

Resources Sheet for Maui and Big Island Wildfire Response:

Locating Family and Friends:

- Anyone looking to find someone affected by the fires may call the American Red Cross hotline at 1-800-733-2767.

Records Replacement (insurance/Vital Records/Licenses/Etc.):

- *See* Document Replacement Brochure

Insurance:

- Obtaining copies of insurance documents
 - If someone has lost his or her insurance documents or records, have them contact their insurance agent directly to obtain copies.
- Claims
 - Individuals should contact their insurance company directly about making a claim. *See* Homeowner's Insurance Brochure.
- Repairs covered by insurance
 - *See* Contractor for Insurance Claims Brochure
 - *See* Dos and Don'ts of Hiring a Contractor After a Natural Disaster Brochure (primarily applicable to Hawaii County but also has general information)

Housing:

- Renter's Rights
 - Lease obligations if home is damaged or destroyed (*see* Renter's Rights Brochure)
 - Inability to pay rent due to unemployment caused by natural disaster (*see* Renter's Rights Brochure)
- Renter's/Homeowner's Insurance
 - Contact insurance company (*see* Homeowner's Insurance Brochure)
- Repairs to Property
 - *See* Real Property Brochure
- Tree Damage
 - *See* Tree Damage Brochure

Disaster Assistance:

- Immediate assistance
 - **Emergency Medical Assistance:** Please dial 9-1-1.
 - **Emergency Shelter:** Locate options by zip code by visiting the American Red Cross, or Salvation Army, or by texting SHELTER and your zip code (for example, “SHELTER 01234”) to 4FEMA (43362). For Spanish text REFUGIO and your zip code. (Standard text message rates apply.) You can also download the FEMA Mobile App to find open shelters.
 - **Immediate Needs:** Check with your local emergency management officials, volunteer agencies or call your local 2-1-1. The FEMA Helpline (800-621-3362) may be able to provide additional referrals. If you use video relay service (VRS), captioned telephone service or others, give FEMA your number for that service.

- Shelters
 - Maui Evacuation Shelters
 - Emergency shelters do not have items such as bedding and toiletries available for evacuees, according to Maui County. Pet owners must restrain their animals.
 - Anyone looking to find someone affected by the fires may call the American Red Cross hotline at 1-800-733-2767.
 - The following shelters were opened:
 - Maui High School.
 - Hannibal Tavares Community Center.
 - War Memorial Complex.
 - Oskie Rice Arena is for farm and ranch animals only.

- Federal Emergency Management Agency
 - Apply for aid
 - Individuals and Households Program (IHP) – May include temporary housing funds, temporary housing unit, funds to support the repair or replacement of owner-occupied homes, funds for hazard mitigation assistance, funds for other uninsured or under-insured disaster-caused expenses and serious needs.
 - *See FEMA Help After a Disaster Brochure*
 - Resources available and how to apply. Applications can be submitted online or via phone.

INSURANCE DOCUMENTS

If someone has lost his or her insurance documents or records, have them contact their insurance agent directly to obtain copies. Also, they should contact their insurance company directly about making a claim.

PROFESSIONAL & VOCATIONAL LICENSES

General Information: Telephone Licensing Requirements at 586-3000

Procedure: Send a written request for a duplicate license to:
Licensing Department (DCCA)
1010 Richards Street
Honolulu, HI 96813

VETERAN'S AFFAIRS

If a veteran has lost his discharge papers or has questions about benefits, call the VA representative. **1-800-827-1000**

For counseling and guidance:

VET CENTER
1680 Kapiolani Blvd., Ste. F3
Honolulu, HI 96814

IMMIGRATION DOCUMENTS (Green cards or citizenship papers)

Procedure: To replace **green card** - Application Form I 90 plus **\$110.00**
To replace **citizenship papers** - Application form N565 plus **\$135.00**
To replace **Arrival/Departure record** - Application form I-102 plus **\$85.00**
Cash, 1st party check and money orders are accepted.
To Request Forms: Dial 1-808-532-3721 and leave name, address, and form number and it will be mailed to you OR log on to website and download forms.

Address	Telephone
595 Ala Moana Blvd. Honolulu, HI 96813	1-808-532-3721 or 1-800-375-5283

DEEDS (and other recorded instruments)

In Person: Anyone may order a certified copy of a document. Go to Public Reference Bureau.

Honolulu Office: Bureau of Conveyances
1151 Punchbowl Street
Honolulu, HI 96813

By Mail: Bureau of Conveyances
P.O. Box 2867
Honolulu, HI 96803

DOCUMENTS/ITEMS FROM FINANCIAL INSTITUTIONS

To replace checkbooks, passbooks, safe deposit box keys, or other bank documents, the bank should be contacted directly. Procedures will vary from bank to bank. The caller may call the general customer service number or his or her respective branch.

WILLS

If a person has lost his or her original will (or other testamentary or trust instrument), a new one should be executed. The person should check with the drafting attorney to be sure that the attorney's office does not have the original or the attorney may have a copy of the will on file. The person should also check all safety deposit boxes and safes or safe-keeping places to look for the original will.

DRIVERS LICENSES & VEHICLE REGISTRATION

General Information: Call DMV/ Recorded messages at 532-7700

Procedure: Apply at any Satellite City Hall or Driver's License Renewal Office. Must present ID.

Hilo Driver Licensing Office

349 Kapiolani Street
Hilo, HI 96720
Ph: (808) 961-2222
Fax: (808) 961-8861

Pahoa Driver Licensing Office

15-2615 Kea'au-Pahoa Road
(Pahoa Police Station)
Pahoa, HI 96778
Ph: (808) 965-2721 Fax: (808) 965-2724

SOCIAL SECURITY CARDS

General Information, Services
and to Schedule an Appointment:

Website: www.ssa.gov or Call **1-800-772-1213** (7:00am-5:00pm)

Local Offices:

Honolulu
300 Ala Moana, Room 1-114
Honolulu, HI 96813
Telephone: 1-800-772-1213
TTY: 1-808-541-2899

Big Island
111 E. Puainako Street
Hilo, HI 96720

Procedure: The Social Security Administration will re-issue a new Social Security Card. All applications (whether a person applied in person or by mail) must go to Baltimore, Maryland. Allow three (3) to four (4) weeks to get a replacement card. There is no charge.

In-Person (U.S. Citizen)

A U.S. citizen can go in person to the Social Security Office or temporary site and must show 2 forms of ID (e.g. driver's license and Hawaii State ID with signature on it).

In-Person (Non U.S. Citizen)

If one is not a U.S. citizen, then be or she must in person go to the SS office with their I94 ("green card"), 11551 card, a foreign passport with an INS stamp, birth certificate, and proof of immigration status. If these forms are lost or destroyed, get them replaced first. See replacing immigration documents Section.

By Mail (U.S. Citizen)

Call general information and get an application. The application must be submitted with 2

MEDICARE CARDS

Same as Social Security Card Replacement above. It is advised that the person call their Doctor for their Medicare Number before applying.



Phone: 808-536-4302

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DISASTER LEGAL ASSISTANCE

Document Replacement



Provided as a community service by Legal Aid Society of Hawaii, the Hawaii State Bar Association, the Hawaii County Bar Association and the West Hawaii Bar Association



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VITAL RECORDS (Birth, Death, Marriage, and Divorce Certificates)

*Due to the new REAL ID law, a copy of a current government picture ID may be required to obtain a birth certificate. If no picture ID is available, please contact the vital records office for possible alternate forms of identification.

Outside the State of Hawaii

If a vital record is about an event that happened outside of Hawaii, the applicant must contact the vital records office of the state where the event occurred. Some birth certificate requests by mail may require notarization.

State of Hawaii Records

- Vital records are kept by the Vital Statistics Section, Office of Health Status Monitoring, State Department of Health.
- Event must have occurred in the State of Hawaii.
- No requests are taken by telephone, facsimile, or e-mail.
- Requests must be in writing, in-person, or through the Office of Health Status Monitoring website: www.ehawaii.gov/ohsm.
- For events which occurred 75 years ago or earlier, an applicant must establish a "direct and tangible" interest to certificate registrant. See Section 338-18(b), Hawaii Revised Statutes. The following persons have an "interest":

- ☐ The registrant (the person whom the record is about);
- ☐ The registrant's spouse;
- ☐ The registrant's parents;
- ☐ A descendant of the registrant;
- ☐ A person having a common ancestor with the registrant (e.g. a sibling, grandparent, aunt, uncle or cousin);
- ☐ A legal guardian of the registrant;
- ☐ A person or agency acting on behalf of the registrant
- ☐ A personal representative of the registrant's estate;
- ☐ A person whose right to obtain a copy of the record is established by an order of a court of competent jurisdiction;
- ☐ Adoptive parents who have filed a petition for adoption and need to determine the death of one or more of the prospective adopted child's legal or natural parents;

- ☐ A person who needs to determine the marital status of a former spouse in order to determine the payment of alimony;
- ☐ A person who needs to determine the death of a non-related co-owner of property purchased under a joint tenancy agreement; and
- ☐ A person who needs a death certificate for the determination of payments under a credit insurance policy.
- ☐ An applicant without a "direct and tangible" link will not be issued a certified copy of a record.

Information an applicant will need to provide:

- Applicant's name, address and telephone number.
- Applicant's relationship to the person named on certificate.
- Reason why the applicant is requesting the document.
- Full name(s) listed on certificate.
- The certificate's file number (if known).
- Month, day, and year of the event: and
- City or town and the island the event occurred.
- For birth certificates, also provide the full name of the father and full maiden name of mother.
- If the applicant is applying for a certificate on behalf of someone else, you must provide an original letter signed by that person authorizing the release of the certificate to the applicant.

Applying in Writing

Applications may be retrieved with Adobe Acrobat from the website at:

http://hawaii.gov/health/vital-records/vital-records/vital_records.html.

Or, you may write a letter requesting a certificate with all the necessary information (see paragraph I above) and payment of fees.

Send application or letter to:

State Department of Health
Office of Health Status Monitoring
Issuance/Vital Statistics Section
P.O. Box 3378
Honolulu, Hawaii 96801

Certified copies of certificates will usually be sent out in 4-6 weeks after receipt and approval of the application.

Certificates older than 75 years may take longer than 4-6 weeks.

Fees

Fees for certified copies of all certificates: \$10.00 for first copy of each certificate, and \$4.00 for each additional copy of the same certificates ordered at the same time. Additional fees apply for electronic requests, as follows: \$1.50 for the first copy of each certificate, and \$0.25 for each additional copy of the same certificate ordered at the same time.

All fees are payable in advance and are non-refundable.

If no record is found after a search is conducted, then the fees are retained by the Department to cover the cost of the search.

In person request: Fees may be paid in cash.

Mail-In request: Fees must be paid by money order, certified check or cashier's check made payable to the State Department of Health.

Once an order has been received and processed, a \$10.00 fee will be charged for any request to make changes to the order.

Further Information.

For further information, call State Department of Health at (808) 586-4533 (recorded information) or (808) 586-4539 or (808) 586-4542 during normal business hours for a live person.

OAHU (1st Circuit)

Legal Documents Clerk
Circuit Court of the First Court
777 Punchbowl Street
Honolulu, HI 96813
Telephone: 539-4300

BIG ISLAND (3rd Circuit)

Legal Documents Clerk (*Hilo Division*)
Circuit Court of the Third Court
75 Aupuni Street
Hilo, HI 96720-4253
Telephone: 961-7400

Legal Documents Clerk
(*Kona Division*)

Circuit Court of the Third Circuit
Keakealani Building
75-7595 A. Haukapila Street
(*Old Kona Hospital*)
Kealahou, HI 96750-1970
Telephone: 322-8750

MAUI (2nd Circuit)

Legal Documents Clerk
Circuit Court of the Second Circuit
Hopili Hale
2145 Main Street, Suite 106
Wailuku, HI 96793-1679
Telephone: 244-2969

KAUAI (5th Circuit)

Legal Documents Clerk
Circuit Court of the Fifth Circuit
3059 Umi Street
Lihue, HI 96766-1809
Telephone: 246-3300 (x3110)

IV. Building Repairs

It is best to deal with licensed contractors when repairing damages done to your property because licensed contractors have met the standards of training, skill, insurance coverage, and financial responsibility required to be licensed by the State of Hawaii. For more information, visit the Department of Commerce and Consumer Affairs website: www.hawaii.gov/dcca/areas/rico/licensedcontractor

Tips to Consider

Get several bids.

Try to get written bids or estimates from at least three different contractors.

Check out the contractor.

- Get the contractor's full name, address and phone number.
- Ask for references and call them.
- Check with the Better Business Bureau and courthouse for criminal history and civil cases against the contractor.
- You can contact the State to determine if the person you want to hire is licensed by calling the Professional and Vocational Licensing Branch at:(808) 586-3000 or by visiting: <http://pvl.chawaii.gov/pvlsearch/app>

Get it in writing.

- Get a written contract.
- Specify the work to be done.
- Specify the price.
- Don't sign anything you don't understand.

Control the money.

- Do not pay for the entire job up front.
- Try to pay as little as possible up front.
- It is against the law for contractors in disaster areas to take any money up front unless they have a local office in your county or one county over for at least one year.
- Insist on waiting to pay the full amount until after the work is finished.
- Do not make the final payment until you have inspected the work. Make sure you are completely satisfied with the repairs.

V. TAX LIABILITY REDUCTION

A. Casualty Loss

A casualty occurs when your property is damaged as a result of a disaster such as a storm, fire, car accident, or similar event. A casualty is the damage, destruction, or loss of property resulting from an identifiable event that is sudden, unexpected or unusual. A sudden event is one that is swift, not gradual or progressive. An unexpected event is one that is ordinarily unanticipated and unintended. An unusual event is one that is not a day-to-day occurrence and that is not typical of the activity in which you were engaged. Generally, casualty losses are deductible during the taxable year that the loss occurred.

B Proof of Loss

To deduct a casualty loss you must be able to show that there was a casualty and be able to support the amount you take as a deduction. You must be able to show the type of casualty, the loss was a direct result of the casualty, that you were the owner of the property or contractually liable for the damage, whether a claim for reimbursement exists for which there is a reasonable expectation of recovery.

C. Special Rules

There are special rules for areas that are federally declared disaster areas. A federally declared disaster is a disaster that occurred in an area declared by the President to be eligible for federal assistance. You must deduct a casualty loss in the year it occurred, however in a disaster area you can choose to deduct the loss on your return or amended return for the tax year immediately preceding the tax year in which the disaster happened. The IRS may postpone for up to one year certain tax deadlines of taxpayer who are affected by a federally declared disaster area.



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DISASTER LEGAL ASSISTANCE

Real Property



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I. MORTGAGE PAYMENTS

A. Inability to Make Payments

If the borrower is unable to make mortgage payments, contact the lender and discuss the situation. Most lenders will be reasonable and will work with the borrower if the financial difficulties are due to a disaster. The following options should be explored with the lender:

1. a moratorium on payments for a specific amount of time or an indefinite period;
2. a reduction in monthly payments for a specific amount of time or an indefinite period, and
3. given the severity of damage, the possibility of abandoning the property to the lender.

The lender may have other options available. Remember that others have probably already called or written with the same concerns and problems. The borrower should not be afraid to contact the lender to explore options. Also, be aware that the government may offer some assistance during times of widespread and severe disaster.

If the borrower is interested in option I.A.1. or I.A.2., be sure to find out whether interest will continue to accrue during the moratorium or the period during which the reduced payments are being made. If possible, negotiate for no interest accrual during the time period involved. If interest does continue to accrue, the loan balance could be drastically increased during the period of reduced payments or no payments

If option I.A.3. seems appropriate given the situation, please see Paragraph B below regarding the consequences and considerations in deciding whether to abandon property to a lender.

B. Abandoning Property to the Lender

If the property is damaged to such an extent that the

borrower cannot afford to repair it, the option of abandoning the property should be discussed. This is usually done by way of a "deed in lieu of foreclosure."

If the lender agrees to take the property back, be assured in writing that it is taking the property in full satisfaction of the debt and that it is waiving any deficiency claim it may have against the borrower. If such assurances are not obtained, the lender may be able to sue for the difference between what it is able to sell the property for and what is owed (i.e. the deficiency). Note that the lender may not want a deed in lieu of foreclosure if there are other liens affecting the property, such as other mortgages or tax liens.

What if the lender refuses to take the property back? If this is the case, the borrower may want to retain an attorney. However, if the attorney is unable to persuade the lender that a deed in lieu is the best alternative, the borrower should be aware that if a lender elects to foreclose on the home, and if the proceeds from the foreclosure sale is insufficient to cover the lender's principal, interest and cost, the lender may be able to obtain a deficiency judgment against the borrower.

C. Credit Concerns

If the property goes back to the lender, either by deed in lieu of foreclosure or by a judicial or non-judicial foreclosure, negative credit reports could be made to the credit reporting agencies by the lender.

If a deed in lieu of foreclosure has been negotiated, insist that the lender report to the credit reporting agencies that the loan was "satisfactorily retired" (or other similar language).

If the lender forecloses, this will probably be reported to the credit reporting agencies and adversely affect the borrower's credit.

II. DESTRUCTION OF PARTY WALLS

A party wall (a.k.a. "wall in common", "common wall", or "shared wall") is a wall or fence built for the common benefit and convenience of adjoining properties. The party wall takes

the place of two walls that would have otherwise been erected by adjoining landowners and is used jointly by adjoining landowners. If the adjoining owners have a written agreement governing the party wall, then the agreement should be reviewed for provisions covering destruction and repair. Otherwise, adjoining landowners whose properties are divided by a party wall owe, as between themselves, equal duties to the general public to correct a dangerous condition in their party wall. However, total destruction of a party wall by no fault of either party ordinarily terminates adjoining landowners' party wall rights and obligations.

III. LATERAL AND SUBJACENT SUPPORT

Subjacent support is that support which the surface of the earth receives from its underlying strata. Lateral Support is the support received by a parcel of real property from the adjacent land. Each adjoining landowner is entitled to the lateral and subjacent support which his or her land receives from the adjoining land in its natural state.

Lateral and subjacent supports are sometimes governed by written agreement. In the absence of an agreement, a landowner is under a duty of inspection and a duty to take such action as a reasonable person would take to ensure that adjoining property has the appropriate lateral and subjacent support. The landowner has the duty to maintain slopes and retaining walls protecting the adjoining property. Thus, corrective action may be required following an earthquake or natural disaster that disturbed the lateral or subjacent support. Note, however, that liability is for failing to properly shore up the supports. Liability does not exist for damage done by the movement. Liability for the movement only exists if there were negligent acts by the landowner which played a part in the damage. Notice should be given to adjacent property owners prior to any excavation to repair damages.

Renter's Rights

Renter's Rights Cont'd

Can I get out of my lease if my home is damaged?

Yes, if your lease says that you can or if any part of the premises is rendered partially or wholly unusable by fire or other casualty that wasn't your fault.

If you leave you must notify the landlord within one week of leaving otherwise you will be liable for the rent up until the time that the landlord has knowledge that you have moved.

If only part of your home is unusable due to fire or other casualty you may continue to use the undamaged portion of your home. In this case, your liability for rent shall be no more than the fair rental value of that part of the home which you continue to use and occupy.

What will happen if I lost my job because of the disaster and can't pay rent? Will FEMA pay my rent?

Your landlord may notify you in writing that you must pay your rent within 5 days after you receive the notice or your rental agreement will be terminated. If you don't pay the past-due rent in full after receiving the landlord's notice the landlord may start eviction proceedings.

FEMA is not authorized to pay your rent; however, you may be eligible for unemployment benefits through FEMA's Disaster Unemployment Assistance (DUA) program.

Can my landlord change the locks or turn off my utilities?

No. The landlord cannot lock you out without cause or a court order. The landlord cannot turn off your utilities if you are still in the home.

Can my landlord make me move out immediately if I can still live in the home?

No. If you have a valid lease your landlord must notify you in writing the reason for the eviction. The following specific number of days are required to give the tenant time to respond:

Non-payment of rent: 5 business days
Lease violation: 10 days
Month-to-month lease: 45 days

If you fail to fix the reason for the eviction notice the landlord can file a complaint for summary possession in court to start the eviction process.

Make sure you do not miss your court date. You want to be able to tell the judge your side of the story. You can represent yourself or call Legal Aid for assistance if you qualify.

What happens if my landlord won't return my security deposit?

Landlords have 14 days from the termination of the lease to return your security deposit. If they don't refund the full amount they must provide an itemized statement that spells out why some of the deposit was retained. If you disagree with the amount refunded you can file a complaint in small claims court.

DISASTER LEGAL ASSISTANCE

Landlord/Tenant



Provided as a community service by Legal Aid Society of Hawaii, the Hawaii State Bar Association, the Hawaii County Bar Association and the West Hawaii Bar Association



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Landlord Tenant Handbook - *Frequently Asked Questions and Answers:*

Deposits

Q Is the landlord required to pay interest on security deposits?

A The landlord is not required to do so by law.

Q May landlords impose a general excise tax charge on the security deposit?

A No. The deposit is the tenant's money held by the landlord.

Q Are final inspections required?

A Not by law, but they are considered a good way to prevent further disputes.

Q After an inspection of the premises, are landlords required to give the tenants a second chance to correct those conditions found unsatisfactory?

A Not by law. It is advisable for tenants to have everything in order prior to inspection. In practice, many landlords do give tenants a second chance, thereby saving the time it would otherwise take for the landlord to have the conditions corrected. If an inspection is made prior to an agreed upon termination date, it would be reasonable to allow the tenant an opportunity to make the required corrections prior to that date.

Q What can the tenant do to insure full refund of the deposit?

A To insure full refund a tenant should:

1 Repair all damages to the unit caused during the tenancy. Damages may include such things as holes put into walls for the hanging of pictures. Any holes should be puttied and repainted.

2 Clean the unit thoroughly.

3 Return all keys on the termination date.

Taxes

Q May the landlord charge, in addition to base rent, an amount equal to the landlord's general excise tax obligation?

A Yes. The landlord must pay an excise tax of 4% for rent received because it is gross revenue. This cost may be added to

the base amount, provided that the amount added and the percentage charged (no more than 4.166%) are stated and agreed to in the rental agreement.

Q What is transient accommodations tax?

A This is a 7.25% tax on the amount paid for lodging by any person who takes accommodations which he or she does not intend to make a permanent home. The types of lodgings include, but are not limited to, rooms, apartments or suites which are usually occupied for less than 180 consecutive days.

Rent

Q Is there a grace period for paying rent?

A Not in the Landlord/Tenant Code. Many landlords permit a certain number of days beyond the due date to pay rent without penalty and many rental agreements include such a provision. If not otherwise stated, rent is due on the due date.

Q Are there any limits on how often a landlord can increase the rent or the amount by which a landlord can increase the rent?

A The landlord must give "adequate" written notice of the intent to increase the rent according to the type of tenancy (see chart at end of handbook). There is no limit on the amount of the rent increase as there is no rent control in Hawaii.

Q How much notice must be given by the landlord or tenant to terminate a tenancy at the expiration of a lease? To increase rent after the expiration of the lease?

A No notice is required in either case. A lease is a contract for a set period of time at a set rate. In order to continue the tenancy beyond the expiration of the lease, new terms would have to be negotiated. It is recommended that either the landlord or tenant advise the other of their intention to continue or terminate the agreement after its expiration to avoid misunderstanding and unnecessary problems. This applies equally to changing the amount of rent to be paid. also. If the landlord wishes to terminate the tenancy, the tenant must vacate the unit or become a holdover tenant (see TERMINATION OF TENANCY: "Holdover").

Q May a condo association ask a tenant to use the rental payment to pay for association dues that the tenant's landlord owes to the association?

A Yes. Under the State condominium law, a condo association may collect delinquent maintenance fees directly from a tenant as long as

the amount paid does not exceed the tenant's monthly rental obligation. The payment to the condo association reduces the rent owed to the landlord by the amount paid and the landlord cannot retaliate against a tenant for making the payment.

Abandoned Possessions

Q How may the landlord dispose of a tenant's abandoned possessions?

A The landlord may sell the abandoned possessions in a commercially responsible manner or store the possessions at the tenant's expense, or donate the possessions to a charitable organization. Before selling or donating the possessions, the landlord must mail a notice of his intent to sell or donate the possessions to the tenant at the tenant's forwarding or last known address. In addition, after the 15-day notification before selling the possessions, the landlord must advertise the sale in a daily paper of general circulation for at least three consecutive days.

The proceeds of the sale of possessions [under subsection (a)] shall, after deduction of accrued rent and costs of storage and sale, including the cost of advertising, be held in trust for the tenant for 30 days, after which time the proceeds shall be forfeited to the landlord.

Discrimination in Real Property Transactions

Q If an individual believes that he or she has been denied housing on the basis of race, sex, color, religion, marital status, ancestry, handicapped status, HIV (human immunodeficiency virus) infection, or because his or her family includes children, to which agency may the individual direct a complaint?

For more Landlord-Tenant information, including a complete copy of the Landlord-Tenant Handbook, please visit:

http://hawaii.gov/dcca/areas/ocp/landlord_tenant/ Information regarding Landlord-Tenant issues may also be obtained by calling the Residential Landlord-Tenant Volunteer Center at: 586-2634 (for Oahu residents). The center is open from 8am-12pm, Monday through Friday, except State holidays. For toll-free access from neighbor islands, call:

Big Island: 974-4000, x62634 **Kauai:** 274-3141 x62634

Maui: 984-2400 x62634 **Molokai/Lanai:** (800)468-4644 x62634

Information may also be obtained by calling the Department of Commerce and Consumer Affairs Hotline at: 587-1234.

The Department of Commerce and Consumer Affairs (DCCA), its Insurance Division and its Regulated Industries Complaints Office (RICO) offer the following tips for filing a homeowner insurance claim:

How to file a claim

First, contact your insurance agent or insurance company. Review your policy with them and ask: (1) Is this claim covered by my policy?, (2) Will this claim likely exceed my deductible? and (3) When can I start making permanent repairs?

Be ready to discuss your claim. You'll be asked to provide information including photos of any damage. Don't forget to include information about any items damaged inside the house and to keep a record of any monies paid for temporary, emergency repairs. Be sure to keep copies of the information you provide.

Your insurance company may send an adjuster to determine the damage and to evaluate your claim. At some point, you may be asked who you would like to perform any repair work, so be prepared to discuss possible contractors.

Can I choose my own contractor?

Your insurance company may have a list of preferred contractors the company works with. You can also choose your own contractor. Regardless of which contractor you choose, make sure the contractor is licensed.

Hire a licensed contractor

Licensed contractors, licensed electricians, and licensed plumbers have the training and experience necessary to get a license. Licensed contractors are also required to carry liability insurance and are responsible if a worker is injured on a jobsite.

Insurance protects you if anything is damaged on your project or if a worker gets hurt on the job. A licensed contractor can also apply for any building permits that may be necessary for your project. In the State of Hawaii, a contractor's license is required for any project where the total cost of labor and materials is \$1,000 or more.

The Price is Right

Make sure you understand the scope of the work that needs to be done and how much the insurance company will pay for the cost to repair your property. If you've received a bid or estimate from a licensed contractor, you'll either need to make sure the money you receive from the insurance company will cover the entire cost of the project or be prepared to make up any difference.

Upgrades and Improvements

If your contractor suggests an upgrade or if, while work is going on, you want to make additional improvements, make sure you understand how much any extras will cost and then ask whether your insurance will cover it. If the additional costs aren't covered, you'll need to pay any additional amounts from your own pocket. Remember, insurance is only meant to restore your property to its previous condition. Depending on your policy, some things, like upgrading the house to meet current building codes, may be covered.

“Will this claim affect my coverage or raise my rates?”

Homeowners want to know if filing a claim will affect their coverage or possibly raise their insurance rates. At any time, an insurance company can consider your claims history and, based on that history, discontinue your coverage or adjust your rates.

Be wary of “storm chasers”

Hawaii homeowners report being contacted by individuals who go door-to-door, offering free inspections and advice on how to get storm damage covered under a homeowner's insurance policy. These individuals may be unlicensed or working with a licensed contractor who has never seen your property or may not regularly do business in Hawaii. *If approached by someone seeking to do storm damage work...*

Contact the Insurance Division. In the State of Hawaii, anyone adjusting an insurance claim must be licensed. If someone offers to file your claim or negotiate with an insurance company on your behalf, the person may be acting as an unlicensed insurance adjuster. Contact the Insurance Division at (808) 586-2790 and ask if the work the individual is asking to do requires the individual to be licensed.

Read any offers carefully. Be wary of a contractor who requires you to sign an authorization that allows him/her to contact the insurance company on your behalf. Be wary of any form that states that by signing, you agree to have the contractor perform the work in exchange for the insurance proceeds. And, be wary of any contract that says you agree to have the contractor perform the work, whether an insurance company pays for the repairs or not. Don't agree to pay a penalty if you change contractors or your insurance claim is denied.

If you suspect storm damage, contact your insurance company and find out how to file a claim. Get at least three bids or estimates from licensed contractors and compare the bids carefully. This will help you to determine if work really needs to be done and if so, the scope of the work. And, remember, insurance is designed to address sudden loss, not routine maintenance or regular wear and tear.

Each year, RICO receives hundreds of tips and complaints about unlicensed contractors. The complaints range from construction that has been poorly done, to money being taken and no work being done at all.

Unlicensed contractors may go door-to-door claiming they “just finished a job down the street,” or “have materials left over from another job.” They may try to pressure you, offering a discounted price, but only if you act today. There may even be some unscrupulous people out there that may try to enhance the damages in order to increase the repair estimates, so consider taking pictures of the damages (if you’re safely able to do so) before a contractor or anyone else goes on the roof to take a look.

Unlicensed contractors may even use a fake license number or a license number that belongs to someone else. So, remember to check license information with our office. You may also want to ask to see a picture I.D. so you know exactly who you’re dealing with.

Unfortunately, bad weather can also attract unscrupulous licensed contractors looking to make a quick buck. So, make sure you’re dealing with the contractor who holds the license and confirm his or her employees will be doing the actual work. Be wary of any contractor who discourages you from contacting your insurance company and be wary of anyone who asks you to sign over an insurance settlement check. Although you may feel pressured to find someone to make repairs, taking the time to check a contractor’s credentials and references can save time and money in the end.

Unlicensed contracting and violations of Hawaii’s licensing laws are investigated by the Regulated Industries Complaints Office (RICO). To check licensing status or for information about hiring a licensed professional, call the Consumer Resource Center at 587-4272 or visit the State’s website at cca.hawaii.gov/rico.

RESOURCES

The Insurance Division offers additional information and tips for filing storm claims online at cca.hawaii.gov/ins.

To check to see if an individual is licensed as an insurance adjuster, you can check online at insurance.ehawaii.gov/hils or call the Insurance Division at (808) 586-2790.

The Regulated Industries Complaints Office (RICO), offers tools, tips, and services you can use to check to see if an individual or business is licensed as a contractor. Information is available by calling **(808) 587-4272** or online at cca.hawaii.gov/rico/business_online/. Neighbor island residents can dial the following numbers then 7-4272 followed by the # sign:

Kauai.....	274-3141
Maui.....	984-2400
Hawaii.....	974-4000
Lanai & Molokai.	1-800-468-4644

RICO is the enforcement arm for over forty-five professional boards, commissions, and programs that are administratively attached to the Department of Commerce and Consumer Affairs. RICO receives complaints, conducts investigations, and prosecutes licensing law violations. RICO also prosecutes unlicensed activity through the issuance of citations and by filing civil lawsuits in the Circuit Courts. RICO works to resolve consumer complaints where appropriate and provides consumer education about various issues relating to licensing and consumer protection. RICO also administers the State Certified Arbitration Program (SCAP) for “lemon” motor vehicle claims.

This brochure is for informational purposes only and not intended for the purposes of providing legal advice. Information provided is subject to change. Printed material can be made available for individuals with special needs in Braille, large print or audio tape. Submit requests to the RICO Complaints and Enforcement Officer at 586-2666.

HIRING A CONTRACTOR FOR INSURANCE CLAIMS



Regulated Industries Complaints Office

235 S. Beretania Street, Ninth Floor
Honolulu, Hawaii 96813
cca.hawaii.gov/rico
(rev. 160810-CLB-Contractors and Insurance Claims)

Apply for Disaster Assistance

Internet or Smartphone Application: Disaster survivors may apply for the Individuals and Households Program or check their application status at www.DisasterAssistance.gov. Disaster survivors may also access FEMA via smartphone by downloading the application from www.fema.gov or through their mobile provider's application store.

By Phone: Disaster survivors may call FEMA toll-free at 800-621-3362 to register for assistance or check their application status. Disaster survivors who are deaf, hard of hearing, or have a speech disability and use a Text Telephone (TTY) may call 800-462-7585. Disaster survivors who use 711 or VRS (Video Relay Service) may call 800-621-3362.

In Person: Visit a Disaster Recovery Center.

- For locations, check FEMA's mobile app www.fema.gov/mobile-app or call 1-800-621-3362, or visit www.DisasterAssistance.gov.
- Disaster Survivor Assistance team members may visit door-to-door in your area. They will have official FEMA photo identification.

WHAT to DO if YOU DISAGREE with FEMA'S DECISION LETTER



YOU HAVE THE RIGHT TO APPEAL FEMA'S ELIGIBILITY DECISIONS
INCLUDING THE AMOUNT OF YOUR AWARD.

When do I need to submit my appeal?

You must submit your appeal within **60 days** of the date on your eligibility notification letter.



What do I need to provide?

A signed, written explanation outlining why you believe FEMA's decision is incorrect and copies of any documents supporting your appeal, including proof of your disaster losses.

Your full name, your FEMA Application Number and Disaster Number, your pre-disaster primary residence address, and your current phone number and address should be included on all submitted documents. These numbers are printed on Page 1 of your Decision Letter, above your name and address.

Where do I send my appeal?



Mail to:
FEMA
P.O.Box 10055
Hyattsville, MD 20782-8055

Or



Fax to:
800-827-8112
Attn: FEMA Appeals Officer

How long will it take before I know if my appeal is approved or denied?

You will receive a decision letter from FEMA within **90 days** of FEMA's receipt of your appeal.

To check the status of your appeal, or to notify FEMA of any change to your mailing address or contact information, please visit www.DisasterAssistance.gov and select *Check Your Application Status*, or call FEMA's Helpline at 800-621-FEMA (3362)

Who can I call if I have questions about my appeal?

Call the FEMA Helpline at 800-621-3362 (voice/711/VRS). For Spanish, press 2. TTY: 800-621-3362. Or visit: www.DisasterAssistance.gov.

Help After a Disaster

FEMA Individual Assistance Can Help You Recover

FEMA B-545/ April 2019



How can FEMA help you?

Assistance from FEMA may help you and members of your household affected by a disaster take care of necessary expenses and serious needs that cannot be met through insurance or other forms of assistance.

Housing Assistance:

Housing Assistance may provide financial or direct assistance, including:

Rental Assistance: Financial assistance to rent temporary housing while disaster-caused repairs are made to your primary residence, or while transitioning to permanent housing.

Lodging Expense Reimbursement: Financial assistance reimbursement for short-term lodging expenses.

Home Repair: Financial assistance for homeowners to repair uninsured home damage caused by the disaster. The assistance is intended to repair the home to a safe, sanitary and functioning living condition.

Home Replacement: Financial assistance for homeowners who must replace or rebuild their primary residence as a result of the disaster.

Direct Housing: In limited circumstances where adequate temporary housing resources are not available within a reasonable commuting distance, FEMA may provide a temporary housing unit directly to homeowners and renters.

Other Needs Assistance:

Personal Property: Financial assistance to repair or replace common household items including, but not

limited to, furnishings, appliances, essential tools and assistive equipment that supports daily living activities.

Medical/Dental: Financial assistance to pay for medical or dental expenses or losses caused by the disaster. This includes, but is not limited to, hospital and ambulance services, medication, and the repair or replacement of medically necessary assistive devices or technology.

Funeral: Financial assistance for expenses incurred due to a death or disinterment caused directly or indirectly by the disaster. Expenses include, but are not limited to, the cost of a casket or urn and funeral services.

Child Care: Financial assistance for increased child care costs as a result of the disaster. Eligible expenses include child care costs for children aged 13 and under and/or children with a disability, as defined by Federal law, up to age 21, who need assistance with activities of daily living.

Miscellaneous Expenses: Financial assistance to purchase specific items not owned prior to the disaster. They may include, but are not limited to, items such as a wet/dry vacuum, chainsaw, or a generator for a medically necessary device.

Transportation: Financial assistance to repair or replace a vehicle damaged by the disaster.

Moving and Storage Expenses: Financial assistance to temporarily move and store personal property from the damaged primary residence while repairs are made. Assistance may also be provided for moving essential household goods to a new primary residence.

Clean and Removal: Financial assistance for services to remove contaminants and disinfect surface areas of the home affected by floodwater.

Critical Needs: Financial assistance for applicants who have immediate or critical needs because they are displaced from their primary dwelling.

Eligibility Criteria for Housing and Other Needs Assistance:

- Your disaster losses must be in a Presidentially declared disaster area;
- A member of your household must be a United States citizen, a non-citizen national, or a qualified alien;
- You have necessary expenses or serious needs as a result of the disaster that are not covered by insurance, or you filed an insurance claim but your benefits are not enough to cover your expenses, or your damage was not covered by insurance or other sources.

Additional FEMA Individual Assistance Programs

Crisis Counseling: Assists individuals and communities recovering from the effects of a disaster through the provision of community-based outreach and educational services.

Disaster Unemployment: Provides unemployment benefits and re-employment assistance services to survivors affected by a Presidentially-declared major disaster. These services are under the responsibility of the U.S. Department of Labor and administered by the State, Local, Territory, or Tribal government emergency management officials of the affected area(s).

Disaster Legal Services: Provides free legal assistance to low income individuals who are otherwise unable to secure legal services to meet their disaster related needs.

Disaster Case Management: Assists individuals with unmet needs caused by the disaster through the development and implementation of a Household Recovery Plan.

Partner Agency Assistance

To meet the needs of disaster survivors, FEMA partners with other governmental and non-governmental agencies.

FEMA works with the U.S. Small Business Administration to offer low-interest disaster loans to homeowners and renters in a declared disaster area. You do not need to own a business to apply for a disaster loan.

Learn more about applying for a disaster loan or about assistance available from other FEMA partners at: www.DisasterAssistance.gov.

If You Have Already Been Taken Advantage Of

DO

- Seek help right away.
- Contact the DCCA Consumer Resource Center at (808) 587-3295.
- Contact an attorney.
- If you don't know an attorney, contact the Lawyer Referral Information Service at (808) 537-9140 or online at <http://hawaiilawyerreferral.com/>.
- Leave honest reviews of issues you have had with contractors on reputable crowd-sourced review websites such as Angie's List.

DON'T

Don't delay seeking help – the longer it takes for you to find help, the more difficult it may be to resolve the dispute.

Resources

- **Department of Commerce and Consumer Affairs Consumer Resource Center**
Call (808) 587-3295. Online at: <http://cca.hawaii.gov/rico/licensedcontractor/>
- **Better Business Bureau of Hawaii Inc.**
Call (808) 536-6956.
E-mail to: info@hawaii.bbb.org
- **KHON2 Action Line**
Call (808) 591-0222 between 11 am to 1 pm.
E-mail to actionline@khon2.com
- **Lawyer Referral Information Service**
Call (808) 537-9140 or online at <http://hawaiilawyerreferral.com>
- **Legal Aid Society of Hawaii**
Call toll-free 1-800-499-4302 or online at <https://www.legalaidhawaii.org/>
- **Volunteer Legal Services Hawaii Online Pro Bono (HOP)**
online at <https://hawaii.freelegalanswers.org/>
- **Hilo Self-Help Center**
777 Kilauea Avenue, 1st Floor, Hilo, HI 96720
Tuesday & Friday, 11:15 a.m. – 12:45 p.m.



YOUNG LAWYERS DIVISION



Hawaii State Bar Association



LEGAL AID SOCIETY OF HAWAII

HAWAII COUNTY BAR ASSOCIATION



DISASTER LEGAL ASSISTANCE

DO's and DON'Ts of Hiring a Contractor After a Natural Disaster



Provided as a community service by the Hawaii State Bar Association, the Hawaii County Bar Association, the HSBA Young Lawyers Division, and the Legal Aid Society of Hawaii with support from the Hawaii Community Foundation.



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Phone: 1-800-499-4302
www.legalaidhawaii.org
www.lawhelp.org/hi

DO

- ✓ Get more than one written estimate for the work.
- ✓ Get a list of all subcontractors to be used by the contractor, if any.
- ✓ Contact the Department of Commerce and Consumer Affairs (DCCA) at (808) 587-3295 or online at <https://pvl.hawaii.gov/pvlsearch/> to find out if all contractors and subcontractors are licensed and have been named in any prior DCCA complaints.
- ✓ Verify customer references provided by contractors.
- ✓ Make sure that the contractor provides all lien disclosures required under Hawaii law.
- ✓ Obtain building and other permits, if required, for the work being done.
- ✓ Make sure everything is in writing, including but not limited to the price, what work is to be done, any specific exclusions or restrictions, the grade and brand of materials to be used, the timeframe for completing the project, etc.
- ✓ Get copies of the contractor's general liability insurance declarations page.

- ✓ Remember, a contract is a legal, binding document. Read the entire contract, including any plans and blueprints, and understand all the terms and conditions before approving them. If you do not understand, consider hiring an attorney to review and explain it to you.
- ✓ On bigger jobs, ask the contractor to explain to you the possibility of purchasing a performance and payment bond which will guarantee completion of the project and payment of all liens. This bond is usually provided by surety companies or material supply houses to qualified contractors.
- ✓ Discuss with the contractor the possibility of agreeing to withhold a portion of the total payment until the 45-day period for filing liens has expired. The amount withheld should be sufficient to cover all claims which might be filed.
- ✓ Get lien releases from the contractor, subcontractors, and suppliers, for progress payments made, and a final lien release from the contractor, subcontractors, and suppliers upon final payment. A mechanic's lien could be placed on your home for work performed on it by a subcontractor or materials furnished by a supplier if the contractor fails to pay the subcontractor or supplier – even if you paid the contractor for the work or the supplier for the materials. Contractors could provide you with a lien release form.

- ✓ Periodically check on the progress of the work.
- ✓ Make sure your checks are made out to the contractor, not to a salesperson.
- ✓ Publish a notice of completion in the newspaper once the job is done.

DON'T

- ✗ Don't let a contractor pressure you to hire them until you have performed your due diligence and understand and accept all the terms of your agreement with the contractor for the work.
- ✗ Don't pay in cash.
- ✗ Don't pay in full up front. Typically, pay no more than 1/3 up front. Don't make the final payment until the job is done as agreed under the contract.
- ✗ Don't simply take the contractor's word that it is licensed, registered to perform work in the State of Hawaii, bonded and insured. Require them to show you their paperwork and verify the information.
- ✗ Don't verbally agree to any changes in the contract, such as the price of the contract or scope of work, without documenting the specific change in writing signed by the parties to the contract.

If the adjuster denies coverage for your claim or if you do not agree with the amount it is offering to settle your claim, ask the adjuster to give you their reasons in writing. Also request a copy of any document that they refer to in their letters, i.e., the insurance policy, contract, etc. If your claim is denied, you may still be able to convince the adjuster that they are wrong. Review the insurance policy, make sure you provided all of the information that you needed to provide to determine if the adjuster's position makes sense to you. If you disagree with the adjuster's interpretation of the policy, or if there is room for dispute promptly consult a lawyer.

WHAT ABOUT DAMAGE TO MY AUTOMOBILE?

Your homeowner's policy usually will not cover damage to your automobile. If your automobile was damaged while parked at your house or apartment, your automobile insurance policy will likely provide coverage for the damage if that policy includes "comprehensive" coverage. This "comprehensive" coverage is not provided by an automobile insurance policy which only meets the minimum insurance requirements of Hawaii law. It is usually provided for an additional premium above the minimum coverage. Review your policy to see if it provides this coverage. Handle your claim for automobile coverage in the same way you handle your claim for damage to your home or apartment. That is, follow the suggestions provided earlier in this brochure. Do not delay making a claim with your insurance company.

If someone else damages your automobile, you can report the claim to YOUR insurance carrier, who may help you make your claim with the other driver's insurance company or they may agree to make the claim for you.

WHAT HAPPENS IF THE LANGUAGE OF MY INSURANCE POLICY IS NOT CLEAR?

Courts recognize that insurance policies are written by the insurance company and that the consumers have no choice in the language used. As a result, any vagueness, uncertainty or ambiguity in the insurance policy will be interpreted in favor of the policy holder and against the insurance company. In other words, if the policy can reasonably be interpreted two different ways, the policy holder will usually be given the benefit of the doubt. Keep these rules in mind when you discuss your policy with any insurance company representative. If the insurance adjuster takes the position that part of your claim is not covered, ask them to show you the specific portion of the insurance policy which clearly and unambiguously excludes coverage for that part of the claim.

HOW DO I CONTACT MY INSURANCE COMPANY?

Enclosed is a list of the phone numbers of most major insurance companies. Call the listed number. If you can't get through or if your insurance company is not listed, call the agent from whom you purchased the policy.

Allstate	1-800-386-6126
Atlas Insurance	(808) 533-3222
Farmers Insurance	(808) 544-3999
Fireman's Fund Insurance Co.	1-800-227-1700
First Insurance Company	1-800-272-5202
GEICO	(808) 593-1010 or 1-800-841-3000
Hawaiian Insurance	(808) 536-2777
Island Insurance	(808) 531-1311
Liberty Mutual	(808) 589-8920 or 1-800-526-1547
Progressive Insurance	1-800-776-4737
Royal Insurance	(808) 539-1700
State Farm	1-800-782-8332
Tokio Marine	1-877-567-7486 (1-877-LOSS4TM)
USAA	1-800-531-USAA (8722)

DISASTER LEGAL ASSISTANCE

Insurance



Provided as a community service by the Hawaii State Bar Association, the Kauai County Bar Association, the HSBA Young Lawyers Division, and the Legal Aid Society of Hawaii with support from the Hawaii Community Foundation.



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QUESTION: WHAT DOES A HOMEOWNERS POLICY COVER?

There is no general rule as to what is covered under a homeowner's policy or the dollar amount of coverage provided. The coverage provided may differ significantly from one company's policy to another company's policy. Whether the homeowner's policy is your own or your neighbors, you should read the policy to determine the coverage it provides. Home-owners policies usually provide separate coverage for the building structure and for the building contents. The policy limits for each type of coverage are stated on the Declaration Page. The insurance policy usually contains the name of the insurance company and the insurance broker on the Declarations page. If you do not understand any part of the policy, call the insurance company to request an explanation. If you cannot find your policy, call the insurance agent who sold you the policy. The agent should be able to provide you with a copy. If damage was caused by your neighbor and/or your neighbor's property, ask your neighbor for the name of their insurance agent and/or insurance company, and then call the agent and/or insurance company and request a copy of the insurance policy when you make a claim.

In addition to the insurance provided for the building structure and contents, many homeowners' policies provide coverage for various kinds of "supplemental benefits" which may include:

- the fair rental value of temporary living quarters while your home is uninhabitable
- the cost of debris removal
- the cost of immediate repairs or other measures necessary to protect the property
- the cost of storage for removed property

Again, you must read your policy to determine whether and to what extent it provides these kinds of "supplemental benefits" or other supplemental benefits.

WHAT ABOUT COVERAGE FOR CONDOMINIUM OWNERS?

A landlord's insurance policy usually covers only the property owned by the landlord, that is, the building itself. The contents of a renter's apartment are usually not covered by the landlord's policy; they are usually covered by renter's insurance policies available for purchase by the renter. There may be exceptions, if you are a renter and have not purchased renter's insurance, you should ask your landlord whether his insurance provides any coverage for your benefit. Be sure to request a copy of the landlord's policy so that you may review it on your own. If you are a renter and have purchased renter's insurance, your policy should provide coverage, up to the limit stated in the policy, for the apartment's contents. However, that does not mean that you will automatically be entitled to the full amount of the policy limits. The policy may also provide coverage for the type of "supplemental benefits" described above. Read the policy carefully to see what it does and does not cover. If you have any questions regarding the policy, contact the insurance company.

WHAT ABOUT COVERAGE FOR BUSINESSES?

Many different types of coverage are available for businesses. These include coverage for damage to buildings; coverage for damage to inventory and equipment; business interruption coverage; coverage for damage to business records; coverage for relocation expenses; medical expenses up to \$5,000 for people who are injured on your premises, and other types of coverage. You should review your insurance policies carefully to see the types of coverage which may be available for your business. If possible, meet with or talk to your agent.

WHAT DO I DO IF I CAN'T FIND MY INSURANCE POLICY AND DO NOT KNOW WHO IS MY INSURER?

Call the insurance agent from whom you purchased the policy. The agent will be able to provide you with the name of the insurance company and should also be able to provide you with a copy of the policy. If you can't get through to your agent, call the bank which holds your mortgage. The bank will have the name of the insurance company and may also be able to provide you with a copy of the policy.

WHAT ADVICE SHOULD I FOLLOW WHEN MAKING A CLAIM?

•Make a claim to your agent, broker, or the insurance company as soon as possible, even if you are not sure there is coverage or that the claim will exceed the deductible.

If the damage you incurred is due to a neighbor's acts or omissions, you should notify your neighbor and submit a claim to your neighbor and request the name of their insurance company, and then follow the instructions to submit a claim to the neighbor's insurance broker and/or company.

•If your initial claim is made by telephone, write down the name of the person you talk to and get his/her address to submit the claim and ask for the claim number. Insurance companies keep track of claims by the claim number. Also, submit the claim in writing, always include the claim number, list your losses/damages and include photographs if possible. Confirm your phone conversation in writing, either when you submit your claim or by a separate letter. Always take notes of your discussion with the claims representative (adjuster) for future reference. Keep a copy of the letters for your records.

•Let the agent or adjuster know how to reach you, if you are not at your home.

•Take any steps you reasonably can to protect your property from further damage. Document what you did with photographs and/or written explanation.

•If your situation is desperate, let the agent or adjuster know and ask for an advance.

•Get a receipt, if possible, for any expenses you incur, such as repairs or extra living expenses. Send a copy of receipts to the agent or adjuster.

•If possible, get estimates from reputable businesses for any significant repairs or replacements, and send them to the agent or adjuster to support your claim for damages. Ask the agent or adjuster for names of businesses that they have approved to provide estimates and/or repairs.

•If possible, ask an adjuster to inspect the property before making any significant repairs. Confirm with the adjuster that you need to proceed with repairs and get their approval to proceed with the repairs. Be sure to send the agent or adjuster a confirming letter that they agreed and approved that you could proceed with the repairs

•Keep a detailed written record of all conversations with your agent or adjuster. Keep track of your attempts to contact them and whether you reached them or not. Keep track of the names of each person you talk with. Record the date, time, name, position and telephone number of the person you talk with and the substance of each conversation. Keep your notes in a file with all letters, photographs, receipts etc. that you send the agent or adjuster and whatever they send to you. The agent or adjuster also keeps notes and a file with the documentation that you send and that they send to you. It is important for you to keep your own file and do not rely upon the agent or adjuster to provide you copies of what you send them. Your notes will help you recall discussions later on and may be important if you cannot resolve your claim satisfactorily with the adjuster .

•Be polite and factually accurate when you provide information to the agent or adjuster. Do not exaggerate your claim and be honest at all times. As frustrated as you may feel from this process, the adjuster needs to document their file about your claim so they can evaluate your claim and potentially pay you for your damage, so be polite despite the frustration you may feel. If you do not understand what the agent or adjuster is saying, ask them to explain it again or in another way so you understand what they are saying. By asking them to repeat their explanation, it may help you to understand and it gives you an opportunity to take better notes of what the adjuster says. You will then have better notes to refer to later .

•Consult a lawyer before you sign a release or a waiver (this is a document which states that the insurance company will have no further liability with respect to your claim), or before you cash a check which indicates that it may be the full and final payment of your claim.

•Look carefully at any check you receive from the insurance company. If the check states "in full payment", "in final payment", or contains similar language, which indicates the check may be in full payment of your claim, do not cash it if your claims have not been completely resolved to your satisfaction. Instead, ask the adjuster to remove that language from the check. If the adjuster refuses, contact an attorney.

Individuals and Households Program

FEMA's Individuals and Households Program (IHP) provides financial assistance and direct services to eligible individuals and households affected by disaster who have uninsured or underinsured necessary expenses and serious needs.

Disaster assistance is not a substitute for insurance and cannot compensate for all losses caused by a disaster. It is intended to meet the survivor's basic needs and supplement disaster recovery efforts.

IHP Eligibility

These general conditions must be met for an applicant to be eligible to receive assistance:

- The applicant must be a U.S. citizen, non-citizen national, or qualified non-citizen.
- FEMA must be able to verify the applicant's identity.
- The applicant's insurance, or other forms of disaster assistance received, cannot meet their disaster-caused needs.
- The applicant's necessary expenses and serious needs are directly caused by a declared disaster.

IHP Housing Assistance Provision

FEMA determines the appropriate types of Housing Assistance for which an individual or household may be eligible based on disaster-caused losses, access to life-sustaining services, cost-effectiveness, and other factors. Individuals and households may receive more than one type of Housing Assistance, including a combination of financial assistance and direct services. Applicants must be able to establish they occupied the disaster-damaged home as their primary residence to be considered for Housing Assistance and must be able to establish they owned their disaster-damaged primary residence to be considered for Home Repair Assistance, Replacement Assistance, or Permanent Housing Construction.



FEMA

Funds awarded for Home Repair and Home Replacement Assistance count toward the maximum amount of financial assistance an applicant may receive for Housing Assistance, which is an annually adjusted amount based on the U.S. Department of Labor's Consumer Price Index. Funds awarded for Rental Assistance, Lodging Expense Reimbursement, and Home Repair Assistance for specific accessibility-related repairs defined within the Americans with Disabilities Act (ADA) are not subject to this limit.

Financial Housing Assistance

FEMA provides funds paid directly to eligible individuals and households and may include the following types of assistance:

- **Rental Assistance:** Funds to rent alternate housing accommodations while an applicant is displaced from their disaster-damaged primary residence. Rental Assistance may be used to rent a house, apartment, manufactured home, recreational vehicle, or other readily fabricated dwelling.
- **Lodging Expense Reimbursement:** Funds for reimbursement for hotels, motels, or other short-term lodging while an applicant is displaced from their disaster-damaged primary residence.
- **Home Repair Assistance:** Funds to help repair an owner-occupied, disaster-damaged primary residence, utilities, and residential structure, including privately-owned access routes (i.e., driveways, roads, or bridges) to a safe and sanitary living or functioning condition.
- **Replacement Assistance:** Funds to help homeowners replace an owner-occupied primary residence when the residence is destroyed by the disaster.

Direct Housing Assistance

FEMA may provide Direct Housing Assistance when eligible applicants are unable to use Rental Assistance due to a lack of available housing resources. Direct Housing Assistance is not subject to a financial maximum award limit. Types of Direct Housing Assistance may include:

- **Multi-Family Lease and Repair:** Allows FEMA to enter into lease agreements with owners of multi-family rental properties located within or near declared areas to make repairs or improvements that provide temporary housing to



FEMA

eligible applicants.

- **Transportable Temporary Housing Units:** A readily fabricated dwelling (i.e., a Recreation Vehicle or a Manufactured Housing Unit) purchased or leased by FEMA and provided to eligible applicants for use as temporary housing for a limited period of time.
- **Direct Lease:** Existing ready-for-occupancy residential property leased for eligible applicants and, if necessary, modified or improved to provide a reasonable accommodation for an eligible applicant with a disability, for use as temporary housing.
- **Permanent Housing Construction:** Home repair and/or construction services provided in insular areas outside the continental United States and in other locations where no alternative housing resources are available, and where types of housing assistance FEMA normally provides, such as Rental Assistance or other forms of direct assistance, are unavailable, infeasible, or not cost-effective.

IHP Other Needs Assistance Provision

Applicants may receive financial assistance for other disaster-caused necessary expenses and serious needs. The types of ONA are divided into two categories of assistance that are either dependent or non-dependent on the applicant's ability to secure a U.S. Small Business Administration disaster loan. The SBA may provide low-interest, long-term loans to help eligible applicants with transportation losses, as well as repair/replacement funds for real and personal property damage caused by the disaster. Financial assistance awarded for ONA counts toward the maximum amount of financial assistance an applicant may receive for ONA, which is an annually adjusted amount based on the U.S. Department of Labor's Consumer Price Index. Personal Property Assistance for specific accessibility items defined within the ADA is not counted toward this limit.

SBA-Dependent Types of ONA

Only applicants who do not qualify for a loan from the SBA, or who were approved for a partial loan, but the amount of the loan was insufficient to meet the applicant's disaster necessary expenses or serious needs, may be eligible for the following types of assistance:



- **Personal Property Assistance:** Funds to repair or replace essential household items including, but not limited to, furnishings and appliances, and specialized tools and equipment required by an employer.
- **Transportation Assistance:** Funds to repair or replace an eligible vehicle damaged by a disaster. Unlike most other forms of IHP assistance, an applicant does not need to live in the Presidentially declared disaster area to be considered for this assistance.
- **Group Flood Insurance Policy:** As part of the effort to reduce future expenses from floods, FEMA may directly purchase GFIP certificates on behalf of eligible applicants who are required to purchase and maintain flood insurance but who may not otherwise be able to purchase a policy.

Non-SBA-Dependent Types of ONA

May be awarded regardless of the applicant's SBA disaster loan status and may include:

- **Funeral Assistance:** Funds to individuals and households who incur, or will incur, expenses related to a death or disinterment attributed directly or indirectly to a declared emergency or major disaster.
- **Medical and Dental Assistance:** Funds to assist with medical or dental expenses caused by a disaster, which may include injury, illness, pre-existing injury/disability/medical condition aggravated by the disaster, loss of prescribed medication, loss/damage of equipment, insurance deductibles and co-payments for eligible expenses, or loss/injury of a service animal.
- **Child Care Assistance:** A one-time payment, covering up to eight cumulative weeks of child care expenses, for a household's increased financial burden to care for children 13 and under; and/or children up to 21 with a disability who need assistance with daily living activities as defined by federal law.
- **Assistance for Miscellaneous Items:** Funds to reimburse for eligible items purchased or rented after a disaster incident to assist with an applicant's disaster recovery, such as gaining access to the property or assisting with cleaning efforts. Eligible items are identified by the state, territorial, or tribal government and may include items such as a chainsaw or dehumidifier.
- **Moving and Storage Assistance:** Funds to assist with moving and storage expenses of essential personal property and/or household goods, incurred on or after the incident period start date, to avoid additional disaster damage.



Eligible expenses include those related to: (1) storage of personal property in a storage unit or temporary housing unit while repairs are being made to the primary residence and returning the property to the applicant's primary residence, or (2) moving the items to the individual's or household's new primary residence.

- **Clean and Sanitize Assistance:** Financial assistance to homeowners with disaster-caused real property damage who do not qualify for Home Repair Assistance because the damage did not render the home uninhabitable. Clean and Sanitize Assistance is intended to ensure minimal damage to the home is addressed in a timely manner to prevent additional losses and potential health and safety concerns.
- **Critical Needs Assistance:** Financial assistance under the ONA provision of the IHP to applicants who have immediate or critical needs because they are displaced from their primary residence or to applicants who need assistance in order to leave their pre-disaster primary residence to temporarily shelter elsewhere. Immediate or critical needs are life-saving and life-sustaining items including, but not limited to water, food, first aid, prescriptions, infant formula, diapers, CMS, DME, personal hygiene items, and fuel for transportation.

Applicants must be able to establish they occupied the disaster-damaged home as their primary residence to be considered for Personal Property Assistance, Moving and Storage Assistance, Assistance for Miscellaneous Items, Clean and Sanitize Assistance, Critical Needs Assistance, and Group Flood Insurance Policy.

IHP Limitations and Requirements

Flood Insurance Requirement: Applicants whose homes are located in a Special Flood Hazard Area and who receive assistance for home repair, replacement, permanent housing construction, and/or personal property as a result of a flood-caused disaster must obtain and maintain flood insurance as a condition of receiving future disaster assistance for a flood event.

Payment of Assistance: Financial assistance is provided to disaster survivors by a U.S. Treasury check or through an electronic funds transfer into the recipient's bank account.

Proper Use of Funds: Failure to use assistance appropriately may result in ineligibility for additional assistance, and the applicant may be required to return



the misused funds. Applicants should document how they used disaster funds and retain these records (e.g., receipts, invoices) for at least three years to ensure they are prepared if FEMA identifies their case for an audit.

Taxation of Assistance: FEMA's assistance is not taxable and is not counted as income or a resource when determining eligibility for income assistance or income-tested benefit programs such as Social Security benefits or disability income.

Documentation: Applicants may need to provide documentation to help FEMA evaluate their eligibility, such as documents pertaining to proof of occupancy, ownership, income loss, and/or information concerning an applicant's housing situation prior to the disaster. See [FEMA's Verifying Home Ownership or Occupancy Fact Sheet](#) for more information regarding acceptable documentation.

Period of Assistance: IHP assistance is limited to 18 months following the date of the Presidential disaster declaration and may be extended due to extraordinary circumstances.

Appeal Rights: Applicants who disagree with FEMA's determination of eligibility, the form, or the amount of assistance provided, have the right to appeal within 60 days of the date on the award or denial letter from FEMA. For more information on appealing, visit www.DisasterAssistance.gov and select Check Your Application Status, or call FEMA's Helpline at 800-621-3362. If you use a video relay service, captioned telephone services, or others, give FEMA your specific number for that service. It is important that FEMA is able to contact you, and you should be aware that phone calls from FEMA may come from an unidentified number.





Making a Claim and Possible Legal Actions

You can make a claim by writing a letter to your neighbor requesting reimbursement, or work through Kuikahi Mediation Center for mediation with your neighbor or to take legal action by filing a lawsuit. Whatever path you decide to take will depend on your relationship with your neighbor and also consideration of what kind of relationship you would like with your neighbor in the future, as well as the evidence that you have to support your claim against your neighbor.

Writing a Letter

A letter to your neighbor can simply state the damage that was caused to your home, that they had received notice of the potential damage and the cost that you are seeking to receive. Ask for the name of your neighbor's insurance agent and insurance company so that you may make a claim to them. In some cases, this may be enough to get your damages covered.

Mediation

When living next to each other, mediation is sometimes the best way to resolve these issues. You can contact Kuikahi Mediation Center at 935-7844 for more assistance. A brochure on their services is also available.

Lawsuit

The final legal remedy would be to file a lawsuit against your neighbor. This is the most time consuming and difficult of the three legal courses of action.

If the damages that you had were less than \$5,000, you can proceed in Small Claims Court. Small Claims Court is a more informal process where the judge will engage in discussion with the litigants.

For damages between \$5,000—\$40,000, you may file your action in District Court using a Regular Claim

Assumpsit form. A District Court proceeding is more formal than a Small Claims Court proceeding in that the rules of evidence will apply.

For damages greater than \$40,000, a Circuit Court case will need to be filed. While you may pursue this type of case on your own, you may want to consult with attorney for assistance.

Court Forms can be found at: http://www.courts.state.hi.us/self-help/courts/forms/court_forms.html

Considerations

While you may have all of the evidence that will show that your neighbor was negligent and the court awards damages in your case, receiving payment will be another aspect which you should be aware of. If your neighbor does not show up to court and the only information you have is on the neighboring property, your only remedy may be to put a lien on the property. If your neighbor does show up, but fails to pay, you may need to take more court action to receive your damages.

Additional Resources

Visit www.lawhelp.org/hi for more resources and easy to understand interviews to help you through the process.



Phone: 808-536-4302
www.legalaidhawaii.org
www.lawhelp.org/hi



DISASTER LEGAL ASSISTANCE

Tree Damage

Disaster Relief: Property



Provided as a community service by Legal Aid Society of Hawaii, the Hawaii State Bar Association, the Hawaii County Bar Association and the West Hawaii Bar Association



Hawaii County Bar Association



This is meant to be an informational brochure, and is not intended to take the place of legal counsel. The distribution of this brochure by the Legal Aid Society of Hawaii does not imply that an attorney-client relationship has been formed. This brochure is not intended to be a complete statement of law nor intended to fully describe or evaluate your options.

Fallen trees from a storm create a multitude of problems for homeowners. In the recent Hurricane Iselle, much of the home damage was caused by albizia trees falling on homes. This is a guide aimed at assisting homeowners who faced damage to their homes.

Documenting the Damage and Cost of Repairs

Critical to any claim whether it be through homeowner's insurance or litigation, is a good documentation of the damage that was caused. This means pictures of the damage, documentation of personal items that may have been ruined, receipts for temporary living quarters, debris removal, and any other costs related to not being able to live in the home and doing research on the cost to repair. While an insurance adjuster may have come to your property to document the damage, you should also be sure to maintain your own records of the damage.

Homeowner's Insurance

There is no general rule as to what is covered under a homeowner's policy or the dollar amount of coverage provided. The coverage provided may differ significantly from one policy to another. You must read your



the policy to determine the coverage it provides. Homeowners policies usually provide separate coverage for the building structure and for the building contents. The policy limits **for each type of coverage are stated on the Declaration Page** with a separate monetary amount for each. **The insurance policy usually contains the name of the insurance company and the insurance broker on the Declarations page.** If you do not understand any part of the policy, call the insurance company to request an explanation.

Likewise, if you cannot find your policy, call the insurance agent who sold you the policy for a copy

Many homeowners' policies also provide coverage for various kinds of "supplemental benefits" for out of pocket costs. Again, you must read your policy to determine whether your policy provides this coverage.

More detailed assistance on insurance can be found in the Insurance brochure or materials from United Policyholders.

No Homeowner's Insurance

If you did not have homeowner's insurance and the damage was caused by trees from your own property, there are currently no remedies available. However, it is still important that you document the damage (through pictures and in writing) and the cost to fix it as there may be future assistance available through federal agencies other than FEMA, state and county government.

Unknown Neighbor



In the Puna area, there are a large number of absentee landlords and undeveloped land. If you do not know who your neighbor is, you can locate them at: http://qpublic9.qpublic.net/hi_hawaii_search.php. Here you can choose to locate your neighbor either by map or by address. You can find out your neighbor's name and most recently registered address as well as the value of the property.

Damages Caused by Neighbor's Trees

If the damage to your home was caused by your neighbor's trees, there are two different avenues that may be available to you:

Neighbor's Homeowner's Insurance

If damage was caused by your neighbor and/or your neighbor's property, ask your neighbor for the name of their insurance agent and/or insurance company, and then call the agent and/or insurance company and request a copy of the insurance policy when you make a claim. Similar to a claim through your homeowner's insurance, coverage will be limited to what **insurance** was paid for by the neighbor. Be aware that it is likely that a neighbor's homeowner's insurance policy will challenge covering your home. **Thus, it is important to document the damage, and how the damage occurred before whatever caused the damage is moved.**

Legal Action

In some cases your neighbor's homeowner's insurance may not be adequate to cover the damage caused to your home or your neighbor may not have homeowner's insurance. In this case, you may need to take legal action in order to recover the cost of repairs and any out of pocket costs caused by the damage.

Negligence

Be aware that to obtain recovery for your damages through legal action based upon your neighbor's negligence, requires that your neighbor knew or should have known of the dangerous condition (albizia trees) and that the trees could cause danger to others. Your neighbor may claim that there was no negligence, rather, it was an "Act of God" that caused the tree to fall, not anything that they did which will hold them responsible

It would be up to a judge or jury to decide whether the neighbor "knew or should have known of the dangerous condition" and that the trees could cause damage to the neighbor's home. If your neighbor had notice of the potential danger either through a notice that was sent through a homeowner's association, a letter that you sent directly to them about the potential danger, or if you know that the county sent notice requiring removal under the ordinance passed last year (see back cover), or even an article in the newspaper about damage being caused by the albizia trees, you will have stronger evidence that your neighbor is liable for the damage caused by the fallen trees.

If you are unsure if the neighbor received notice, any pictures you may have of the property before the storm which shows trees that should have been removed could help to show that your neighbor knew or should have known about the potential damage.

You could also refer to the County ordinance as evidence of notice which the property owner should have been aware of.



Unsafe Flora Ordinance

The County of Hawaii passed an ordinance effective November 6, 2013 which declared that albizia trees within 100 feet of any public street or highway would need to be cleared. It further authorized the mayor to require property owners upon request of residents within 500 yards of that property to determine after investigation to remove any unsafe flora that posed an imminent danger for fire, health, safety, property damage or crime hazard. §20-21 - 20-22 of the Hawaii County Code.