allow three (3) weeks for a review of your complaint and a response from our office.

While we can sometimes assist with the mediation of a dispute when both parties are willing, we cannot by law act as a lawyer for any one person who has a dispute with another. Under the Mississippi Consumer Protection Act, the Attorney General is allowed to sue only to prevent unfair and deceptive business practices occurring statewide or affecting large numbers of people. Additionally, we can not arbitrate disputes between businesses.

We encourage consumers to send us information about suspected illegal business practices. Often, the more reports we receive, the clearer the practice is revealed. Numerous complaints may reveal a pattern of misconduct, allowing us to take action.

If we cannot assist you, we will refer you, whenever possible, to other more appropriate agencies or organizations which may be of assistance. In any event, we will do everything within our authority to help resolve your problem.

Thank you for your cooperation.

Sincerely,

**JIM HOOD, ATTORNEY GENERAL**

## Sample Complaint Letter

	(Your Address) (Your City, State, ZIP Code) (Date)	
	(Name of Contact Person, if available) (Title, if available) (Company Name) (Consumer Complaint Division, if you have no contact person) (Street Address) (City, State, ZIP Code)	
	Dear (Contact Person):	
<b>&gt;describe purchase</b>	Re: (Account number, if applicable)	
<b>&gt;name of product, serial numbers</b>	On (date), I )bought, leased, rented, or had repaired) a (name of the product with serial or model number or service performed) at (location, date and other important details of the transaction).	<b>&gt;include date and place of purchase</b>
	Unfortunately, your product (or service) has not performed well (or the service was inadequate) because (state the problem). I am disappointed because (explain the problem: for example, the product does not work properly, the service was not performed correctly, I was billed the wrong amount, something was not disclosed clearly or was misrepresented, etc).	<b>&gt;state problem</b>
<b>&gt;ask for specific action</b>	To resolve the problem, I would appreciate your (state the specific action you want--money back, charge card credit, repair, exchange, etc.) Enclosed are copies (do not send originals) of my records (include receipts, guarantees, warranties, canceled checks, contracts, model and serial numbers, and any other documents).	<b>&gt;give history</b>
<b>&gt;enclose copies of documents</b>	I look forward to your reply and a resolution to my problem, and will wait until (set a time limit) before seeking help from a consumer protection agency or the Better Business Bureau. Please contact me at the above address or by phone at (home and/or office numbers with area codes).	<b>&gt;allow time for action</b>
	Sincerely,  (your name)	<b>&gt;state how you can be reached</b>
	Enclosure(s) cc: (reference to whom you are sending a copy of this letter, if anyone)	

**KEEP COPIES OF YOUR LETTER AND ALL RELATED DOCUMENTS.**

**OFFICE OF CONSUMER PROTECTION**  
**Jim Hood, Attorney General**  
**State of Mississippi**  
Post Office Box 22947  
Jackson, Mississippi 39225-2947  
Telephone (601) 359-4230, (800) 281-4418; Fax (601) 359-4231

---

OFFICE USE ONLY

Assigned to \_\_\_\_\_

Date assigned \_\_\_\_\_

Matter No. \_\_\_\_\_

---

---

**Matter Type:** \_\_\_ Advocacy \_\_\_ Fraud      **Complaint Type:** \_\_\_ Call \_\_\_ Write \_\_\_ Walk-in \_\_\_ Referral

---

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**COMPLAINT FORM**

---

---

**ACTION DESIRED:** Please check one.    \_\_\_ Repair item \_\_\_ Replace item \_\_\_ Refund (amount \$ \_\_\_\_\_)

**CONSUMER INFORMATION:**

Name \_\_\_\_\_ Age \_\_\_\_\_ Sex \_\_\_\_\_ Race \_\_\_\_\_

(Optional, for statistical purposes, only)

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Home Phone (\_\_\_\_) \_\_\_\_\_ Work Phone (\_\_\_\_) \_\_\_\_\_

Fax Number \_\_\_\_\_ E-mail Address \_\_\_\_\_

**COMPANY INFORMATION:**      (complete information applying to your complaint)

Name \_\_\_\_\_ Business Phone: \_\_\_\_\_

Owner/Manager \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Name of person with whom you dealt \_\_\_\_\_

Product or service \_\_\_\_\_ Manufacturer \_\_\_\_\_

Model (year/type/number) \_\_\_\_\_ Serial Number \_\_\_\_\_

Date of purchase or service \_\_\_\_\_ Place of purchase or service \_\_\_\_\_

Amount paid \_\_\_\_\_ Amount financed \_\_\_\_\_

Date of your last contact with business \_\_\_\_\_

With whom did you speak? \_\_\_\_\_ His/Her title? \_\_\_\_\_

What was the response? \_\_\_\_\_

---

---



Have you retained a private attorney regarding this matter? Yes \_\_\_\_\_ No \_\_\_\_\_

What other agencies have you contacted about this complaint? \_\_\_\_\_

Do you know of others with similar complaints against this company?

**Name**

**Address**

**Phone**

**SUMMARY OF COMPLAINT**

*(Briefly describe your complaint. Include specific dates. Please remember a copy of this form will be given to the business. Attach additional sheets if necessary.)*

Attach **COPIES** of any relevant documents such as letters, bills of sale, contracts, warranties, advertisements, work orders, bills, etc. **DO NOT SEND ORIGINALS TO THIS OFFICE.**

**Check Action Desired:** \_\_\_\_\_ **Repair Item** \_\_\_\_\_ **Replace Item** \_\_\_\_\_ **Refund (amount \$ \_\_\_\_\_)**

**AFFIDAVIT**

**By signing this complaint, I consent for my name to be used by the Attorney General's Office in any subsequent legal action that is deemed necessary.**

**I hereby swear or affirm that the above statements are true and correct to the best of my knowledge.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date