

SOUTH DAKOTA DISASTER LEGAL SERVICES MANUAL

A RESOURCE FOR PRO BONO
ATTORNEYS AND SOUTH DAKOTANS
IMPACTED BY DISASTERS

PREPARED BY:

**THE STATE BAR OF SOUTH DAKOTA
LEGAL SERVICES COMMITTEE AND ITS
PARTNERS**

MORE INFORMATION AT WWW.STATEBAROFSOUTHDAKOTA.COM

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INTRODUCTION



The preparation of these materials is a collaborative project of the State Bar of South Dakota and its legal services partners, and the result of the efforts of many dedicated and committed attorneys in the State of South Dakota.

This document is provided as a resource to attorney volunteers who are fielding questions from those affected by disasters. This document is a starting point and is not intended to be the sole resource for you to rely on in providing legal assistance to those affected by natural disasters. If a matter appears to be a true *pro bono* matter that would qualify for submission to the legal aid services organizations (all of which are based on whether or not the applicant satisfies the intake criteria), you should gather pertinent information regarding the claim or matter and contact a member of these organizations for further processing. See below for information regarding the legal services organizations that are available.

This document is a work in progress. We may be revising chapters and adding chapters as we identify additional needs of those we are assisting. In that regard, we would like to hear from you regarding questions that you are fielding and thoughts on how this document can be improved. If you have comments or questions, please contact Eric Schulte and Sarah Baron Houy, co-chairs of the State Bar's Legal Services Committee. Please check frequently the websites of the State Bar of South Dakota (www.statebarofsouthdakota.com), and SDLawHelp (www.SDLawHelp.org) to make sure that you are using the latest version of this document.

If you have an interest in providing legal assistance to the victims of disasters, whether in person or by phone, please contact the current President of the SD Young Lawyers Section. For additional volunteer opportunities in South Dakota, please contact our state bar pro bono program, Access to Justice, Inc. at 1-855-287-3510.

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INFORMATION YOU MAY NEED IN HELPING VICTIMS

Obtain the following information from the individual you are assisting:

1. Full name and names and ages of family members living with the individual at the time of the disaster;
2. Whether they are a plaintiff or defendant in any existing cases (if so, you should assist them in locating their counsel),
3. Present address and disaster area address, as well as telephone number(s) where the individual may be contacted,
4. Description of losses and disaster-related problems,
5. Insurance information, and
6. If necessary for the type of legal assistance you are to provide, citizenship status.

Note: Only U.S. citizens and qualified aliens are entitled to FEMA benefits; however, children born in the U.S. to undocumented aliens qualify for FEMA benefits, while undocumented aliens are entitled to noncash assistance through FEMA, including disaster legal services, emergency food and shelter, and crisis counseling.

LOCATING MISSING FAMILY & FRIENDS

Persons affected by a disaster may notify loved ones of their well-being by registering on the Safe and Well feature of www.redcross.org. Click the "Get Assistance" tab, and then click "Register or Search the Safe and Well Listings." Concerned family and friends can search the list of those who have registered themselves as "safe and well." Another source for information on how to locate a family member or friend affected by a disaster is: <https://www.usa.gov/after-disaster> (then go to steps 4 & 5 below) or www.usa.gov and follow steps 1–5 below.

1. Go to "+ More Services" in the top menu.
2. Click the "Disasters and Emergencies" tab.
3. Then click the "After a Disaster" tab.
4. Next, scroll down to the "Find Family After a Disaster" section.
5. Finally, access the "National Emergency Family Registry and Locator System" and "American Red Cross Safe and Well" links.

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FEMA & RELATED ASSISTANCE

When the President of the United States declares a “major disaster” anywhere in the United States or its territories, federal assistance is made available to supplement the efforts and resources of state and local governments and voluntary relief organizations pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended 42 U.S.C. § 5121, *et seq.*

Individuals, families and businesses may be eligible for federal assistance if they live, own a business, or work in a county declared a Major Disaster Area. Help may also be available to those who have incurred sufficient property damage or loss and do not have insurance or other resources to meet their needs. **The most important thing a disaster victim must do to obtain FEMA assistance is to register with FEMA.**

To apply for Assistance for Individuals and Households, individuals should register with FEMA toll-free at 1-800-621-FEMA (TTY: 1-800-462-7585) within **sixty days of the declaration of the disaster.**

For an up-to-date listing of current counties declared as disaster areas, visit www.fema.gov. It is important to note that a Public Assistance (PA) declaration primarily assists jurisdictions in repairing infrastructure and public works and is a separate declaration from an Individual Assistance (IA) declaration. An Individual Assistance declaration assists affected households. It is essential to register with FEMA to ensure access to all available assistance.

DISASTER RECOVERY CENTERS

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

A Disaster Recovery Center (DRC) is a readily accessible facility or mobile office where applicants may go for information about FEMA or other disaster assistance programs, or for questions related to their case.

What are some of the services that a DRC can provide?

A DRC may provide

- Guidance regarding disaster recovery
- Clarification of any written correspondence received
- Housing Assistance and Rental Resource information
- Answers to questions, resolutions to problems and referrals to agencies that may provide further assistance
- Status of applications being processed by FEMA
- SBA program information if there is an SBA representative at the Disaster Recovery Center site
- Access to Disaster Legal Services.

APPLYING FOR FEMA ASSISTANCE

How do I apply for disaster help?

You can call 1-800-621-FEMA (3362) (hearing/speech impaired ONLY—call TTY: 1-800-462-7585) or apply online at www.disasterassistance.gov. Click on “Apply Online” and the screens will prompt you through the process. If you get a busy signal when you call the 800 number, try calling in the evening after 10:00 p.m. or on the weekends when fewer people are trying to call. You may now also apply to www.m.fema.gov on your smart phone/mobile device.

When you apply, you should have a pen and paper available to write down important phone contacts. You will need your **Social Security number, current and pre-disaster address, phone numbers, type of insurance coverage, total household annual income, a routing and account number from your bank** if you want to have disaster assistance funds transferred directly into your bank account, **and a description of your losses caused by the disaster.**

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

What happens after I apply for disaster assistance?

It may take up to 48 hours for your registration to appear in FEMA’s system. FEMA will mail you a copy of your application. You can also create an online account at www.disasterassistance.gov to track the processing of your application.

If your home or its contents are damaged and you do not have insurance, an inspector should contact you within ten to fourteen days after you apply to schedule a time to meet you at your damaged home.

If your home or its contents were damaged and you have insurance, you need to work through your insurance claim first and provide FEMA with a decision letter (statement or denial) from your insurance company before FEMA issues an inspection. There is an exception for damages caused by flooding; if you have flood insurance, FEMA will issue an inspection before receiving a copy of your flood insurance decision letter to evaluate your eligibility for temporary living expenses because temporary living expenses are not covered by flood insurance.

About ten days after the inspection, FEMA will decide if you qualify for assistance. If you qualify for a grant, FEMA will send you a check by mail or deposit it into your bank account. FEMA will also send you a letter describing how you are to use the money (for example: repairs to your home or to rent another house while you make repairs).

If FEMA decides that you do not qualify for a grant, FEMA will send you a letter explaining why you were turned down and give you a chance to appeal the decision. **Appeals must be in writing and mailed within sixty days of FEMA’s decision.**

If you get an SBA Disaster Loan application in the mail, you must complete and return the application to be considered for a loan as well as certain types of grant assistance. SBA representatives are available at Disaster Recovery Centers to help you with the application. If the SBA finds that you cannot afford a loan, they will automatically refer you back to FEMA’s Individuals and Households grant program for help. If the SBA approves you for a loan, they will contact you. If the SBA finds that you cannot afford a loan, FEMA

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

Two weeks ago, I mailed in the documents FEMA had asked for. When I called the helpline, the service representative said the documents were not in my file. What should I do?

Please be sure to keep your phone number and mailing address current in FEMA's records. You will be contacted via a recorded message informing you that FEMA has received your documents. You can also check the status of your application by creating an account at DisasterAssistance.gov and clicking Check Your Status. It is very important to include your name, your Social Security number, the disaster number, and your registration ID number on all paperwork. This will speed handling and assure that the documents are placed in the correct file. The numbers can be found on the cover page that is included with all FEMA correspondence in the upper left-hand corner of any letter FEMA sends you.

The letter from FEMA said I had no damages or insufficient damages, but my home was damaged and some of my personal property was damaged too. What do I do?

You may appeal most decisions within sixty days of the decision letter. When you appeal a decision, you are asking FEMA to review your case again. Appeals may relate to your eligibility, the amount or type of help you received, late applications or requests to return money. You will not automatically get another inspection just because you appeal. FEMA has up to 90 days to issue a decision on the appeal.

Your appeal should explain in writing why you disagree with the decision. You may include documents which support your explanation; for example, a contractor's estimate showing how much it will cost to repair your home. Your appeal should include your full name, date and place of birth, and address. Your letter must be either notarized, include a copy of a state issued identification, or include the following statement, "I hereby declare under penalty of perjury that the foregoing is true and correct." You must sign the letter. If someone other than you or the co-applicant is writing the letter, then a statement must be included saying that that person may act for you. Include the FEMA application number and disaster number (shown at the top of your decision letter) in your letter of appeal. Mail your appeal letter to **FEMA, National Processing Service Center**, P.O. Box 10055, Hyattsville, MD 20782-8055. You may also fax your appeal to 1-800-827-8112. Attn: FEMA.

How long does it take to get help from FEMA?

If you have damage to your home or its contents and you are uninsured or you have suffered damage due to a flood, a FEMA inspector will contact you within ten to fourteen days of applying to set up an appointment to assess your damages. Typically, within about ten days after the inspection, if FEMA determines that you qualify for help, you will receive a direct deposit into your bank account or a check in the mail.

I applied for disaster assistance two weeks ago and haven't heard from anyone. I keep calling the 1-800-621-3362 number, but I get a busy signal. Is there another way to follow up on my claim?

If you have access to the Internet, you may want to consider checking the status of your case online. Another option is to visit a Disaster Recovery Center in your area if there is one.

I received my check for rental assistance or hotel assistance, but there are no places to rent.

If you are eligible for housing assistance from FEMA but are unable to find a rental house or apartment within a reasonable commuting distance of your damaged home, please contact FEMA at 1-800-621-FEMA (3362) or visit a nearby Disaster Recovery Center. FEMA will evaluate your situation and, if appropriate,

may authorize a travel trailer or mobile home. To check for available hotels that will accept Temporary Sheltering Assistance, check www.femaevachotels.com.

I didn't receive enough money from FEMA to meet all my needs. What do I do now?

Most disaster aid programs are intended to meet only essential needs and are not intended to cover all your losses. Also, some people qualify for assistance from more than one program and may receive additional help from another agency. For example, the Small Business Administration is a very important source of funding for repair and replacement of real and personal property. If you received a loan application packet from the SBA, please complete and return the application as soon as possible. No work can begin on the loan until you submit your application. If you do not agree with FEMA's decision, you may appeal the decision. To file an appeal, follow the appeals process that is explained in your letter from FEMA.

I know of others in my neighborhood, city, or state who received help from FEMA, however I was told I have insufficient damages. Does FEMA use the same criteria when considering damages for everyone?

FEMA reviews each applicant's case individually and applies the same eligibility criteria. If you were determined to be ineligible because of insufficient damages and you feel this finding is incorrect, you have a right to file an appeal.

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

Some information, such as current phone number, mailing address, or insurance policy number, can be updated online. To update other file information you will need to call the FEMA Disaster Helpline at 1-800-621-FEMA (3362) (hearing/speech impaired ONLY—call TTY: 1-800-462-7585), visit a Disaster Recovery Center, or write to FEMA at the address provided on any correspondence you have received.

What are FEMA's citizenship/immigration requirements?

You must be a U.S. citizen or a "qualified alien" to receive FEMA financial assistance. If you or your spouse are not U.S. citizens or considered "qualified aliens," but your child is, then your household can apply on his or her behalf. FEMA can provide information on how to obtain a Social Security number for a minor child. The minor child must live with the parent/guardian applying on his/her behalf. One does not have to be a U.S. citizen or a qualified alien for crisis counseling, disaster legal services, or other short-term, non-cash emergency assistance. Voluntary agencies provide help regardless of immigration status.

I had extenuating circumstances that prevented me from applying for assistance before the registration filing deadline. I have damages from the disaster, what can I do?

Apply anyway. You may make a late registration within sixty days after the filing deadline. A letter will be sent stating you are not eligible for consideration for disaster assistance under the Individuals and Households program. The letter will contain information on how you can appeal this decision if you had extenuating circumstances that kept you from filing during the open registration period.

Will FEMA help me pay my utility bills?

No, FEMA cannot pay utility bills. However, local charitable organizations may be able to help for a short time. We suggest you contact the Red Cross (www.redcross.org) or your local United Way office by calling for a referral to a local agency that may be able to help.

I lost my food because of the power outage; will I be reimbursed for it?

FEMA's disaster assistance program does not cover food losses. Voluntary organizations in the disaster area may be able to help you with a hot meal or other immediate needs for food. You may also qualify for assistance through the Disaster Supplemental Nutrition Assistance Program (SNAP).

I have trees down all over my yard. Is there any help for debris removal?

Many homeowners' insurance policies cover debris removal. FEMA does not typically pay for cleaning up debris on private property or in gated communities, but if the debris is keeping you or emergency workers from safely getting to your home, FEMA may be able to provide help. Your local officials can also tell you if there is a pickup schedule for debris in your area.

I purchased a generator. Will I be reimbursed?

FEMA reviews requests for reimbursement of the cost of a generator on a case-by-case basis and determines if a generator was purchased to overcome a disaster-related hardship, injury, or adverse condition. You should register and submit your receipts to see if the cost is covered.

Does disaster help have to be repaid?

A grant from the FEMA Individual and Households Program does not have to be repaid. Loans from the Small Business Administration must be repaid.

FEMA told me to send in my receipts. What is the mailing address?

Please mail all correspondences to the following address:

FEMA – Individual and Households Program

National Processing Service Center

P.O. Box 10055

Hyattsville, MD 20782-8055; or

Fax it to 1-800-827-8112; or

Upload from your personal computer to your online account at: <http://www.disasterassistance.gov/>.

Please write your name, last four digits of your Social Security number, disaster number, and registration

INSPECTIONS

The inspector told me I was going to get money from FEMA. However, I got a letter from FEMA stating that I was not eligible. Which is correct?

The letter is correct. The inspectors are FEMA contractors and are not authorized to comment on eligibility. Inspectors record their determinations about what damage the disaster caused to your home and other property and provide that information to FEMA in the form of an inspection report. FEMA then relies on that information and its own standards to determine your eligibility.

What will FEMA accept as proof that I occupied my home?

There are several documents that may be used to prove occupancy. They include, but are not limited to: a mortgage statement or a lease for the damaged dwelling; a utility bill for the damaged dwelling you are occupying; a merchant's statement sent to the damaged dwelling; an employer's pay statement sent to the damaged dwelling; or a current driver's license showing the address of the damaged dwelling.

What will FEMA accept as proof that I own my home?

There are several documents that may be used to prove ownership. They include but are not limited to: the deed; deed of trust; mortgage payment book or other mortgage documents; real property insurance policy; tax receipts; or property tax bill; or documentation showing that the applicant was responsible for maintenance of the home. There are three ways to be treated as an owner-occupant for FEMA benefits. Option one is to demonstrate legal ownership. Option two allows people who do NOT hold legal title, pay no rent, but who are responsible for the payment of taxes or maintenance of the residence, to prove ownership. Option three is for people with a life estate. See 44 C.F.R. § 206.111.

My inspector called me, and I missed the call. How do I contact the inspector?

The FEMA inspectors are out on inspections most days and cannot be reached while they are inspecting a home. You should wait for the FEMA inspector to call you again. The FEMA inspectors will try to call you three times to arrange an appointment to inspect your property. Inspectors will call your current phone contact number and the alternate if you provided one. The inspector may leave a notice at your damaged home with contact information if they cannot reach you by phone.

RETURNING FUNDS

I need to return a check or pay money back to FEMA. Where do I send it?

Treasury Checks: If you have not cashed the treasury check and wish to return it, or if you have been advised in an official letter from FEMA to return the check, mail it to: Department of the Treasury, P.O. Box 51320, Philadelphia, PA 19115-6320. Include your name, Social Security number, and FEMA application #.

Personal Checks/Cashier's Checks/Money Orders: If you have already cashed the treasury check and wish to return the funds, or you have been advised in an official letter from FEMA to return the payment, send your personal check (or money order/cashier's check), by regular mail to: FEMA, P.O. Box 530217, Atlanta, GA 30353-0217. If you send your payment by courier (i.e., UPS, DHL, or FedEx), send it to: FEMA, Bank of America, Lockbox Number 530217, 1075 Loop Rd., Atlanta, GA 30337-6002. DO NOT send cash. Include a brief statement explaining why you are sending funds to FEMA. Include your name, social security number, and FEMA application #.

State Checks: If you have received a check from your state for your damaged personal property and wish to return the check or have been advised in a letter to return the funds, you will need to mail the check/payment back to the state. The address will be listed on the letter that accompanied your check.

INSURANCE

I have insurance and filed a claim with my insurance agent, but I don't have a place to live. Is there any help for me?

FEMA cannot duplicate assistance from your insurance company. If you still have serious unmet needs after receiving your insurance settlement, FEMA may be able to provide assistance. If you are unable to locate a place to rent, you can visit a local Disaster Recovery Center (DRC) or call FEMA's helpline at 1-800-621-FEMA (3362) to get the list of rental resources in your area.

I have received a settlement from my insurance company and it is not enough to cover my losses. What should I do now?

FEMA recommends the following: Read over your settlement documents carefully and be sure you understand your policy. If you believe a mistake has been made, contact your insurance agent. If you are still not satisfied, your agent can tell you how to contest the settlement. Next, call FEMA at 1-800-621-FEMA. FEMA, SBA, and other agencies may be able to help cover those losses that are uninsured or underinsured, and otherwise eligible.

Are insurance deductibles covered under FEMA's programs?

FEMA does not cover insurance deductibles. If your insurance settlement does not meet your disaster-related needs, you may be eligible for assistance from FEMA or the SBA. There can be no duplication of these programs.

What documents does FEMA want from my insurance company?

If you apply for help from FEMA because your insurance does not cover all of your disaster-related needs, you need to write a letter to FEMA explaining your situation and include a copy of a settlement or denial letter from your insurance company. FEMA cannot duplicate any insurance coverage. It is important that you get a denial of displaced housing immediately, so that you can ask FEMA to cover your temporary housing. This is not an income qualifying program.

Do I have to file a claim with my insurance company since I have to pay a deductible? Why can't FEMA just help me?

By law, FEMA cannot give you money for items that your insurance covers, (this would be considered a duplication of benefits), but FEMA may be able to help with uncompensated losses or unmet needs not covered by your insurance company. If you have not already contacted your insurance agent to file a claim, please do this as soon as possible. If you do not file a claim with your insurance company, FEMA help may be limited. If your insurance company tells you that your deductible is greater than the amount of damage found, please request a letter from the insurance company, on company letterhead, and send it to FEMA, along with your application for assistance.

My insurance company told me it would be weeks before they come to see my damages. Can FEMA help?

If a decision on your insurance settlement has been delayed for more than thirty days after you filed the insurance claim, you may be eligible for an insurance advancement from FEMA. These funds are considered a loan and must be repaid to FEMA once you receive your settlement from your insurance company. You need to write a letter to FEMA, explaining the circumstances of the delay in settlement. Include documentation from the insurance company as proof of filing, or the claim number, the date filed, and an estimate of how long the settlement will take, if you filed by phone. FEMA will send you a Request for Advancement and Signature letter. You must complete and return this letter before FEMA can evaluate your request for assistance.

EMPLOYMENT ISSUES

I lost my job because of the disaster and am unable to make my mortgage (or rent) payments. Will FEMA make payments until I can return to work?

No. FEMA is not authorized to make such payments. If you lost work because of the disaster, you may qualify for Disaster Unemployment Assistance (DUA). The DUA program covers most people affected by a disaster, including many who do not normally qualify for regular unemployment aid. Also, be sure to speak to your lender or landlord and explain your circumstances. Special arrangements can often be made.

I have not been able to work since the disaster hit. My employer says that I still have a job, but I am not drawing a paycheck. Does FEMA pay for lost wages?

If you lost work because of the disaster you may qualify for Disaster Unemployment Assistance (DUA). Applicants must mail in or fax all required documentation within twenty-one days from the date of the DUA application. Individuals whose employment has been affected should apply for DUA by calling the Claims Call Center at (605)-626-3179, Monday through Friday from 8 a.m. to 4:20 p.m. CST. Please specify your claim is related to DUA and the storms.

You will need: (1) your Social Security number; (2) copies of your most recent federal income tax forms or check stubs; and (3) documentation of employment, self-employment or prospective work when the disaster occurred.

I had damages to my farm or ranch. Can FEMA help me?

If you sustained damages to your home or personal property, you should apply with FEMA for assistance. If you had damages to your crops, livestock, farm equipment, barns, dairy, or something similar, you should contact your local Farm Services Agency office to inquire about the USDA's disaster assistance program.

FEMA does not offer grant assistance to businesses and farmers but does act as a referral agency. FEMA may also maintain a list of additional referral resources for business owners and farmers that can be accessed at FEMA.gov/disasters and selecting your state, or by calling the FEMA Helpline (1-800-621-3362).

ROAD & BRIDGE DAMAGE

My home is not damaged; however, a public road or bridge has been damaged and is preventing access to my home. Can FEMA help me?

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

If I own the bridge and/or road that is damaged, should I apply for assistance?

Yes, if the private road or bridge damage prevents or restricts access to your home, FEMA may be able to provide assistance. FEMA's Individual Assistance program could cover the expenses of repairing privately owned access roads if the following criteria are met:

- It is the applicant's primary residence;
- It is the only access to the property;
- It is impossible to access the home with the damaged infrastructure; or
- The safety of the occupants could be adversely affected.

Private property owners, established homeowners' associations, and properties governed by covenant may apply for a low-interest disaster loan directly through the Small Business Administration (SBA).

What if I share ownership and responsibility for the road bridge with other families, do they all need to register?

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

SMALL BUSINESS ADMINISTRATION (SBA)

Why am I being referred to the SBA?

The Small Business Administration (SBA) is the primary source of federal funds for long-term recovery assistance for disaster victims. SBA loans are not only for businesses. The SBA has low-interest disaster loans for homeowners, renters and non-farm businesses to cover disaster damage to real and personal property. Filling out the application is necessary for most homeowners and renters to be considered for all forms of disaster assistance.

Does the SBA make loans to individuals or just businesses?

The SBA can loan money to homeowners, renters, and business owners. Homeowners may borrow up to \$200,000 for disaster-related home repairs. Homeowners and renters may borrow up to \$40,000 to replace disaster-damaged personal property including vehicles. The SBA may not duplicate benefits from your insurance or FEMA. You may receive an SBA referral when you apply with FEMA. If the applicant does not qualify for a low-interest SBA loan, FEMA may be able to offer them additional disaster grants that help reimburse for lost personal property, vehicle repair or replacement, and moving and storage expenses.

How do I reach the SBA hotline?

The SBA has loan officers in the Disaster Recovery Centers to provide face-to-face service to disaster victims. You may visit the SBA at any of these locations without an appointment. An SBA representative will be glad to answer questions and help complete your application. To find out where the SBA disaster offices are located, an applicant can call the SBA toll-free at 1-800-659-2955 or email the SBA disaster customer service at <mailto:disastercustomerservice@sba.gov>.

May I terminate my lease because of the disaster?

South Dakota has specific health and safety codes that provide minimum standards for rental properties. According to South Dakota state law, a landlord must provide habitable premises include the following:

Habitability: This means the landlord must keep the premises and all common areas in reasonable repair and fit for human habitation and in good and safe working order, except when the disrepair was caused by tenant action or negligence.

Maintenance: Maintain in good and safe working order and condition all electrical, plumbing, or heating systems of the premises, except when the disrepair has been caused by tenant action or negligence.

If the above standards are not met, the tenant can give proper notice to the landlord to make repairs. If these repairs are not made within an allowable time period, a tenant is considered “constructively evicted.” This means the obligations of the tenant under the lease are no longer enforceable, given that the landlord has not met their responsibilities under South Dakota landlord-tenant law.

NOTE: Most leases have specific provisions that apply if space is totally destroyed, and these provisions dictate the rights of the tenant and landlord.

If the premises are totally uninhabitable because of the disaster, do I have to permanently move out even though I want to stay?

It depends. A tenant must move out if the dwelling is totally destroyed and it is unlawful to remain in the home. However, the landlord may agree to keep the lease in effect while the dwelling is being repaired. Some landlords may be willing to keep the lease in effect and suspend all rent payments if the tenant does not stay in the dwelling while the landlord is trying to repair or restore the damage from the disaster. In major repair situations, the landlord usually wants the premises empty for efficient repair and avoidance of personal injury liability. If you would like to keep the lease in force and suspend all rent payments until the dwelling is repaired, you should discuss this with your landlord.

If the dwelling is partially uninhabitable because of the disaster and if I do not want to permanently move out, can my rent be partially abated (temporarily reduced)?

Read the terms of your lease to see if it discusses rent abatement. If the lease says nothing about it then talk to your landlord, and if the landlord allows it, make sure to get that in writing. Reducing the amount you pay your landlord can have other legal consequences, including your landlord claiming that you are not paying the amount of rent you owe and trying to legally evict you. Do not pay your landlord less in rent unless you have an agreement in writing with your landlord setting forth the new rent amount, or without first speaking with an attorney.

May I withhold payment of rent because of the disaster or because the landlord failed to timely repair the dwelling after the disaster?

If, after the disaster, the lease has not been terminated, the tenant has the right to repair and deduct the amount of the repair after written notice has been given and reasonable time passes, if the landlord has not made the repairs. The tenant may then make needed repairs and subtract the cost of the repairs from the rent. If the cost of needed repairs is more than one month's rent, the tenant must put the rent in a bank account opened only for the purpose of depositing the withheld rent. The tenant must give the landlord written proof of the rent money deposits into the account. The bank account is to be kept until either the landlord makes the repairs (the rent in the account is then given to the landlord), or enough rent is in the account for the tenant to make the repairs. The tenant then uses the money for the repairs and gives copies of the receipts for the work, and any remaining rent money, to the landlord.

Do I have to keep paying rent to my landlord while I am not living at my rental premises?

If it has been determined that the destruction to the dwelling was total so that there is nothing upon which your lease can operate, the agreement to pay rent is extinguished. If the premises are not totally destroyed, but require repair, are not fit for human habitation, are not in good and safe working order and the tenant has given reasonable notice, the tenant can then terminate the lease and thus not pay rent. Make sure to save a copy of any notice you send to your landlord.

What can happen and what should I do if I cannot pay the rent on my dwelling because of job or salary interruptions following the disaster?

Always refer to your lease to see if this is addressed. You should talk with your landlord. If you think you will be able to pay your rent soon, your landlord might agree to let you stay until you can pay. If you are expecting to receive money soon, you should try to take proof of that to the landlord so the landlord knows you will be getting money soon. Make sure to get any agreement with the landlord in writing. A landlord can evict a tenant for failure to pay rent.

In most cases, the landlord must provide the tenant with a written **Three (3) Day Notice**: the notice tells the tenant that he/she has three days to leave the rental unit or legal action will begin to force the tenant out. The three days or three business days do not include Saturdays, Sundays, or legal holidays. If the tenant remains in the rental unit after three days, the landlord must have a summons and complaint personally served on the tenant. A summons and complaint are legal papers which begin legal action in court. The tenant should see an attorney immediately since he/she has only **four (4) business days** to respond to the summons and complaint of the landlord by serving a document called an answer.

If the tenant does not answer within **four days** of receiving the summons and complaint, the landlord can get a court order which orders the County Sheriff to move the tenant out of the rental unit. If the tenant obtains an attorney and answers, claiming that he/she has the right to stay in the rental unit, a trial will be held in court. The judge will then listen to both the landlord's side and the tenant's side and decide if the tenant should be evicted or if he/she can remain in the rental unit. If the tenant moves out before the trial, the eviction action may end, but the landlord can continue the action for any rent and/or damages caused by the tenant to the rental unit, as well as monetary damages caused by the tenant's failure to move.

If the landlord wins the trial, the court will order the tenant to leave the rental unit and to pay any rent due. The tenant may also be ordered to pay the landlord's attorney fees and costs of the court action (filing and service fees, etc.) In some cases, the landlord can recover double rent for the time the tenant has remained in the rental unit after the end of the three-day notice to vacate period.

If the tenant wins at trial, he/she will be allowed to remain living in the rental unit for the length of the rental agreement. This would not prevent the landlord from giving the tenant a month's notice to move if the lease is month-to-month and not a subsidized housing lease. Even if the tenant wins, he/she will still have to pay rent.

How could I pay rent if I wanted to?

Your lease should spell out this process, but if not, you should ask your landlord. Be sure to keep a copy of the payment tendered or get a receipt for your records.

How do I contact my landlord?

During disasters, phone networks may not be working. If you know where your landlord lives, you should try contacting your landlord there, but you may need to rely on your landlord's other tenants, friends, or family for help locating your landlord.

Can my landlord rent my home/apartment to someone else while I am gone?

No. South Dakota law requires landlords to "deliver the leased premises to the tenant" and secure their quiet enjoyment thereof against all lawful claimants. This means the landlord cannot gain possession unless there has been a default by the tenant, or the lease has been terminated.

My landlord told me to move out the next day because he wants the dwelling for his daughter who lost her house in the flood. He told me if I do not move out, he would change the locks. Do I have to move out?

No. The landlord must honor the lease unless the dwelling is totally destroyed, or the lease has otherwise been properly terminated. If the landlord unlawfully locks you out, you should contact a lawyer. If you are low income and live in the eastern half of the state, you can call 1-877-870-1250 for information or possible representation by East River Legal Services. If you are low-income and live in the western half of the state, you can call (605)-336-9230 for information or possible representation by Dakota Plains Legal Services. If you are low income you can also call 1-855-287-3510 for information or possible representation by SD Access to Justice. You can also apply online for all three agencies at sdlawhelp.org.

What should I do if I am served with an eviction lawsuit?

The tenant should see an attorney immediately since he/she has only **four (4) business days** to respond to the summons and complaint of the landlord by serving a document called an answer.

May I recover damages against my landlord for injuries or property damage I suffered as a result of the disaster?

No, this is why it is important to have renter's insurance. When the injury or property damage results from a natural disaster and not from the landlord's negligence, the landlord is not liable for such injuries or property damage. However, the law does not prevent suits against the landlord for injuries or property damage resulting from the landlord's negligence. The landlord can therefore be sued if the landlord's negligence caused or contributed to the tenant's injuries or damage from the disaster.

What should I do if I do not have insurance on my personal belongings?

Unfortunately, the obligation to replace your belongings falls on you. This is why it is crucial to have renter's insurance.

Is flood damage covered under my insurance policy?

It depends on your policy. You should check your policy or contact your insurance agent.

Does my automobile insurance cover the damage to my car resulting from the disaster?

It depends on your policy. You should check your policy or contact your insurance agent. Your homeowner's insurance policy (sometimes called a "casualty insurance policy," "hazard insurance policy," or "fire and extended coverage policy") generally does not cover flood damage. The policy may cover water damage inside the home from direct or blowing rainfall, but it generally does not cover damage from surface water or rising water. Windstorm insurance normally will be limited to greater-than-normal wind conditions, such as from a hurricane. You should read your policy, talk to your insurance agent, and consult an attorney if you have questions.

All my personal belongings were destroyed when the roof fell in on the place I rent. What help can I get from my insurance company?

If you had renter's insurance or homeowner's contents insurance at the time of the disaster, contact your insurance company. If your situation is desperate, make sure you describe your situation to the insurance company. If the insurance company agrees that there is coverage, you can ask for advance payment to cover a part of your loss.

If my personal belongings are lost or damaged as a result of the flood or other disaster, may I recover them from my landlord under the landlord's hazard insurance policy?

No. The landlord has no "insurable interest" in the tenant's property, and, therefore, the landlord's hazard insurance cannot (and does not) insure the tenant's personal property. However, if the damage or loss of the tenant's property is due in whole or in part to the landlord's negligence, the tenant may be able to sue the landlord and the loss may be covered by the landlord's liability insurance carrier.

May I recover damages against my neighbor whose property damaged my property during the disaster?

The general rule is that a person is not liable for injuries or damages caused by a disaster or "Act of God" where there is no fault or negligence on the part of the owner whose property caused damage to others during the disaster. Therefore, your neighbor is liable only when he or she was negligent and such negligence was a cause of the damage.

What can I do with someone else's property, which the disaster carried onto my land?

When personal property is carried away by flood, wind, or explosion on the land of another, such personal property still belongs to the original owner, and the original owner may enter and retrieve it. If the landowner refuses to let the owner of the personal property enter, or if the landowner appropriates the property for the landowner's use, the owner of the personal property can sue the landowner for the value of the property.

May I sue the local, state, or federal government for damages caused by the disaster?

Usually not. Sovereign immunity protects federal, state, and local governments from most such lawsuits. Under some circumstances, the government may have liability if its employees were negligent and caused the damages, but governmental authorities are generally immune from liability.

REEMPLOYMENT ASSISTANCE BENEFITS

What is reemployment assistance (RA)?

Reemployment Assistance (RA), formerly known as Unemployment Compensation, provides temporary financial assistance to workers who have lost their job. The program is managed by the Department of Labor & Regulation (DOLR) and is financed by employers through payroll taxes. The laws governing RA benefits are set forth in SDCL Title 61.

What are the eligibility requirements for RA?

Eligibility requirements include the following:

1. You must be totally or partially unemployed.
2. You must have worked for an employer that paid reemployment assistance tax on your wages.
3. You must not have been terminated for misconduct or quit without good cause.
4. You must be able and available to accept work.
5. You must actively seek work.
6. You must attend all DLR-required services that provide job assistance.
7. You must be monetarily eligible as determined by the DOLR. This calculation is based upon the amount wages received by you in the “base period,” which looks back to the last five completed calendar quarters. This calculation will also inform your weekly benefit amount.
8. You must be registered with the DOLR through SDWORKS or other acceptance state workforce agency.

When & how do I file for RA benefits?

You should file your initial claim as soon as possible after your separation or reduction in hours. There is a **one-week** waiting period applicable to all applicants, meaning you will not receive benefits for the first week after your separation or reduction in benefits, even if you are otherwise eligible.

You can file your claim online or by phone:

- Online, 24 hours a day.
 - Go to: reclaims.sd.gov
- By phone, M-F 8:00 am – 4:20 pm (Central Time)
 - (605)-626-3179
 - (800)-877-1113 [TTY]

**The call center is closed on state holidays.

You will need the following information to file a claim:

- Social Security Number
- Driver's License or other State ID number
- Alien Registration Number if not a US Citizen
- SF-8 and SF-50 if you are a federal employee
- DD214 if you served in the military

- Your employment history for the **last 18 months**, including:
- Each employer's name, address, and phone number
- Dates of employment (month/year)
- Pay rate
- Reason you are no longer employed there
- Name & number of local union hall (if applicable)
- If you worked for Non-South Dakota employers, you must have an accurate mailing address and telephone number for them

What do I do while my claim is pending?

After you file for benefits you will receive in the mail:

- A Monetary Determination of Benefits showing what your weekly benefit amount will be and your total amount of benefits if you are monetarily eligible.
- A Claimant Checklist with instructions on how and when to file a weekly request for payment.
- The Facts About Reemployment Assistance Benefits handbook (Adobe PDF format) with instructions and answers to many of your questions. You are responsible for knowing the requirements and following the rules.

Watch for and read any information you receive from the DOLR. This may be sent to you electronically or via US Mail. Information may be time sensitive and/or affect your benefit eligibility.

Once you have filed your claim, it will be reviewed to determine if your circumstances meet the eligibility requirements of the Reemployment Assistance program. The information you provide is verified to ensure only those entitled to benefits receive them. It is important to always give complete and true information. Misrepresenting or knowingly withholding information is considered fraud. If you commit fraud you may be denied benefits for future weeks, be required to pay back benefits you received, and be subject to additional penalties.

Most claimants receive a final eligibility determination by mail within **21 days** of receiving your Monetary Determination. If you are deemed eligible, the first weekly request for payment you file will be used as your non-paid waiting week. Everyone serves one waiting week per benefit year.

Delays in Eligibility Notifications:

There are many reasons why an eligibility notification is delayed. These are the most common:

21-Day Wait: Most claimants receive the first payment within **21 days**. This time is needed to perform required due diligence. The DOLR asks for patience in processing claims, and most initial claims are paid in **21 days** on average.

Deductible Income: Certain income a claimant received must be deducted from benefit amounts, including a payout of vacation or severance. A hold is put on the week requested and subsequent requests until they can be reviewed. The DOLR may need to contact the claimant and the employer.

Voluntary Quit from Employment without Good Cause: The claimant or employer indicated the claimant voluntarily left employment for a potentially disqualifying reason, which may include voluntarily quitting.

Quitting a job voluntarily can be the deciding factor on eligibility. Further investigation is required, and input from employer may be requested.

Employment Status: The claimant, employer, or an internal records search indicates the claimant may be working. Further investigation is required. Benefits are for those who are unemployed or partially unemployed. Part-time status could result in partial payment, pending further review.

Clerical Errors/Missing and Incomplete Information: Common errors made when applying include incorrectly entering a Social Security number, birth date, home address or bank account information. Errors are also made on the employer's end. The DOLR has deployed special project teams to look into frequent issues and to contact claimants and employers directly to correct.

Residency: Claimant or a records match indicate non-U.S. citizen status. Further investigation is required. Individuals not legally working, or not legally able to work while claiming benefits, are ineligible. The DOLR will confirm with the federal government whether claimant legally earned wages, and whether they are able to legally work during the benefit period. South Dakota residency is also investigated.

Fraud: Investigation of possible fraud is mandatory and requires additional time. Common example: Claimants who are called back to work and continue to file but do not report hours and wages. A fraud unit investigates each probable case. If benefits received are deemed fraudulent, several requirements must be met to qualify for future benefits, including repayment of all fraudulent benefits.

Appeals: Those who receive an initial ineligible determination have the right to appeal. The appeals process is more involved and requires additional time and research. The record number of claims filed also will result in a record number of appeals. The DOLR's adjudication team has been expanded and trained to render decisions, which takes more time than the **21-day** average.

Not all claimants are paid within the average **21-day** period. Those requiring additional investigation can stem from simple clerical errors to more complex deductible income and job separation issues.

Are disaster unemployment insurance benefits available?

Federally funded disaster-related RA benefits may be available, depending on the circumstances.

Disaster Unemployment Assistance (DUA):

The DUA program provides benefits to individuals who have become unemployed due to a Presidentially declared major disaster. In order to qualify for this benefit your employment or self-employment must have been lost or interrupted as a direct result of a major disaster declared by the President of the United States. You must have been determined not otherwise eligible for regular unemployment insurance benefits (under any state or Federal law). Payment will be made to an unemployed worker, who as a direct result of a Presidentially declared major disaster:

- No longer has a job.
- Is unable to reach their place of work.
- Cannot work due to damage to the place of work.
- Becomes the head of the household and is seeking work because former head of household died as a result of the disaster.
- Cannot work because of a disaster-incurred injury.

In the event of a disaster, the affected state will publish announcements about the availability of Disaster Unemployment Assistance. To file a claim, individuals who are unemployed as a direct result of the disaster should contact their State Unemployment Insurance agency. Individuals who have moved or have been evacuated to another state should also contact the state agency.

Applications for Disaster Unemployment Assistance (DUA) must be filed by an individual within **30 days** of the announcement of the availability of DUA in the state. Individuals must follow the instructions in the announcement and file for DUA based on the filing methods used by the state (i.e. in person, mail, telephone, or internet).

For more information call: 1-877-872-5627

People who are hearing impaired may call this toll-free TTY number: 1-877-889-5627

Pandemic Unemployment Assistance

This program provides up to **39 weeks** of unemployment benefits to individuals who are self-employed, independent contractors, nonprofit employees and gig economy workers, as well as to individuals working part-time, or who otherwise would not qualify for regular UC or EB under state or federal law or PEUC and have had their employment impacted by COVID-19.

Claims can be backdated if the individual meets the eligibility requirements under PUA.

You will need to provide proof of wages when you submit your Pandemic Unemployment Assistance (PUA) application. This can be done by attaching any of the following documents.

- 2019 Federal Tax Return (preferable),
- 2019 1099 - Miscellaneous Income Only,
- 2019 W-2,
- Final pay stub in 2019.

Note: If you are unable to provide proof of your 2019 wages, you will only be allowed the minimum PUA benefit payment of \$172. If and when you provide your proof of earnings for 2019, your claim will be redetermined. If it results in a higher amount, adjusted payments will be issued to you.

To be covered under PUA, individuals must also self-certify they are otherwise able to work and available to work under state law, except that they are unemployed, partially unemployed, unable to work or unavailable to work due to at least one of the several enumerated reasons pertaining to COVID-19. More information and examples can be found at: <https://dlr.sd.gov/ra/cares.aspx#pua>.

PUA benefits are 100% federally funded. Implementation costs and ongoing administrative costs for PUA are 100% federally funded. A claimant can be compensated with this benefit beginning Feb. 2, 2020, or the first week a claimant was unable to work as a result of COVID-19, whichever date is later. The last week this benefit is payable is the week ending Dec. 26, 2020. This benefit also applies to anyone who has exhausted all unemployment insurance payment options at the state or federal level, including the PEUC program.

Pandemic Emergency Unemployment Compensation (PEUC):

The PEUC program provides eligible individuals with up to **13 additional weeks** of benefits to individuals who have exhausted their regular unemployment compensation (UC) entitlement.

PEUC became payable for the week ending April 4, 2020. The last payable week for PEUC benefits is the week ending Dec. 26, 2020. The cost of PEUC benefits is 100% federally funded. Employers cannot be charged for any PEUC benefits paid. Implementation costs and ongoing administrative costs are 100% federally funded.

PEUC is a temporary program providing up to **13 weeks** of 100% federally funded benefits to individuals who:

- Have exhausted all rights to regular compensation under state law or federal law with respect to a benefit year that ended on or after July 1, 2019;
- Have no rights to regular compensation with respect to a week under any other state UC or federal UC law, or compensation under any other federal law;
- Are not receiving compensation with respect to a week under the UC law of Canada; and
- Are able to work, available to work and actively seeking work. Beginning Aug. 2, 2020, and after, unemployment claimants must report at least two work search activities in the weekly payment request to be eligible. This is effective for the claim week ending Aug. 8, 2020. Failure to do so will result in ineligibility and no payment for that claim week. This requirement was previously waived due to the COVID-19 pandemic.

An individual has exhausted benefits when:

- No payments of regular UC may be made under state law because such individual has received all available regular UC based on employment or wages during the individual's base period; or
- The individual's right to regular UC benefits has been terminated by reason of expiration of the benefit year with respect to which such rights existed (excluding any benefit year that ended before July 1, 2019).

PEUC claims are now being taken. Claims can be backdated if the individual meets the eligibility requirements under PEUC.

Individuals can reopen their claim if their benefit year has not ended. If unable to reopen, then individuals must file a new initial claim. You can file a claim online or by telephone. Filing online is available 24 hours a day, seven days a week. To file by telephone, contact the Claims Call Center at (605)-626-3179, Monday through Friday, 8 a.m. to 4:20 p.m. (Central Time). For TTY service, dial 711 or 800-877-1113. Translator services are available on request.

EMPLOYEE RIGHTS

Can an employee be terminated without good cause?

South Dakota is an "at-will" employment state. This means the employer can fire you for any reason. However, there are some exceptions.

1. If you have a contract for employment, the contractual terms regarding separation or termination will apply and may override, in whole or in part, the at-will doctrine.
2. An employee handbook may contain an express or implied "for cause only" provision.
3. If you accepted employment after being promised future promotion to a certain position, you may be excepted from the at-will doctrine.
4. If your termination violates public policy, you may have a claim for wrongful termination. This exception is very narrowly construed and, to date, there are only three recognized types of

terminations that violate public policy: termination in retaliation for filing a worker's compensation claim, termination for failure to commit a crime, and termination in retaliation for whistleblowing that serves a public purpose.

5. You cannot be fired for your personal use of tobacco.
6. Finally, you cannot be fired for discriminatory reasons in violation of state or federal law. This is discussed in more detail below.

What is employment discrimination?

State and federal law prohibit an employer from taking adverse employment action against an employee because of the employee's race, color, creed, religion, sex (including sexual orientation and gender identity), ancestry, disability or national origin, age, military duty, exercise/invocation of certain rights (OSHA, FMLA, FLSA, and more) or disability.

Prohibited adverse actions include termination, demotion, reduction in pay, re-assignment, failure to hire, working conditions, denial of benefits, and more.

If you believe you have been terminated due to a discriminatory reason, you should contact the South Dakota Division of Human Rights or the Equal Opportunity Commission.

The South Dakota Division of Human Rights:

The Division of Human Rights promotes equal opportunity by administering the South Dakota Human Relations Act of 1972. It does this in several different ways:

- The Division investigates formal complaints filed by people who believe they have been discriminated against. If it finds a complaint is justified, the Division will attempt to settle the complaint by conference and conciliation, and to permanently correct any discriminatory practices.
- The Human Rights Commission holds public hearings on justified complaints when voluntary settlement is not successful. When the Commission finds a violation of the law as a result of the hearing, it issues final orders to correct any discriminatory practices and to prevent them from happening again.
- The Division offers technical assistance to employers, labor unions, real estate agents, landlords and any others interested in affirmative action and voluntary compliance with South Dakota law.
- The Division provides public information and works with individuals, civil rights groups, and civic and professional organizations to promote equal opportunity for all South Dakotans.

The role of the Human Rights Division does not include taking sides. They do not represent the individual filing a charge of discrimination. Nor do they defend the party being charged.

The Human Rights Division has no jurisdiction over:

- Federal employees filing against a federal employer.
- Police and sheriff misconduct.
- Judicial or court matters.
- Characteristics such as personal appearance, political affiliation, lack of education and training, short-term disabilities and personality conflicts.

Contact the Division at the following:
Division of Human Rights
South Dakota Department of Labor and Regulation
123 W. Missouri Ave.
Pierre, SD 57501
Phone: (605)-773-3681
Fax: (605)-773-4211

The Equal Employment Opportunity Commission:

The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy, transgender status, and sexual orientation), national origin, age (40 or older), disability or genetic information.

Most employers with at least 15 employees are covered by EEOC laws (20 employees in age discrimination cases). Most labor unions and employment agencies are also covered.

The laws apply to all types of work situations, including hiring, firing, promotions, harassment, training, wages, and benefits.

The EEOC has the authority to investigate charges of discrimination against employers who are covered by the law. Their role in an investigation is to fairly and accurately assess the allegations in the charge and then make a finding. If they find that discrimination has occurred, they will try to settle the charge. If they are not successful, they have the authority to file a lawsuit to protect the rights of individuals and the interests of the public and to litigate a small percentage of these cases. When deciding to file a lawsuit, the EEOC considers several factors such as the strength of the evidence, the issues in the case, and the wider impact the lawsuit could have on the EEOC's efforts to combat workplace discrimination.

The EEOC also works to prevent discrimination before it occurs through outreach, education, and technical assistance programs.

The EEOC provides leadership and guidance to federal agencies on all aspects of the federal government's equal employment opportunity program. EEOC assures federal agency and department compliance with EEOC regulations, provides technical assistance to federal agencies concerning EEO complaint adjudication, monitors and evaluates federal agencies' affirmative employment programs, develops and distributes federal sector educational materials and conducts training for stakeholders, provides guidance and assistance to our Administrative Judges who conduct hearings on EEO complaints, and adjudicates appeals from administrative decisions made by federal agencies on EEO complaints.

Contact the EEOC at the following:
Minneapolis Area EEOC Office
Towle Building
330 South Second Avenue, Suite 720
Minneapolis, MN 55401-2224
United States
Phone (612)-552-7306
Fax: (612)-335-4066

TTY: 1-800-669-6820
ASL Video Phone: 844-234-5122
1-800-669-4000
1-800-669-6820 (TTY for Deaf/Hard of Hearing callers only)
1-844-234-5122 (ASL Video Phone for Deaf/Hard of Hearing callers only)
info@eeoc.gov

Wage and Hour Laws:

Federal and state laws set forth the minimum wage, overtime requirements, working conditions, and more. These rights are enforced by the U.S. Department of Labor's Wage and Hour Division or the South Dakota Department of Labor and Regulation.

South Dakota Department of Labor and Regulation
Division of Labor and Management
123 W. Missouri Ave.
Pierre, SD 57501
Phone: (605)-773-3681

U.S. Department of Labor
Wage & Hour Division
Denver District Office
721 19th Street, Suite 114
Denver, CO 80202-5712
Phone: (720)-264-3250
Toll Free: 1-866-4-USWAGE (1-866-487-9243)

What is an employer's obligation with respect to group insurance?

If an employer had to close your place of work this would eliminate the group insurance coverage for you and your dependents. However, your employer would be required to give you notice of this and inform you of your conversion rights, under COBRA, to switch your group coverage to individual coverage. Typically, COBRA allows former employees to continue the same coverage in an individual policy for up to **18 months**.

What can employers do with regards to the payment of wages upon separation of employment?

South Dakota law provides that, upon separation, an employee's "unpaid wages or compensation ... are due and payable not later than the next regular stated pay day for which those hours would have normally been paid or as soon thereafter as the employee returns to the employer all property of the employer in the employee's possession."

The decision of whether to pay out unpaid but earned vacation, sick leave, or PTO is the employer's decision, and will generally be set forth in the employee handbook.

Sources:

SDCL
EEOC website
SD DOLR website
US DOL website

Someone claiming to be from my bank is calling me and asking me for my personal account information. Should I provide this person with personal account information?

No! Your bank will never call you asking for your account information. If you receive such a call, be careful, it is a person trying to scam you out of your money. Unfortunately, scammers tend to be active during times of disaster and crisis. If this happens to you, simply hang up the phone and call a known phone number for your bank. Please visit with a person at your bank that you know and always call a known phone number when you need to visit with someone at your bank.

My direct deposit is not showing up in my account, and I need money. Is there somebody who can help me clear this up with the bank?

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

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

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

I am no longer working due to the storm and do not have the income to live on and meet my payments. If I miss some loan payments, how will this affect my credit? Will I be charged late fees?

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

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

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

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

Some banks may help because of the disaster; however, not all banks offer unsecured loans. You can contact your bank directly to see if they have adopted a policy for assisting displaced people.

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

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

How will I get my Social Security check?

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

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

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

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

Equifax: 1-888-548-7878 or www.equifax.com

Experian: 1-888-EXPERIAN (397-3742) or www.experian.com

TransUnion: 1-888-909-8872 or www.transunion.com

What happens if my bank has lost my records?

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

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

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

Disasters are breeding grounds for unscrupulous consumer practices. Disaster victims, particularly senior citizens, the disabled, and limited English or non-English speaking persons are vulnerable to scams. Consumer information is essential to prevent victimizations.

Note: The information contained in this section is designed to help a volunteer attorney provide preliminary guidance to victims of consumer fraud or those with debtor/creditor problems in South Dakota. In most instances, the matters should be referred to the South Dakota Attorney General in-state 1-800-300-1986 or (605)-773-4400. These matters can also be referred by fax (605)-773-7163 or to the address of the Office of Attorney General Division of Consumer Protection, 1302 E, Highway 14, Suite 3, Pierre, SD 57501.

Be Cautious about the Following Scams

Appliances:

After a disaster it is important to think about replacing appliances that may have been damaged for safety reasons. Damaged appliances can cause fires, explosions, or electrical shock. If your appliance technician says that you need to replace an expensive or major appliance, you should ask for their own opinion, what materials would be used and what replacement costs would be in writing; and discuss this with your insurance adjuster before committing to anything. It would not hurt getting a second opinion. Do not pay for anything upfront or if the work is not completed.

Automobiles:

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

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

Before buying a used car, get the Vehicle Identification Number (VIN) to do a title search for the current owner’s name and address, purchase date, purchase price, and sales tax. Check if the owner of the car is a car dealer and verify the odometer reading. The National Insurance Crime Bureau (NICB) has a database for salvaged vehicles that you can check if you have the VIN.

Charity scams:

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

- Requests for donations due to people needing help urgently.
- A charity name you have never heard of before. Go to www.give.org to find out if the charity actually exists. Get a number to call to see if it is real. Ask for a brochure to be sent to you in the mail.
- A charity that cannot send you a brochure, donor form, or that does not have a website.
- Door to door solicitors that accept donations made out to them personally.
- If the only way you can donate is by giving cash to the solicitor.
- If you are asked over the phone to provide your confidential information (i.e. a credit card number or bank account number).

Debris Removal:

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

- Check with local officials to find out whether tree and debris removal contractors need to be licensed in your area. If so, confirm that the license for the contract in your area needs to be licensed. If so, confirm that the license for the contractor you are considering is current. Never sign any document or pay any contractor before verifying their license.
- Call South Dakota Consumers Protection Office at 1-800-300-1986 or (605)-773-4400
- Ask a contractor to provide their license and certificate of insurance and workmen's compensation once they are on your property. If the contractor says certain work is covered by your insurance call your insurance company to confirm.
- Get a written estimate and signed written contract that includes a description of the work to be performed, what materials are included, when the work will be finished, the price, address, and phone number of the contractor. Read all agreements carefully before you sign. Make sure all blanks in a bid or contract are filled in. Speak with your neighbors about what they are paying for similar work.
- Pay with a credit card or check and be wary of contractors who ask for a deposit in cash or to be paid in cash. Negotiate reasonable down payment with full payment to be made only upon satisfactory completion of the work.
- Trust your gut. If you have any doubts about hiring someone or entering into a contract take your business elsewhere.

Door to Door Salespeople:

When buying from door to door salespeople, make sure to get prices and warranties in writing. Also be sure to **read contracts before signing them**. Do not sign any documents that have not been fully completed.

Asking the right questions when approached by those vendors can help to avoid making a purchase you may regret.

- Get the price quote in advance, in writing.
- Ask if they have a permanent address and phone number.
- Get a list of local references and check them before deciding.
- Be careful about paying for work in advance.
- Get something in writing with the company's name, address and phone number.
- Ask to see their current South Dakota tax license. They must have one to do business in our state.
- Ask the salesperson about any product warranties, guarantees, etc.
- Find out if they have workman's compensation and general liability insurance, if they do not, you

could be liable for accidents that occur on your property.

- Do not pay more for the job than originally quoted unless you have given written approval for additional work or cost.
- We recommend that all payments be made out to the company, not in the name of the salesperson or associate.

All sellers must provide you with a contract or receipt at the time of sale showing the date, merchant's name and address, and a statement informing you of your right to cancel purchases made at your home or location other than the place of business of seller.

This law does not cover purchases under \$25.00 items purchased at home parties, or purchases that began in the seller's place of business. The seller must inform you of your Three-Day Right to Cancel and supply you a duplicate Notice of Cancellation. The seller is also prohibited by South Dakota Law from putting any language on the contract/receipt that nullifies the Three-Day Right to Cancel.

To cancel your purchase, you must mail one copy of the Notice of Cancellation and a copy of your receipt to the business, **before midnight on the third business day after the sale**. We recommend that the Notice of Cancellation be sent by Certified Mail.

If you cancel, the seller must cancel and return any papers you signed with **ten (10) days**. The seller must refund all your money and tell you whether any product left with you will be picked up. The seller must also return any trade-ins. After proper cancellation, the seller has **ten (10) days** to refund your money.

Fake disaster Official:

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

Home Equity Fraud:

Home equity is the market value of the home minus the mortgage and other liens on the home. For example, if a home's market value is \$100,000 and the mortgage and all liens are \$80,000 the equity is \$20,000 ($100,000 - \$80,000 = \$20,000$)

Home equity fraud is the taking of a homeowner's equity by fraudulent means. Victims of home equity fraud are most often elderly persons, particularly widows over age 70, minorities with limited English skills, and homeowners with fixed incomes below \$24,000.

Identity Theft:

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

Take care with your Social Security Number. Scam artists will try to get it from you. If you mistakenly give your personal information to a scam artist, if your wallet or purse is stolen, or if you want to better prepare yourself against identify theft:

- Call the credit card companies and notify them your card was stolen.
- Place a fraud alert and get your credit report.
- Close new accounts opened in your name.
- Remove bogus charges from your accounts.
- Correct your credit report.
- Consider adding extended fraud or credit freeze.
- Equifax 800-525-6285.
- Experian 888-397-3742.
- Trans Union 800-680-7289.
- Report identity theft to the Federal Trade Commission.

For more detailed information regarding these steps visit, <https://www.consumer.ftc.gov/features/feature-0014-identity-theft> or call 1-877 IDTHEFT (438-4338) for more information on how to respond to fraud or protect your personal information.

Job Scams:

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

Make sure to check out the legitimacy of anyone offering you a job or of a job placing service. You should look them up on Better Business Bureau or contact the South Dakota Attorney General's Office.

Pest Control:

When disaster happens you may have to deal with pests. Before hiring any company, you should:

- Be wary of exterminators who show up uninvited and offer a free inspection. They may use scare tactics to pressure you into authorizing immediate and costly treatments.
- Deal with a qualified and licensed pest management company.
- Ask friends and neighbors to recommend pest control companies they have used successfully and how satisfied they were with the service. You can do this online through a community bulletin board or neighborhood list serve.
- Get bids from several companies. Ask about their training, and their approach to controlling pests.
- Be wary of choosing a company based on price alone. Quality is the most important factor.
- Before you sign a contract, get details on the extent of the infestation, the proposed work plan, and the number of visits required and anticipated to solve the problem. A reputable company will inspect your property before quoting you a price or beginning any pesticide application. The company also should give you a written inspecting report and a plan for preparing for treatment and preventing further infestation.
- Find out if the pest control company has liability insurance to cover any damage that occurs to your home and furnishings during treatment.

- If you get a written “guarantee” look for what it covers for continuing control, prevention and management.
- Read EPA’s Citizen’s Guide to pest Control and pesticide Safety, which offer more tips on how to choose a pest control company.

Price Gouging:

Price Gouging during a disaster is to take advantage by selling or leasing fuel, food, medicine, or other necessities at an exorbitant or excessive price, or even demanding exorbitant or excessive prices for these items. If any of the previous listed consumer complaints occur, a complaint should be filed with the Consumer Protection Division of the Attorney General’s Office for investigation and resolution.

Rental Listing Scams:

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

Utility related Scams:

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

Water Treatment or Purification Devices:

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

Victims of Scams:

If you or someone you know is a victim of the any of the above scams, contact the South Dakota Attorney’s General Consumer Protection Office at 1-800-300-1986 or (605)-773-4400, or you can file a complaint with the FTC at <https://www.ftccomplaintassistant.gov/#crnt&panel1-1>. You can also go to the Federal Trade Commission website and click on scams and see the listed Scams alert for a brief description.

Have doubts about the vendor or think you may have been scammed?

Contact the Attorney General’s Office, Division of Consumer Protection at 1-800-300-1986 or (605)-773-4400, or through their website at <https://consumer.sd.gov/contact.aspx>. You can also contact your local police department or county sheriff’s office. Be prepared to give as much information as you can about the vendor, including the name of the company and salesperson; company address and telephone number; and make, model and license number (if possible) of the vehicle the vendor was driving. Without tips from the public, law enforcement officials may not be able to catch illegal vendors before they move on to the

next community.

For more information on transient vendors, contact the SD Department of Revenue at 1-800-829-9188 and the Division of Consumer Protection at www.consumer.sd.gov or at either 1-800-300-1986 or (605)-773-4400.

The Federal Cooling Off Rule also has a rule for cooling off periods for sales made at homes or certain other locations (16 CFR Part 429 have **exempted sales that involve:**

- Real Estate, insurance or securities,
- Automobiles, vans, trucks, or other motor vehicles sold at temporary locations, provided the seller has at least one permanent place of business,
- Arts or crafts sold at fairs or locations such as shopping malls, civic centers, and schools.)

If a consumer paid for a purchase with a credit card and a billing dispute arises about the purchase (for example, if the merchandise shipped was not what was ordered) the consumer can notify the credit card company that they want to dispute the purchase. An example letter can be found at the following link under the "Exercise Your Rights" subheading at <https://www.consumer.ftc.gov/articles/0219-disputing-credit-card-charges>.

Frequently Asked Questions

What can I do to protect myself from unscrupulous contractors?

Before contracting for any services, the consumer should:

- Verify licensing, if applicable, with appropriate regulatory agencies.
- Verify company legitimacy with local Business Bureau.
- Obtain comparison bids with a list of services provided and material costs.
- Obtain all estimates in writing.
- Speak with other customers to verify satisfaction.
- Read all contracts or service agreements before signing.
- File complaints with appropriate regularly agencies if confronted with potential fraud or abuse.

Should I enter a lien contract to pay for home repairs?

After a disaster, a homeowner frequently needs major repairs caused by serious damage. This may include roofing and siding, plumbing, electrical wiring, heating and cooling, replacement of damaged structures, interior living quarters, etc. The cost of those repairs is most likely greater than the insurance coverage and the ability of the homeowner to cover. Frequently, a low-income homeowner has deferred maintenance which may make the damage ineligible for FEMA funding.

The homeowner may feel trapped between the high cost of repairs and the limited funding of repairs. Unscrupulous contractors or salespeople will take advantage of the fears of the homeowner and agree to make the repairs at unrealistic prices or via financing schemes.

The salesperson or contractor then induces the homeowner to sign a lien-contract secured by the home. The loan repayment amounts are higher than what the consumer can afford to pay on a fixed income. Alternatively, the contractor provides inadequate repairs or services and the consumer refuses to pay the note to the finance company.

The consumer should be fully aware that the lien-contract functions like a promissory note. If the homeowner misses only one payment the creditor may foreclose and sell the home without ever going to court. The common result is that the homeowner not only fails to have necessary repair work done but loses his/her home through foreclosure.

Should I consider refinancing my home to pay for home repairs or other expenses?

Because of the increased costs of confronting an emergency, consumers frequently fall behind in their credit payments or overextend themselves to the point that they must choose whether to pay creditors or obtain basic necessities such as food. Such consumers are often approached by finance companies who promise to consolidate the homeowner's debt for existing mortgage, credit card debt, car loans and repair loans. They then pressure the homeowner to sign multiple agreements without sufficient time to review them or consult with anyone.

The negative outcomes of such refinancing schemes include high processing fees, payments to bogus/phantom creditors and default on the loan. The homeowner often cannot pay both the refinancing costs and basic living expenses resulting in a situation far worse than before the refinancing.

Lower income and minority borrowers, as well as elderly homeowners, are often targeted by predatory lenders. They encourage borrowers to lie about their income in order to get a loan, knowingly lending the borrower more money than he or she can repay, charge unnecessary fees, pressure homeowners into high risk loans and use high pressure tactics to sell home improvements and then finance them at higher interest rates.

- Beware of lenders who claim that they are the only hope for a loan or ask borrowers to sign a contract/loan agreement with missing information.
- Beware of home lenders saying refinancing your home can solve credit or money problems.
- Always interview several contractors and lenders. Check with friends or family for recommendations.
- Research lenders, contractors, appraisers, etc. with the Attorney General's Office of Consumer Affairs or Better Business Bureau. Check out their complaint history.
- Never make false statements on a loan application. Any lender who allows this is fraudulent and possibly criminal.
- Do not let anyone convince you to borrow more money than you know you can afford.
- Attend homeownership education courses. They are available through the U.S. Department of Housing and Urban Development (HUD) or counseling agencies.

The South Dakota Attorney General's Consumer Protection Division is committed to helping South Dakotans avoid falling victim to scams. The division is available to present to organizations or groups upon request, and we encourage those interested to contact us at 1-800-300-1986 or at consumerhelp@state.sd.us

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

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

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

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

What is covered under the typical homeowner's policy?

The following things are generally covered by someone's homeowner's policy:

- The dwelling and any other structures on the property,
- Personal property,
- Additional living expenses,
- Comprehensive personal liability protection.

Other miscellaneous associated coverages may also be included. Your policy will explain what is covered. It is important that the insured is familiar with his/her policy.

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

It is very important that you call your insurance company, agent, or broker as soon as possible after a disaster and report your loss. You will find a list of phone numbers for insurers on the website of the South Dakota Division of Insurance at the following link:

https://dlr.sd.gov/insurance/company_listings/list_of_licensed_to_sell_in_sd.aspx.

Look under the tab titled Companies Licensed to Sell Insurance. Specific companies are identified under the Domestic and Foreign tabs. It is a good idea to write down the date and names of anyone you speak to.

Write down all claim numbers (your vehicle(s)) will be a separate claim from your home/personal property). Provide your insurance company with your updated contact information, and check your phone and messages regularly, returning all missed calls in a timely fashion. Document all damages as thoroughly as possible, including taking several photos and documenting when/where the damage happened including as many details as possible. Also, avoid disposing of any items until the insurance company has examined them. Doing so could jeopardize the settlement you receive. Even if an adjuster has looked at damaged items on his/her first inspection of your loss, you should still hold on to the damaged property until the insurance adjuster has specifically told you to dispose of it.

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

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

Are there any special insurance considerations for condominium owners?

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

What is "proof of loss?"

Upon the receipt of the notice of loss, the insurer should advise the insured (you) as to what is necessary to constitute proof of loss. Your policy may specify a timeframe in which a "proof of loss" must be submitted back to the insurance company. A "proof of loss" is normally a form provided to you by the insurance company that you must complete. The form identifies the damages you are claiming. An insurance company must provide you forms for the proof of loss upon any written request by you. It is not the insurance company's responsibility, however, to complete the proof of loss. That is your responsibility. As noted above, your policy may specify a timeframe in which the proof of loss must be submitted back to the insurance company. This information is coded into South Dakota Law under SDCL § 58-12-1, found at https://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=58-12-1.

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

What are my duties as the insured?

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

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

When you first contact your insurance company, request that they send an adjuster to take a look at your property. If you are having problems getting an insurance adjuster out to your home, contact your insurance company. Always try to resolve problems with your insurance company directly. If you are unable to reach a satisfactory agreement with your insurance company, contact the South Dakota Division of Insurance at (605) 773-3563.

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

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

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

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

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

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

You should always try to work directly with your insurance company to resolve a claim. In addition, South Dakota does not have a requirement that public adjusters be licensed to work in the state. This is different from nearly every other state, where public adjusters are required to be licensed in order to work on claims.

If resolving a claim is proving to be difficult, consider contacting the South Dakota State Bar Association's attorney referral program at www.findalawyerinsd.com to be put in touch with a licensed lawyer that may assist you for a fee. The State Bar referral program can hopefully refer you to a qualified lawyer to help you in your situation.

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

Your insurance policy governs how much you can be reimbursed for the repairs by your insurance company. Most insurance companies will only pay for the reasonable cost of repair. If prices quoted for repairs appear inflated, get another estimate and obtain your insurance company's agreement before undertaking repairs. **Be cautious if a contractor asks you to sign a document before giving you an estimate.** The document may be a contract authorizing the contractor to do the work or an assignment of benefits form authorizing the contractor to obtain payment from your insurer.

Remember that your claim will only be approved to the extent that it does not exceed your policy limit. If you undertake repairs at an inflated price, you may reach your maximum policy limit very quickly.

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

Replacement Cost provides you with the dollar amount needed to go out and replace the damaged item with one of similar kind and quality without deducting for depreciation (the decrease in value due to age, obsolescence, wear and tear, etc.). An insurer will generally not pay full replacement cost until a repair is completed or the item replaced. You will be allowed a limited time to complete repairs or replace property.

Consult your policy or ask the adjuster how long you have. In some instances, companies will grant an extension.

Actual Cash Value policies pay you the amount needed to replace the item minus depreciation. Your insurance policy governs whether or not you are entitled to Replacement Cost or Actual Cash Value for damaged items.

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

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

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

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

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

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

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

Any denial or limiting of your claim by the insurance company should be given to you in writing. If you do not receive this in writing you should demand it requesting the specific reasons. An attorney should review these reasons. Ask for any documents or reports prepared by the insurance company that factored into their decision. Also, when you and the company do not agree on the scope of the loss, some policies contain an Appraisal or Arbitration option that you may choose to invoke. Consult your policy to see which option is available to you and what your obligations are. You also have the option of filing a written complaint with the South Dakota Division of Insurance or consulting an attorney if you have more questions.

I do not know if the damage to my home is covered by my insurance policy.

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

My policy is not going to cover all the damage to my home and personal property, what can I do?
It is possible that you are eligible for benefits from FEMA. See the FEMA section of this manual.

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

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

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

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

What should bids for repairs include?

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

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

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

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

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

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

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

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

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

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

Policies typically pay cash value, which takes into consideration the depreciation of the property. However, endorsements may be available which will provide coverage on a replacement cost basis. Review your policy to determine what type of coverage you have.

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

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

A relative died as a result of the disaster. What should we do?**Collect and freeze the assets of Decedent.**

- In doing this you will want to check all potential sources of assets, including homes, personal property, and vehicles. You will also want to check for bank accounts, stocks, bonds, and all forms of investment accounts.
- A decedent may also have life insurance. Life insurance companies typically pay claims on an insured's life upon the receipt of a death certificate for the insured and a completed claim form. Because death certificates may not be immediately available for people who reside in areas affected by a natural disaster, an insurance company might accept a sworn affidavit or other documentation in lieu of a death certificate.
- Many employers provide profit sharing, life insurance, or other employee benefits to its employees, payable to relatives upon that employee's death. Contact the decedent's employer directly to obtain any available benefit information.
- You should not use or give away any of the decedent's assets (money and/or property). If a court case is filed to probate the estate, the court will appoint a personal representative who will take temporary possession and control of all of the decedent's property. It is advisable that you speak with an attorney to assist with the filing of the court case and the administration of the estate. If you improperly give away any property or money, the person who received the property or money (the distributee) must return the money or property to the estate.

Find out if there is a will.

In determining whether the decedent had a will, search the places that wills are typically kept:

- Safe or locked box
- Safety deposit box
- The decedent's personal files
- With a trusted friend or relative
- With the decedent's attorney
- The courthouse that has jurisdiction over the decedent's county.

If the decedent's home was destroyed by the disaster, finding the will may be impossible in the debris. If that is the case, the best source for finding the will would be with the decedent's attorney, a trusted relative or friend, or at the decedent's bank in a safety deposit box.

South Dakota law requires anyone in possession of a decedent's will to deliver that will "with reasonable promptness to a person able to secure its probate and if none is known, to an appropriate court." If this is not done, that person may be liable for damages for the failure to deliver the will.

If the original will has been lost or destroyed, you may admit a copy of a will to probate as long as it is the last will of the decedent, and the decedent did not intend to destroy it.

Steps to take if there is not a will.

If someone dies without a will, they are said to have died intestate. Property owned by the decedent that does not pass to a joint owner or named beneficiary will pass according to laws of intestate succession, which can be found at SDCL 29A-2-101 et seq. In general, property passing under intestate succession laws will be distributed to his or her surviving spouse, children or relatives. If the decedent has no living relatives, the intestate property could revert to the county where the decedent resided at death.

Determine if a probate will be required.

Probate is not always required in order to distribute a decedent's assets. Sometimes property is owned by more than one person. If the decedent owned property with someone else, such as a joint bank account, that property will now be owned by the remaining account holder. Other times, someone may be listed as a beneficiary on an account. If that is the case, then the account will transfer to the beneficiary. You will need to contact the financial institution for information on whether there is a beneficiary and what information is necessary to transfer the account. Assets such as an automobile may have a transfer on death designation on the title. If so, you will need to contact the department of motor vehicles to transfer title to the person designated. Real estate may also be jointly owned or may have a transfer on death designation.

If the decedent had a trust, it may be unnecessary to file a probate. Contact the attorney that prepared the trust or a trust and estate attorney to find out how to distribute the property through the trust.

For decedents who did not own a significant amount of property at his or her death, you may be able to use a small estate affidavit to transfer property when the following are true:

- The value of the entire estate, wherever located, less liens and encumbrances, does not exceed \$50,000;
- Thirty days have elapsed since the death of the decedent;
- No application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;
- The decedent has not incurred any indebtedness to the Department of Social Services for medical assistance for nursing home or other medical institutional care; and
- The claiming successor is entitled to payment or delivery of the property.

If a probate will be required, immediately set up an appointment with a probate attorney. The attorney will open the estate by filing a court action for a probate. After this, a personal representative will be chosen to settle any debts of estate and allocate the remaining assets. The attorney will advise you about the biographical information needed for the decedent and the heirs of the estate, along with information needed about the proposed personal representative. Once appointed by the court, the personal representative will take temporary possession and control of all of the decedent's property, and pay off any creditors, transfer property, and pay taxes. It is very important for the personal representative to properly perform these duties, for if the personal representative's management of the estate is deemed improper, he or she may be held personally liable to anyone who suffered damage as a result of the personal representative's improper management.

Ensure the proper distribution of the decedent's assets.

No claim can be enforced against an estate until a personal representative has been appointed. If the estate is not big enough to settle all of debts, South Dakota law requires the personal representative to make payments in the following order:

Costs and expenses of administration:

- Meaning “expenses incurred in taking possession or control of estate assets and the management, protection, and preservation of the estate assets, expenses related to the sale of estate assets, and expenses in the day-to-day operation and continuation of business interests for the benefit of the estate.”
- Reasonable funeral expenses;
- Debts and taxes with preference under federal law;
- Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending the decedent and claims filed by the Department of Social Services;
- Debts and taxes with preference under other laws of this state;
- All other claims.

No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due.

If the estate is large enough to pay off all debts, what is left over will be distributed to the decedent's heirs, which is governed by the decedent's will or by the laws of intestate succession.

Disaster Recovery:

For general information, see publication from the South Dakota Department of Public Safety, entitled Recovering from a Disaster, found at:

<https://dps.sd.gov/emergency-services/emergency-management/recovery/recovery-disaster>.

Flooding:

Flooding creates particular health hazards. Flood waters potentially carry multiple items which can cause disease or injury. Such dangers include downed power lines, human or livestock waste, industrial hazardous waste, other contaminants that can cause illness, physical objects such as lumber, vehicles, debris, and wild or stray animals. Exposure to flood water can cause wound infections, skin rash, gastrointestinal illness, tetanus, and other conditions. Information as to how to safely deal with flood waters can be found at a website from the Centers for Disease Control entitled “Flood Waters or Standing Waters”, see: <https://www.cdc.gov/healthywater/emergency/extreme-weather/floods-standingwater.html>.

Mold can also be a significant issue after a flood. If items are not dried out following their exposure to water within **24 to 48 hours**, it should be assumed that mold is present. Items need to be completely dried and thoroughly cleaned. Suggestions as to how to safely get rid of mold have been published by the Centers for Disease Control. See Homeowner’s and Renter’s Guide to Mold Cleanup After Disasters, <https://www.cdc.gov/mold/cleanup-guide.html>.

Information about the potential effects of mold can be found in Information about Mold in Your Environment, see: <https://doh.sd.gov/diseases/infectious/diseasefacts/mold.aspx>.

Medications:

Disasters can cause medications to be lost or destroyed. They can also make it difficult for individuals to pay for needed medications or other medical treatment. Assistance in paying for medical and dental expenses may be available through the Individual Assistance Program operated by the South Dakota Office of Emergency Management. Under this program, financial assistance is available to individuals up to \$33,300 for FFY 2017 (dollar amount adjusted annually according to the Consumer Price Index) through grants to individuals and families who sustained damage or developed serious needs due to a presidentially declared disaster. Assistance is also available under this program for housing, personal property, transportation, and funerals.

See: <https://dps.sd.gov/emergency-services/emergency-management/recovery/individual-assistance>.

Assistance for medications may also be available through samples available to physicians as well as programs run by drug companies.

For individuals on Medicare, information regarding obtaining prescriptions can be found in Getting

Prescriptions in Disaster or Emergency,
see: <https://www.medicare.gov/what-medicare-covers/getting-care-drugs-in-disasters-or-emergencies>.

Protected Health Information:

Generally, personal medical information cannot be released without a patient's signed authorization. In disaster situations, there can be exceptions to this rule. A health care provider can make disclosures of protected information if an individual is incapacitated, in emergency situations, or not available, if the use or disclosure is determined to be in the best interest of the individual. Additionally, protected health information can be disclosed for notification purposes to public or private entities authorized to assist in disaster release efforts. See, Summary of the HIPAA Privacy Rule, <https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html>.

A survivor of a natural disaster may need to consider filing for bankruptcy depending on their financial situation.

Overview:

A fundamental goal of the federal bankruptcy laws enacted by Congress is to give debtors a financial "fresh start" from burdensome debts. The Supreme Court made this point about the purpose of the bankruptcy law in a 1934 decision:

[I]t gives to the honest but unfortunate debtor...a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of preexisting debt.
Local Loan Co. v. Hunt, 292 U.S. 234, 244 (1934).

This goal is accomplished through the bankruptcy discharge, which releases debtors from personal liability from specific debts and prohibits creditors from ever taking any action against the debtor to collect those debts.

Seeking the advice of a qualified lawyer is strongly recommended because bankruptcy has long-term financial and legal consequences. Individuals can file bankruptcy without a lawyer, which is called filing pro se.

Filing personal bankruptcy under Chapter 7 or Chapter 13 takes careful preparation and understanding of legal issues. Misunderstandings of the law or making mistakes in the process can affect your rights. Court employees and bankruptcy judges are prohibited by law from offering legal advice.

The following is a list of ways your lawyer can help you with your case.

- Advise you on whether to file a bankruptcy petition.
- Advise you under which chapter to file.
- Advise you on whether your debts can be discharged.
- Advise you on whether or not you will be able to keep your home, car, or other property after you file.
- Advise you of the tax consequences of filing.
- Advise you on whether you should continue to pay creditors.
- Explain bankruptcy law and procedures to you.
- Help you complete and file forms.
- Assist you with most aspects of your bankruptcy case.

SOURCE: <https://www.uscourts.gov/services-forms/bankruptcy/bankruptcy-basics>

Types of Bankruptcies:

There are six basic types of bankruptcy cases under the Bankruptcy Code. They are traditionally given the names of the chapters that describe them.

Chapter 7:

A Chapter 7 bankruptcy is called a Liquidation. Under the federal bankruptcy code, the law contemplates an orderly, court-supervised procedure by which a trustee takes over the assets of the debtor's estate, reduces them to cash, and makes distributions to creditors, subject to the debtor's right to retain certain exempt property and the rights of secured creditors.

Because there is usually little or no nonexempt property in most chapter 7 cases, there may not be an actual liquidation of the debtor's assets. These cases are called "no-asset cases." A creditor holding an unsecured claim will get a distribution from the bankruptcy estate only if the case is an asset case and the creditor files a proof of claim with the bankruptcy court.

In most chapter 7 cases, if the debtor is an individual, he or she receives a discharge that releases him or her from personal liability for certain dischargeable debts. The debtor normally receives a discharge just a few months after the petition is filed. Amendments to the Bankruptcy Code enacted into the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 require the application of a "means test" to determine whether individual consumer debtors qualify for relief under chapter 7. If such a debtor's income is in excess of certain thresholds, the debtor may not be eligible for chapter 7 relief.

Chapter 12:

This Chapter is titled "Adjustment of Debts of a Family Farmer or Fisherman with Regular Annual Income," and it provides debt relief to family farmers and fishermen with regular income. The process under chapter 12 is very similar to that of chapter 13, under which the debtor proposes a plan to repay debts over a period of time – no more than **three years** unless the court approves a longer period, not exceeding **five years**. There is also a trustee in every chapter 12 case whose duties are very similar to those of a chapter 13 trustee. The chapter 12 trustee's disbursement of payments to creditors under a confirmed plan parallels the procedure under chapter 13. Chapter 12 allows a family farmer or fisherman to continue to operate the business while the plan is being carried out.

Chapter 13:

This Chapter is called "Adjustment of Debts of an Individual with Regular Income," and is designed for an individual debtor who has a regular source of income. Chapter 13 is often preferable to chapter 7 because it enables the debtor to keep a valuable asset, such as a house, and because it allows the debtor to propose a "plan" to repay creditors over time – usually **three to five years**. Chapter 13 is also used by consumer debtors who do not qualify for chapter 7 relief under the means test. At a confirmation hearing, the court either approves or disapproves the debtor's repayment plan, depending on whether it meets the Bankruptcy Code's requirements for confirmation. Chapter 13 is very different from chapter 7 since the chapter 13 debtor usually remains in possession of the property of the estate and makes payments to creditors, through the trustee, based on the debtor's anticipated income over the life of the plan. Unlike chapter 7, the debtor does not receive an immediate discharge of debts. The debtor must complete the payments required under the plan before the discharge is received. The debtor is protected from lawsuits, garnishments, and other creditor actions while the plan is in effect. The discharge is also somewhat broader (i.e., more debts are eliminated) under chapter 13 than the discharge under chapter 7.

SOURCE: <https://www.uscourts.gov/services-forms/bankruptcy/bankruptcy-basics/process-bankruptcy-basics>

What is discharge?

A bankruptcy discharge releases the debtor from personal liability for certain specified types of debts. In other words, the debtor is no longer legally required to pay any debts that are discharged. The discharge is a permanent order prohibiting the creditors of the debtor from taking any form of collection action on discharged debts, including legal action and communications with the debtor, such as telephone calls, letters, and personal contacts.

Although a debtor is not personally liable for discharged debts, a valid lien (i.e., a charge upon specific property to secure payment of a debt) that has not been avoided (i.e., made unenforceable) in the bankruptcy case will remain after the bankruptcy case. Therefore, a secured creditor may enforce the lien to recover the property secured by the lien.

For each chapter of bankruptcy there are different debts that are discharged. There are 19 categories of debt excepted from discharge under chapters 7, 11, and 12. A more limited list of exceptions applies to cases under chapter 13. Section 523 of the Bankruptcy Code is the best source to determine which debts are and are not discharged for that particular bankruptcy. Typically, student loans, late child support or alimony payments, damages for willful and malicious injuries to person or property, debts gained from fraud, and government-imposed fines or penalties are not discharged. But again, you should look at the Code provisions for the type of bankruptcy you wish to file, for a complete list.

SOURCE: <https://www.uscourts.gov/services-forms/bankruptcy/bankruptcy-basics/discharge-bankruptcy-bankruptcy-basics>

Some of my important documents were destroyed during the disaster. What do I do?

SOCIAL SECURITY CARD

You can replace your Social Security card at no cost if it is lost or stolen. You are limited to three replacement cards in a year and 10 during your lifetime. Typically, you will need to provide only one document to prove your identity when you apply for a replacement card (U.S. birth certificate, U.S. passport, U.S. driver's license or State-issued non-driver identification card, etc.).

To request a replacement social security card online at the Social Security Administration's website, go to: <https://www.ssa.gov/myaccount/replacement-card.html>. You must meet certain requirements to request a replacement card through the Social Security Administration's website.

If you do not meet the requirements to apply for a replacement card online, you can print an application for a social security card from the Social Security Administration's website. Once you have completed the application, you may either mail your application directly to the Social Security Administration or take the application to your local Social Security office. The Social Security Administration's website provides office location information.

U.S. BIRTH CERTIFICATE

You will need to contact the Vital Records office in the state where you were born. In South Dakota, the Vital Records office is located in Pierre, S.D. and the telephone number is: 1-(605)-773-4961. A copy of your South Dakota birth certificate may be requested in person, through the mail, online or over the phone. The fee will vary depending on how you are requesting your copy. If you mail in your application, you must provide a copy of a government-issued photo I.D. or have your signature notarized by a notary. More information is provided on the South Dakota Department of Health website at: <https://doh.sd.gov/records/>.

DRIVER'S LICENSE

You will need to contact the Department of Public Safety or Department of Motor Vehicles (DMV) office in the state where your license was issued. In South Dakota, you may visit your local DMV office or you may also apply for a replacement by mail or online if you haven't requested one by mail or online in the previous ten years. Please visit the South Dakota Department of Public Safety website for more information: <https://dps.sd.gov/driver-licensing/renew-and-duplicate/replacement-or-duplicate>. The fee will vary from state to state and will also depend on how you are requesting your replacement license.

MARRIAGE CERTIFICATE

You may need a certified copy as proof if you changed your name when you got married. To request a copy of your Marriage Certificate, you will need to contact the Vital Records office in the state where you were married. In South Dakota, the Vital Records office is located in Pierre, S.D. and the telephone number is: (605) 773-4961. A copy of your South Dakota Marriage certificate may be requested in person,

through the mail, online or over the phone. The fee will vary depending on how you are requesting your copy. If you mail in your application, you must provide a copy of a government-issued photo I.D. or have your signature notarized by a notary. More information is provided on the South Dakota Department of Health website at: <https://doh.sd.gov/records/>.

UNITED STATES PASSPORT

To replace a lost passport, you will need to apply in person at a Passport Acceptance Facility. The U.S. Department of State Bureau of Consular Affairs website provides a Passport Acceptance Facility Search tool on their website at: <https://travel.state.gov/content/travel.html> where you can search for the nearest Passport Acceptance Facility. You will need to bring the following when you apply in person: Form DS-64, Form DS-11, Citizenship Evidence (i.e., birth or naturalization certificate), a photocopy of citizenship evidence, an I.D., a photocopy of your I.D., one passport photo, applicable fees.

GREEN CARD (PERMANENT RESIDENT CARD)

If you are a lawful permanent resident of the United States, you can apply for a replacement green card through the U.S. Citizenship and Immigration Services (USCIS) office by filing Form I-90 online or through the mail. The form and instructions are available on the USCIS website at: <https://www.uscis.gov/>. The fee is \$540 but there is an optional Request for Fee Waiver form (Form I-912) that you may complete if you believe you are eligible. You may review the fee waiver guidelines at: <https://www.uscis.gov/feewaiver>.

NATURALIZATION OR CITIZENSHIP DOCUMENTS

If you are a naturalized U.S. citizen, you can apply for a replacement Naturalization/Citizenship document through the USCIS office by filing Form N-565 online or through the mail. The form and instructions are available on the USCIS website at: <https://www.uscis.gov/>. The fee is \$555 but there is an optional Request for Fee Waiver form (Form I-912) that you may complete if you believe you are eligible. You may review the fee waiver guidelines at: <https://www.uscis.gov/feewaiver>.

PROPERTY AND DEED DOCUMENTS

Contact your mortgage company to assist you in replacing any lost paperwork. If you need to replace any property deeds you will need to contact the county recorder's office in the county where the property is located.

IRS TAX RECORDS

Contact the IRS Disaster Assistance Hotline at: 1-(866)-562-5227, or visit their website at: <https://www.irs.gov/>. The IRS website also offers additional resources, publications and tips for taxpayers needing to reconstruct records after a disaster.

SNAP / FOOD STAMPS

What are food stamps/SNAP Benefits?

The Supplemental Nutrition Assistance Program (SNAP) formerly known as Food Stamps, offers nutrition assistance to millions of eligible, low-income individuals and families and provides economic benefits to communities. SNAP is a program of the U.S. Department of Agriculture (USDA), administered through the individual states. SNAP benefits are a monthly grant of money to be used only to buy food, issued on an Electronic Benefits Transfer (EBT) card.

Who is eligible?

To get SNAP benefits, you must apply in the State in which you currently live and you must meet certain requirements, including resource and income limits. Your household must meet certain requirements to be eligible for SNAP and receive benefits. Eligibility is determined on a household income and resource basis. SNAP income and resource limits are updated annually. If your State agency determines that you are eligible to receive SNAP benefits, you will receive benefits back to the date you submitted your application.

How do I get SNAP benefits?

In South Dakota for its residents, SNAP benefits are administered through the South Dakota Department of Social Services (DSS). There are a few different ways to apply for SNAP. You can choose the option that works best for you:

- Apply online by using the online application. You can apply, renew, or report changes for SNAP and/or Medical Assistance on this website.
- You can file an application at your local Social Services office.
- You can download an application form, complete and return it (in person or via mail) to your local Social Services Office.

You will have an interview in person at your local Social Services office in order to complete the application process. When you go to the interview, there are items you must bring with you to your application interview, which can be found on the DSS website.

If you disagree with any action taken by DSS which affects your benefits, you may request a fair hearing in writing or orally. A request for a hearing is defined as a clear expression, oral or written, by the household or its representative, that it wishes to appeal a decision or would like the opportunity to present its case to a higher authority. If it is unclear from the household's request what action it wishes to appeal, DSS may request the household clarify its grievance. Households will be allowed to request a hearing on any DSS action or any loss of benefits which occurred in the **prior 90 days**. Action by DSS includes a denial of a request for restoration of any benefits lost more than 90 days but less than a year prior to the request. In addition, at any time within a certification period, a household may request a fair hearing to dispute its current level of benefits.

DISASTER SNAP / FOOD STAMP BENEFITS

Are special Food Stamp benefits available after a disaster?

Individuals who reside in a disaster area and suffered damage may be eligible for emergency disaster SNAP assistance. Damages may include the loss of wages because of the inability to get to work, or the business closed temporarily or permanently because of the disaster.

The SNAP Administrator will request approval from the USDA Food and Nutrition Service (FNS) to operate emergency disaster SNAP, following procedures identified in the South Dakota SNAP Disaster Plan. To apply for emergency disaster SNAP assistance, or D-SNAP, contact your local Social Services office. For more information, can contact the state's SNAP hotline at 1-877-999-5612.

OTHER FOOD ASSISTANCE

Other available food sources can be found through The Emergency Food Assistance Program (TEFAP). The Emergency Food Assistance Program (TEFAP) was initiated in 1981 to reduce inventories and storage costs of surplus USDA foods through distribution to needy households. While some surplus food is still distributed through TEFAP, Congress (since 1989) has appropriated funds to purchase additional USDA foods for households. South Dakota uses TEFAP USDA foods in the soup kitchens and food banks. TEFAP was not designed to serve as a primary food source. It was designed as an outlet for surplus USDA foods, and it has effectively achieved that goal.

In South Dakota, the USDA donated food for distribution is sent to food banks, food pantries, soup kitchens and community action programs. These agencies are referred to as eligible recipient agencies (ERA) and must be public or private non-profit agencies that meet the program requirements.

Recipient eligibility to receive USDA foods from food pantries is determined by completion of an intake application form provided by the food pantry indicating household and financial circumstances at or below 185% poverty level, name, number in household, and address. In South Dakota a family qualifying for reduced price meals qualifies them for this program.

Local TEFAP Contacts:

Western South Dakota Community Action Agency
1844 Lombardy Drive, Rapid City, South Dakota 57703
(605) 348-1460, wsdcap@rapidcity.com

Belle Fourche, Buffalo, Custer, Faith, Kadoka, Lead, Midland, Martin, Nisland, Rapid City, Spearfish, and Sturgis

Feeding South Dakota
(605) 335-0364

Aberdeen, Agency Village, Armour, Beresford, Bridgewater, Brookings, Cherry Creek, Dell Rapids, Freeman, Fort Thompson, Gregory, Herreid, Hoven, Humboldt, Huron, Ipswich, Little Eagle, Lower Brule, McIntosh, Midland, Miller, Mission, Mobridge, Oldham, Parkston, Parmelee, Reliance, Redfield, Philip, Pierre, Saint Francis, Sioux Falls and Vermillion.

South Dakota DOE-Child and Adult Nutrition Services
(605) 773-3413

Aberdeen, Elk Point, Flandreau, Howard, Huron, Lake Andes, Madison, Mitchell, Rapid City, Salem, Sioux Falls, Vermillion, Wagner and Winner

If your food pantry isn't listed and is interested in being on The Emergency Food Assistance Program, please have the authorized representative contact the South Dakota Department of Education for an application.

What if I was already on food stamps but lost my food in the disaster?

Food purchased with SNAP benefits may be replaced if the food has been destroyed in a fire, flood, tornado, power loss (if at least 4 hours or more), or other misfortune beyond the household's control. The following procedures are used for individual household misfortunes:

- The loss was reported within 10 days of the misfortune.
- The household is currently participating in the program.
- The household completed DSS-EA-344e, Affidavit for Replacement of Food Lost in Disaster.
- The replacement value is limited to the amount of food lost up to the amount of benefits received in the month of the misfortune.
- Once the household completes the 344e form, the Benefits Specialist will confirm or verify the details of the household misfortune and narrate the details and any other pertinent information which would explain the reason for replacement of benefits.
- The Benefits Specialist will scan and send the 344e form to the DSS-Finance-EBT email group (copy SNAP program staff) following the directions from the EBT Handbook.

There is no limit to the number of replacement requests for benefits which have been destroyed in a household misfortune. Benefits Specialists must make sure replacement requests are fully documented and verified.

Food purchased with SNAP benefits may be replaced if the food has been destroyed in a fire, flood, tornado, power loss (if at least 4 hours or more), or other misfortune beyond the household's control, not to exceed the household's one-month SNAP allotment. The loss must be reported within ten days of the occurrence and the household's disaster must be verified. The local office must verify the disaster through a collateral contact or a community organization, such as the fire department, the Red Cross, or a home visit. This policy applies in cases of an individual household disaster, such as fire, as well as natural disasters affecting more than one household. In cases where the Food and Nutrition Service has issued a disaster declaration and the household is otherwise eligible for disaster SNAP benefits, the household must not receive both the disaster allotment and replacement benefits for the same month under this provision.

There is no limit to the number of replacement requests for benefits which have been destroyed in a household misfortune. Benefits Specialists must make sure replacement requests are fully documented and verified.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) BENEFITS

What is TANF?

South Dakota Temporary Assistance for Needy Families (TANF) is a temporary public assistance work program administered by the Department of Social Services and the Department of Labor and Regulation. It is designed to provide temporary assistance and economic self-sufficiency for children and families. TANF is a needs-based program for families with children under age 18 (or under age 19 if the child is in high school) who need financial support because of:

- a death of a parent,
- a parent is absent from the home, or
- physical or mental incapacity or unemployment of a parent.
- Families with serious financial needs may qualify for TANF monthly payments. Your TANF payment is based on who lives with your family, who is eligible in your household, and other income and resources available to your family.

TANF payments will be received electronically. Recipients may choose to have their payments deposited directly into their checking or savings account, or they may choose to receive the Way2Go card.

How do I apply for TANF?

The Temporary Assistance for Needy Families (TANF) application process has two components:

1. The work component is handled by employment specialists at Department of Social Services (DSS) offices in reservation areas or Department of Labor and Regulation (DLR) Local Offices.
2. The eligibility component is handled by caseworkers at local DSS offices.

TANF is a work program. You begin the application process with an employment specialist, unless you are not required to participate in a work program. You are not required to participate if you meet one of the following conditions:

- You are a dependent child under 16 years old or a full-time student in high school.
- You are a parent taking care of a baby who is under 12 weeks old. (This only applies to one parent per household.)
- You are approved to receive Social Security Disability or Supplemental Security Income (SSI) payments from the Social Security Administration.
- You are a veteran who has 100 percent disability and are approved to receive disability payments from the Veteran's Administration.

See the South Dakota Department of Social Services' website for additional information on TANF, including guidelines, work requirements, personal responsibility agreement, and frequently asked questions.

MEDICAID BENEFITS

What is Medicaid?

Medicaid is a federal and state-funded program providing health coverage for people who meet certain eligibility standards. The Department of Social Services' Division of Economic Assistance is responsible for

determining eligibility for South Dakota Medicaid and the Children's Health Insurance Program (CHIP) to help low income families and children.

If you are eligible, Medicaid will act as your insurance company and may pay for medically necessary services such as visits to the doctor, hospital, dentist, optometrist and chiropractor. South Dakota Medicaid and CHIP Programs provide coverage to help pay for necessary medical expenses individuals need to stay healthy such as: hospital stays, doctor visits, prescriptions, nursing home care and other health care needs.

Eligibility for Medicaid and CHIP varies depending on living arrangement, income, and resources available.

How do I apply for South Dakota Medicaid?

You may apply by printing the application for South Dakota Medicaid from www.dss.sd.gov/medicaid and mailing, faxing, or delivering your application to a Department of Social Services local office. You may also apply online by clicking on the online applications link at www.dss.sd.gov/medicaid. You may also contact your nearest Department of Social Services office or call 1-800-305-3064 to request an application be sent to you.

SOCIAL SECURITY BENEFITS

What are Social Security benefits?

Social Security benefits provide a source of income for eligible workers and their families when the worker retires, becomes disabled, or dies.

What type of benefits are available, and what are the eligibility requirements?

Social Security Retirement Insurance Benefits: To qualify for this benefit program, you must meet all of the following requirements:

- Have earned enough Social Security credits; and
- Are at least age 62 throughout the first month of entitlement.

Social Security Disability Insurance Benefits (SSDI): This benefit is paid to people who meet the following requirements:

- Have earned enough Social Security credits; and
- Are unable to work because of a disability that has lasted or will last for at least 12 months or end in death.

Supplemental Security Income (SSI): To qualify for this benefit program, you must meet the following requirements:

- Be at least age 65;
- Be blind or disabled;
- Have limited income and assets; and
- Meet additional requirements.

Social Security Medicare Program: Medicare is a health insurance program for people who meet the following requirements:

- Are age 65 or older, and

- Received Social Security Disability benefits for at least 24 months.
- People with kidney failure or ALS, may also qualify for Medicare.

How are payments delivered to me?

The Treasury Department requires federal benefit payments to be made electronically. You can choose to get your payments by direct deposit to a bank or credit union account or to a Direct Express® Debit MasterCard® card account

How do I begin the application process?

To apply online, visit www.ssa.gov/benefits/ and chose the type of benefit that you are applying for. Some most applications are available online. However, survivors' benefits must be applied for in person.

If you would like to find out if you may be eligible for any of the benefits SSA administers, visit best.ssa.gov.

Once you have completed the eligibility screening questionnaire, you will be provided with a list of benefits for which you may be eligible. Print this page for your records before going to the application site.

Once you know which benefits you can apply for, go to www.ssa.gov/forms/apply-for-benefits.html to apply online.

You can also call 1-800-772-1213 (TTY: 1-800-325-0778) for additional information about SSA benefits and for application information.

Once Social Security has all the necessary documentation, such as proof of earnings or medical evidence of disability, they will send you a written decision. If you are denied and you think you are eligible, you should file a request for reconsideration within sixty days of the date of the initial decision. If you are denied again, you should request a hearing and contact Legal Services for possible legal representation.

Do I need to be a U.S. resident or citizen to apply for emergency disaster assistance?

Short-term, non-cash, in-kind emergency disaster relief is available regardless of immigration status. This includes emergency medical care, shelter, food, and other essential needs.

Eligibility for long-term FEMA Assistance Programs, Individual and family Grant Programs, and Disaster Unemployment Assistance is restricted to “qualified” immigrants and victims of human trafficking. Contact FEMA to see if you are in a “qualified” immigrant status.

If you are not a qualified immigrant, another adult household member may qualify the household for assistance.

Can an undocumented immigrant apply for FEMA cash assistance on behalf of a child who is a U.S. citizen?

Yes, if the child is under 18 and lives with the undocumented person. No information on the adult’s immigration status is required. Only the child’s Social Security number is required.

Will I be considered a public charge and denied residency if I apply for emergency disaster relief?

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

If I lost my Permanent Resident Cards (Green Card) in a natural disaster or tornado, how can I get a replacement?

Permanent residents and conditional residents (with a two-year card that has not expired) who need to replace a lost green card or conditional resident two-year card must fill out USCIS Form I-90 found online at: <https://www.uscis.gov/i-90>.

Filing addresses and fees can change frequently, it is important to consult the website to find the correct filing fees and guidance.

More information can be found at: <https://www.uscis.gov/green-card/after-we-grant-your-green-card/replace-your-green-card>.

If I lost my work permit in a natural disaster or tornado, how can I get it replaced?

Fill out and file immigration form I-765. Include two passport-type photos and a check or money order to USCIS in the amount of \$410-\$495 (This fee is subject to change; <https://www.uscis.gov/i-765>). This fee may be waived for certain categories of work permit replacement applications if you show inability to pay. The following link provides guidance on the availability of filing fee waiver availability: <https://www.uscis.gov/i-912>.

NOTE: If you had any interviews or appointments scheduled with United States Citizenship and Immigration Services, or with the Immigration Judge, please contact the Advocates for Human rights at: <https://www.theadvocatesforhumanrights.org/>.

How do I get the immigration forms I need to apply for new papers?

You can obtain immigration forms from USCIS at <https://www.uscis.gov/forms>. There are no charges to obtain immigration forms online. This service is available twenty-four hours a day, seven days a week. You can get help in completing immigration forms from the agencies listed under “IMMIGRATION” at the end of this guidebook. These agencies may also have copies of immigration forms. If you have any concerns about your current immigration status, contact one of these agencies for legal assistance before applying for a green card or work permit, because if you are not eligible you will lose your money.

Do I need to let USCIS or the Immigration Court know that I have moved as a result of a natural disaster?

It depends on what type of immigration case you have, whether you are required to notify Immigration Service of your new address and where you can send the notification. To find out what to do in your particular case or situation, you can call the USCIS toll-free number: 1-800-375-5283.

A child or conserved adult is living with me because their parents were affected by the emergency. How can I ensure that I have legal authority to make decisions?

Physicians treating a minor in an emergency and without consent of a parent or guardian have immunity from liability for certain treatments. SDCL § 20-6-4.2

If a child is living with you because their parents were affected by the emergency, you may want to consider applying for a form of guardianship.

Temporary Guardianship/Conservatorship:

This provides an expedited process to allow you to have legal authority to make decisions for the minor/conserved party for three months, with the possibility to renew Temporary Guardianship/Conservatorship for no more than an additional three months.

SDCL §§ 29A-5-210, -315 require a showing that:

- An immediate need exists;
- Adherence to the regular procedures for the appointment...may result in significant harm to the person alleged to need protection or the estate; and
- That either:
 - No other individual or entity appears to have authority to act on behalf of the person or estate, or
 - that the individual or entity with authority to act is unwilling or has ineffectively exercised the authority

Temporary Guardianship/Conservatorship for Individuals with Documented Developmental Disabilities:

<https://dhs.sd.gov/guardianship/docs/GDNCONSERVAPP.pdf>

South Dakota's Enforcement Program provides financial assistance for legal fees for obtaining first-time guardianship appointments of adults with documented developmental disabilities. More information can be found by contacting Department of Human Services, *infra*.

Permanent Guardianship/Conservatorship until the Minor Child turns 18:

The process is as follows and can be found at: <https://ujslawhelp.sd.gov/guardianship.aspx>

- First, a petition for the appointment of guardianship/conservatorship outlining the need for the appointment and the type of appointment requested is filed in the appropriate county.
- Second, a statement of financial resources and a report from a physician, psychologist, or psychiatrist describing the person's level of impairment, ability to appear at the hearing, and need for protection is also filed.
- The court then conducts a hearing and determines whether a guardianship/conservatorship is appropriate, and if so, whether a full or limited appointment is most appropriate.

How can I contact the Department of Social Services or the Department of Human Services?

The Department of Social Services can be reached at:

Phone: (605) 773-3165

Email: DSSInfo@state.sd.us

Mailing/Physical Address: 700 Governors Dr., Pierre, SD 57501

Website: <https://dss.sd.gov/staffandprogramdirectory/>

The Department of Human Services can be reached at:

Phone: (605) 773-5990

Email: infodhs@state.sd.us

Mailing/Physical Address: 500 E. Capitol Ave., Pierre, SD 57501

Website: <https://dhs.sd.gov/contactus.aspx>

Is it still possible to do something about violence in our home?

If you feel you are in immediate danger, you should contact your local police immediately. If there is not an immediate threat, you may review the South Dakota Domestic Violence Manual:

https://dss.sd.gov/formsandpubs/docs/DOM/DVbrochure_Entire.pdf.

Protection orders may protect people from abuse or harassment. If you want to file a protection order, be careful when you do research online to protect yourself. Browser history can reveal to an abuser that you are searching for help. You should use the internet at a local library, at a friend's house, or at work.

Please note that leaving your home for safety will not disqualify you from receiving a Domestic Violence Protection Order. Link to description of Protection Orders in South Dakota:

<http://www.statebarofsouthdakota.com/p/cm/ld/fid=27>

Because GPS-tracking may compromise the safety of individuals in a domestic violence shelter, it is recommended that you turn off your cell phone within one mile of the shelter you are seeking. For assistance in locating the shelter nearest you, contact:

SD (National) Domestic Violence Hotline: 1-800-430-SAFE (7233); (hearing impaired) 1-800-787-3224

Other relevant resources include:

National Sexual Assault Hotline: 1-800-656-HOPE (4673)

What can be done about child abuse or neglect?

You can make a report by calling 1-877-244-0864; see also the South Dakota Mandatory Reporting Brochure for information on reporting child abuse or neglect:

English: <https://dss.sd.gov/formsandpubs/docs/ABUSE/MandatoryReportingEntire.pdf>

Spanish: https://dss.sd.gov/formsandpubs/docs/ABUSE/mandatoryreport_spanish.pdf

What if I have a grievance regarding a child welfare complaint?

A form to report grievances regarding a child welfare complaint can be found at:

<https://dss.sd.gov/keyresources/legal/grievance.aspx>

Do I still need to send my child to school following a disaster?

Parents and Guardians of minor children are required to ensure ongoing education and school attendance if the schools are still open, unless otherwise indicated by the authorities in the jurisdiction affected by the

disaster. Parents and Guardians needing to enroll minor children in K-12 public schools which are not their local district should check with the school to receive a waiver or normal residency requirements or an extension of the period to obtain immunization records.

Any minor child that has been displaced due to a disaster has educational rights under the McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11431 et seq. More information, including Local Education Agency (LEA) Liaisons can be found by contacting:

South Dakota Department of Education Phone: (605)-773-3134

Email (general inquiries): holly.robling@state.sd.us Address: 800 Governors Dr., Pierre, SD 57501

What if I need to update my address to continue receiving child support payments?

If you have a child support caseworker assigned to your case, you should contact them to request that your child support payments be forwarded to you at a different address. If you do not have a child support caseworker, you should contact Division of Child Support at (605)-773-3641. You may also want to complete a Change of Address and/or Employer form on the Department of Social Services' website: <https://dss.sd.gov/childsupport/changeofaddressemployer/>

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

Family or individual counseling services are located throughout the state. The United Way can assist you with a referral to a local counseling service. You may reach the United Way by calling or texting 2-1-1. The United Way website is <https://www.heartlandunitedway.org/211-resource-hotline>.

What if I or someone I know may be a victim of human trafficking?

The South Dakota Department of Public Safety provides information and resources at its website: <https://dps.sd.gov/victims-services/victims-assistance-program/human-trafficking>

Tips on preventing and reporting can be found at <https://dps.sd.gov/driver-licensing/commercial-drivers-license/prevent-trafficking>

National Human Trafficking Hotline Phone: 1-888-373-7888

Email: Report@PolarisProject.org

What should I do if someone I know is missing or lost?

After a disaster, you may contact local hospitals or local police to assist in searching for missing persons.

The South Dakota Office of the Attorney General's website provides a clearinghouse of missing persons and additional resources for families at: <https://atg.sd.gov/LawEnforcement/missingpersons/default.aspx>

How can I find a missing or lost pet?

The Humane Society offers resources and advice for locating lost pets. Having a microchip inserted in your pets prior to a disaster can be an effective way of locating them.

<https://www.humanesociety.org/resources/what-do-if-you-lose-your-pet>

Be wary of pet-recovery scams

Advertise notices in your area of your lost pet with a photo and detailed description

Contact animal control agencies and animal shelters within a 60-mile radius of your pet's home, and file lost pet reports with each shelter. You may find local shelters listed in the phone book or on the internet.

Tribal nations, while sovereigns, can also avail themselves of a myriad of resources from the federal government and/or state government in the event of an emergency or disaster situation. Such resources may prove critical to tribal nations facing disaster scenarios.

If a disaster has occurred and the Tribe needs outside assistance, what are the first steps?

Typically, a Tribal government should declare an emergency and then make an emergency and major disaster declaration request. [FEMA's Tribal Declaration and Disaster Assistance website](#) provides information on how to make emergency and major disaster declaration requests. Found at: <https://www.fema.gov/about/organization/tribes>

Can a tribal government request an emergency or major disaster declaration even if the state government has not done so?

Yes. On January 29, 2013, President Obama signed the Sandy Recovery Improvement Act of 2013. This legislation included a provision to provide federally recognized Indian tribal governments the option to request a Presidential emergency or major disaster declaration independent of a state.

What if the state is seeking a disaster declaration?

The tribal government can work through the state declaration request rather than make its own. Under such a scenario, the tribal government would declare an emergency locally first. The State Office of Emergency Management will then assist the tribal government in conducting a preliminary damage assessment to ensure that the tribe meets the per-capita threshold of damages to qualify for FEMA assistance. Once that validation is complete, the state requests a Presidential disaster declaration. The [South Dakota Office of Emergency Management website](#) provides more in-depth information as to what resources are available from the state generally.

Found at: <https://dps.sd.gov/emergency-services/emergency-management>

Are there other benefits of working through the state?

Potentially. After a disaster declaration request has been approved, FEMA staff will enter the jurisdiction to determine damages and develop public assistance plans. The federal government will contribute 75 percent of the funds needed for such plans, and if done pursuant to a state declaration request, the state will contribute 10 percent. Thus, individual applicants, such as tribal governments, would have 85 percent of the costs covered by the federal and state governments.

If a tribal government seeks its own disaster declaration, do they receive assistance in performing the preliminary damage assessment?

Typically. If the State Office of Emergency Management is not conducting the preliminary damage assessment, FEMA may provide direct assistance to the tribe in preparing that assessment in order to seek further federal assistance.

Are there resources available before a disaster or emergency arises?

Yes. When the state receives FEMA dollars they can be distributed statewide. Tribal governments can receive funding under this scenario to develop pre-disaster mitigation plans. Once a tribal government has such a plan in place, they are eligible to receive money when the state receives FEMA dollars pursuant to a disaster declaration. The South Dakota Office of Emergency Management has been working closely with South Dakota's tribal governments to develop tribal pre-disaster mitigation plans.

Where can tribal leaders look to get started on a preparation plan for disasters?

A subset of FEMA is Ready.Gov, which educates citizens about preparation for and response to natural and human-made disasters and it has specific information for tribal nations and their leaders. [This brochure](https://www.ready.gov/sites/default/files/2020-03/indian-country_tribal-leaders-brochure.pdf), found here: https://www.ready.gov/sites/default/files/2020-03/indian-country_tribal-leaders-brochure.pdf provides steps tribal leaders can follow to develop a plan, including information about FEMA's Tribal Liaison for different regions of Indian Country and no-cost training offered to tribal leaders, emergency planners, and first responders. Ready.Gov's information for Indian Country [can be found here](https://www.ready.gov/indian-country): <https://www.ready.gov/indian-country>

What kinds of courses can tribal government employees take through FEMA to help plan for disasters?

The Emergency Management Institute (EMI) is a part of FEMA that provides course instruction on disaster preparedness. The EMI's Tribal Curriculum Goal is to "collaborate with tribal governments to build emergency management capability and partnerships to increase the resilience of tribal nations and communities." The EMI's tribe-related courses [can be found here](https://training.fema.gov/tribal/descriptions.aspx): <https://training.fema.gov/tribal/descriptions.aspx> and are generally geared toward tribal emergency management/response personnel, tribal government employees, and tribal leaders involved with emergency management systems.

Does the Bureau of Indian Affairs ("BIA") have resources for tribes experiencing emergency situations?

Yes, BIA Emergency Management responds to disasters occurring on tribal nations and coordinates with tribes, federal agencies, and states to heighten preparedness and resilience of tribes for disasters. More information is on [their website found here](https://www.bia.gov/bia/ojs/emd): <https://www.bia.gov/bia/ojs/emd>, and the BIA Emergency Management Chief is Steve "Sid" Caesar, who can be contacted at 202-208-3555, or at Sid.Caesar@bia.gov.

What resources do tribes in South Dakota provide when disasters impact their communities?

- Cheyenne River Sioux Tribe has a Command Center (available at (605)-964-3637) that coordinates between different tribal programs during disasters. For instance, if a household is running low on propane during a blizzard, they can call the Command Center, which can coordinate with the Department of Transportation to make sure roads are plowed so Cheyenne River Gas can get trucks out.
- Sisseton Wahpeton Oyate has an Office of Emergency Management that can serve as the first point of contact during a disaster, and it can be reached at (605)-742-0919.

- The seven remaining tribes in South Dakota also have resources tribal members may utilize, typically by calling the phone numbers of the tribe's political leaders. Some have environmental offices that may have applicable resources, like Lower Brule Sioux Tribe Environmental Protection Office, whose phone number is (605)-473-0454.

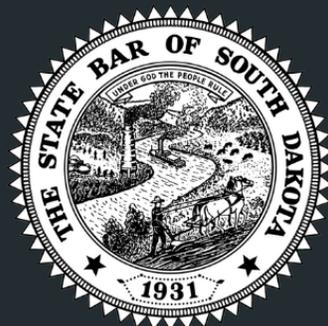
What are some other helpful places for information?

The Mountain-Plains Consortium produced an [Emergency Preparedness Handbook for Tribal Governments](https://www.ugpti.org/resources/reports/downloads/mpc14-276.pdf) found at: <https://www.ugpti.org/resources/reports/downloads/mpc14-276.pdf> that presents a comprehensive description of resources for tribes. The [Tribal Emergency Management Association has a website](https://itema.org/) with ample information on the issue of disaster resources, found at: <https://itema.org/>

HELPFUL DISASTER RELIEF WEBSITES

The following is a list of helpful websites that provide useful information to attorneys interested in volunteering or in providing legal assistance to those affected by disasters.

Federal Emergency Management Agency	www.fema.gov
State Bar of South Dakota	www.statebarofsouthdakota.com
Dakota Plains Legal Services	www.dpls.org
East River Legal Services	www.erlservices.org
Insurance Information Institute	http://www.iii.org
SDLawHelp	www.SDLawHelp.org
National Disaster Legal Aid	www.disasterlegalaid.org
Probono.net	www.probono.net
Social Security Administration	www.ssa.gov/emergency
SD Governor's Office	sd.gov/governor
U.S. Health & Human Services	www.hhs.gov
U.S. Internal Revenue Service	www.irs.gov
U.S. Postal Service	www.usps.com



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