

# Legal Issues After A Disaster

Texas RioGrande Legal Aid

# TRIA

Texas RioGrande Legal Aid



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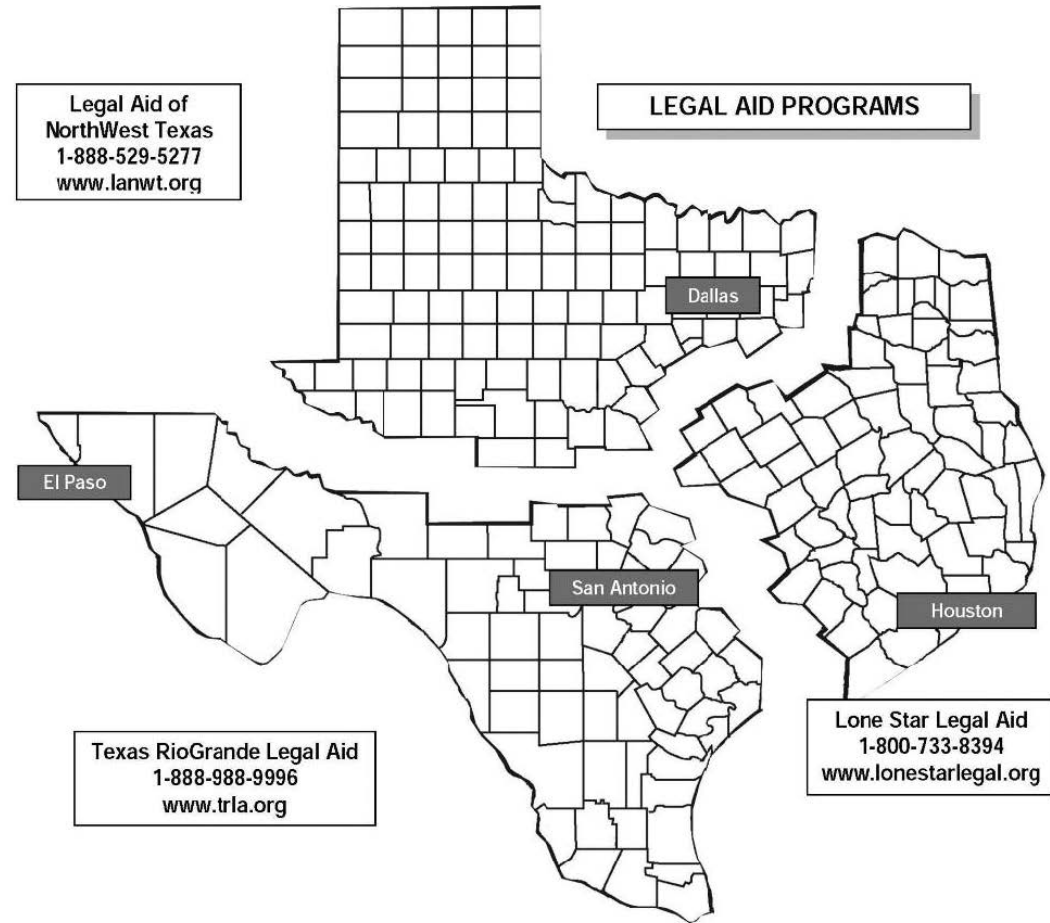
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TRLA provides free legal services to residents in 68 Southwest Texas counties.

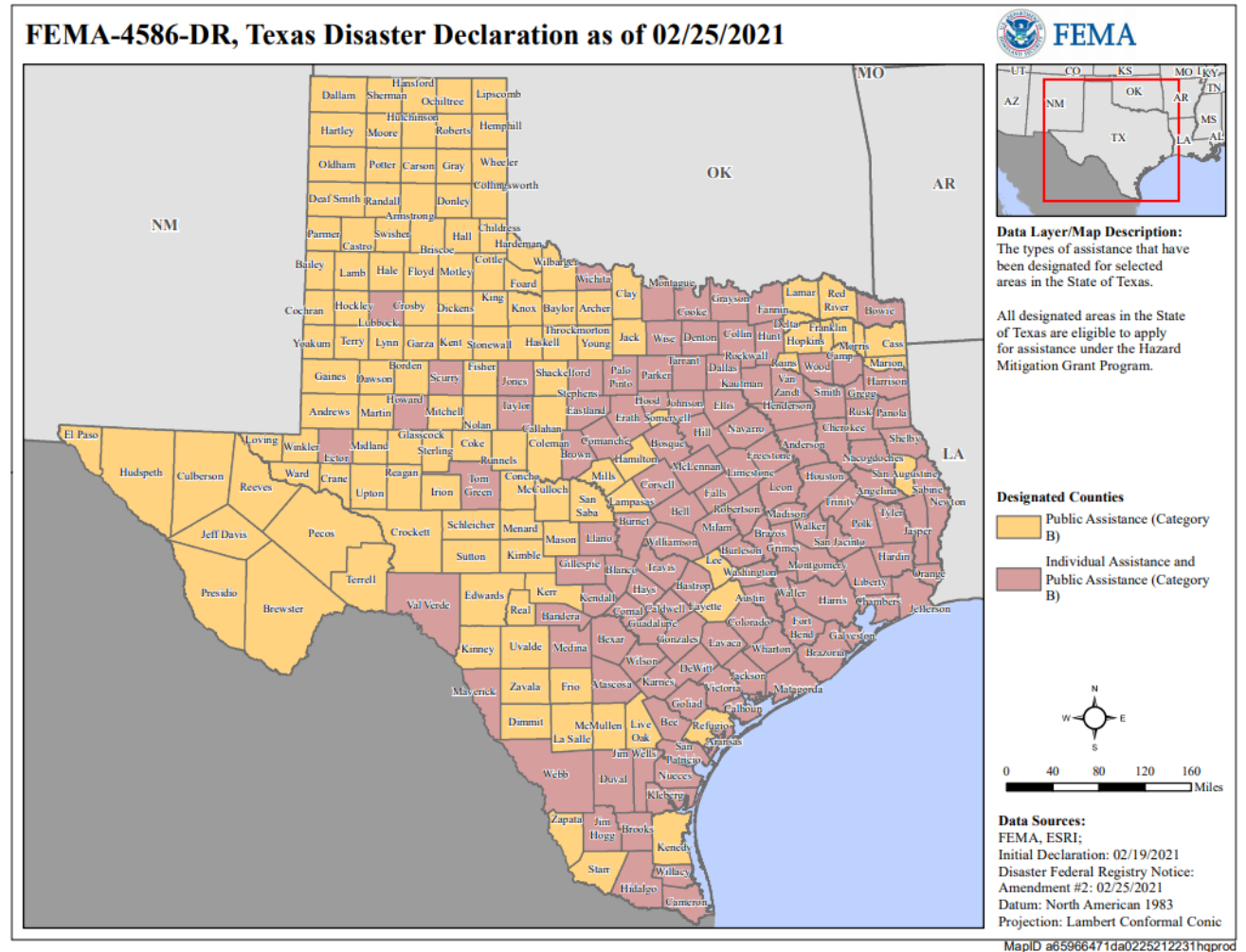
TRLA serves about 23,000 clients each year. However, more than 2.6 million residents of Southwest Texas are considered eligible for TRLA services, a ratio of almost 21,000 potential clients per legal aid lawyer.

TRLA attorneys specialize in more than 45 practice areas, including **disaster**, family, employment, foreclosure, bankruptcy, subsidized housing, farmworker, civil rights, and environmental law. TRLA serves its clientele through its Mercedes headquarters and branch offices throughout Southwest Texas.



# Texas Winter Storm 2021 DR-4586

## FEMA-4586-DR, Texas Disaster Declaration as of 02/25/2021



<https://www.fema.gov/disaster/4586>

# Texas RioGrande Legal Aid

- ❑ Federally declared disasters in our service area since 2002:
  - ❑ Hurricanes Katrina, Rita, Dolly, Alex and Harvey
  - ❑ Wildfires in Central Texas in 2011
  - ❑ Multiple storms, tornadoes, and flooding affecting El Paso, Central Texas, Laredo, the Lower RioGrande Valley, the Coastal Bend, and the Golden Crescent/Victoria region
  - ❑ Winter Storm 2021
- ❑ Provided legal assistance to thousands of disaster survivors
  - ❑ Legal advice
  - ❑ Document preparation
  - ❑ Representation before administrative agencies
  - ❑ Representation in JP, state, and federal court

# Why Disaster Survivors Need A Lawyer

- Disaster survivors need food, water, shelter—and an attorney
- Many legal issues arise, or are worsened by disasters, such as disaster benefits, landlord tenant, consumer fraud, insurance, public benefits, estates and property, and tax issues
- Marginalized communities are especially vulnerable after a disaster

# Legal Needs After a Disaster

## Legal Needs After a Disaster

### short term

- 1 TO 6 WEEKS AFTER EVENT**
- Landlord-Tenant questions
  - Present insurance claims, proactive steps to maximize coverage, flood insurance
  - Apply for FEMA assistance (temporary housing, home repair/replacement, other needs)
  - Apply for SBA Disaster Loans to individuals, Disaster Unemployment
  - Replace documents (ID, driver license, SS card, EBT, custody, immigration, deed, etc.)
  - Referral to community services (Red Cross, local government, religious, etc.)
  - Apply for or redirect unemployment, TANF, SNAP/Food Stamps, Medicaid, SSI benefits
  - Wage/Labor Theft Redress
  - Respond to public agency requests for emergency rule modifications on health, human services, and utility concerns.

### medium term

- 1 TO 6 MONTHS AFTER EVENT**
- Appeal FEMA assistance denials
  - Renew rent subsidies from either FEMA or HUD
  - Evictions and private lease termination/repair questions
  - Utility shutoffs
  - Security deposits
  - Displaced public housing participants
  - Section 8 portability
  - Mobile home questions
  - Foreclosure prevention
  - Clearing property titles
  - Access to public education while displaced, IDEA and 504 issues
  - Insurance claim disputes
  - Consumer price gouging and other scams, including insurance claim scams
  - Repair contractor scams and disputes
  - Powers of Attorney to care for a child or elderly person
  - Guardianships and Supportive Decision Making for those needing
  - Emergency conservatorships (custody)/Modifications
  - Modification of parenting orders to reflect new home and school locations
  - Domestic violence response, including protective orders
  - Estate planning document replacement

### long term

- 6 MONTHS TO YEARS AFTER EVENT**
- Foreclosures
  - Bankruptcies
  - Flood Insurance Proof of Loss Preparation and FEMA Flood Directorate Appeals
  - Defend FEMA recoupment
  - Apply for disaster tax relief
  - Civil and disability rights cases
  - Legal counsel for community based organizations on rebuilding plans
  - Litigation to redress systemic disaster response problems
  - LL/Tenant Issues concerning repair issues, non-repair, mold concealment, etc.
  - Disputes regarding home elevation certificates and flood plain zoning
  - Disputes regarding significant damage determination against homeowners

Big Three

Housing

Consumer

Family



# Housing Issues After Disaster: Termination of Tenancy

- If the rental unit is "as a practical matter totally unusable for residential purposes" as a result of a casualty loss and the tenant is not at fault, either the landlord or the tenant can **terminate a tenancy via written notice** any time before repairs are completed.
  - A tenant is entitled to **pro-rated refund of rent** after moving out and the same right to a refund of security deposit as if the lease did not terminate early
  - A landlord **must go through the judicial eviction process** to remove a tenant who refuses to leave after a landlord's termination, including by issuing a valid Notice to Vacate before filing suit
    - After landlord termination under 92.054, a court must not evict if the landlord cannot show that the unit was "as a practical matter totally unusable"

Tex. Prop. Code § 92.054(b)

# Housing Issues After Disaster: Repairs & Remedies

- A tenant can file a lawsuit in justice court to order repairs of conditions that threaten health and safety, and must show that the tenant was **current on rent** when they sent the required notices of repair (two requests or one via Certified Mail), and the **landlord did not make a diligent effort** to repair/remedy the condition during a **reasonable time** after receiving notice

Tex. Prop. Code §§ 92.056, .0563

- If a condition results from an insured casualty loss, the time for a landlord to repair the condition does not start until the landlord **receives insurance proceeds**

Tex. Prop. Code § 92.054(a)

# Housing Issues After Disaster: Lock-Outs & Utility Shut- Offs

- Landlords may intentionally lock a tenant out\* and/or interrupt/cause the interruption of utilities **only if reasonable for:**
  - Bona fide repairs, construction, or emergencies
    - Tex. Prop. Code §§ 92.008, .0081
- A tenant may seek a **writ of reentry** or **writ of restoration** of utility services
  - Tex. Prop. Code § 92.009, .0091

\*Lockouts may also be allowed after abandonment or when a tenant owes rent, but only if landlords **follow all proper procedures, including the terms of the lease**

# Housing Issues After Disaster: Paying Rent

- If the unit becomes **partially unusable** after a casualty loss, tenants may obtain a rent reduction only via county/district court judgment (not justice court), unless the lease says otherwise

Tex. Prop. Code § 92.054(c)

- Until the lease terminates, **a tenant must pay rent**, regardless of the condition of the premises
  - Some exceptions: utility reinstatement costs and certain repairs
- Tenants who are unable to pay rent may qualify for protection from eviction under the **CDC Order** and the Texas Supreme Court's 34th E.O.
  - Rental assistance is available through [TexasRentRelief.com](https://www.texasrentrelief.com) and the Texas Eviction Diversion Program (TEDP).

# Title Disputes and Attempted Evictions

- May not have jurisdiction in divorce, slander or defamation, **trial to title of land**, or enforcement of liens on land, and suits to recover penalties, forfeitures, and escheats on behalf of the state...
- Government Code Sec. 27.031

# Home Repair and Contractor Problems

- Contract disputes
- Contractor fraud/theft
- Government Code Sec. 27.031



# Resources for Disaster Survivors

# Resources

- Utilities: Energy Assistance Programs In Texas
- Food: Supplemental Nutrition Assistance Program
- Work: Disaster Unemployment
- Legal: Texas RioGrande Legal Aid, Lones Star Legal Aid, Legal Aid of Northwest Texas



# Disaster Assistance

- **Federal Emergency Management Agency**
- FEMA IHP – Housing Assistance for owners and renters
- Type of IHP Financial housing assistance
  - Rental assistance
  - Lodging Expense reimbursement
  - Home repair
    - not intended to return home to pre-disaster condition
  - Home replacement
    - If home destroyed
    - Not intended to cover FULL cost of replacing home
- Appeals begin as soon as FEMA inspections are complete and peaks about 60 days after the first deadline

# FEMA

- Benefits are not taxed
- Benefits decisions do not affect your other means-tested public benefits

# FEMA Housing Eligibility

- Home is in declared disaster area
- Can't live in home now, OR Can't get to home due to disaster, OR need repairs to make it habitable again.
- Household member is US Citizen, LPR or Qualified Alien
- Insufficient or no insurance coverage (or can't get paid in time and agree to repay FEMA)
- Ownership – required for home repair or replacement, but not temporary housing assistance.

# FEMA Housing

- Using Rental Assistance and Continued Rental Assistance
- USE:
  - to rent another place from private owner
  - House
  - Apartment or Duplex
  - Short-term – motel or hotel
    - but check with FEMA for how long and how to document
- Do NOT Use:
  - for public housing or Sec. 8 (already affordable without FEMA money)
  - to stay with friends or family members

# FEMA Appeals

- Legal Aid can help!
- <https://www.trla.org/fema-disaster-assistance-in-a-pandemic>

# SBA Disaster Loans

- Types- SBA Dependent and non-SBA dependent
- Ability to repay
- Interest rates can be better than other loans
- Duration of Assistance
- Read carefully
  - Flood insurance requirements
  - Security interest in home for some loans
  - Who you hire to do the repairs
- <https://www.trla.org/disaster-loans>

# Texas Law Help



[ENGLISH](#) | [ESPAÑOL](#)

Search for information, help, forms, or anything



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[LEGAL INFORMATION AND FORMS](#)

[LEGAL HELP](#)

[ASK A QUESTION](#)

## Winter Storm Uri - Disaster Relief and Recovery



On February 19, 2021, President Joseph Biden approved a **major disaster declaration** for the following Texas counties: Angelina, Aransas, Bastrop, Bee, Bell, Bexar, Blanco, Brazoria, Brazos, Brown, Burleson, Caldwell, Calhoun, Cameron, Chambers, Collin, Comal, Comanche, Cooke, Coryell, Dallas, Denton, DeWitt, Ellis, Falls, Fort Bend, Galveston, Gillespie, Grimes, Guadalupe, Hardin, Harris, Hays, Henderson, Hidalgo, Hood, Jasper, Jefferson, Johnson, Kaufman, Kendall, Lavaca, Liberty, Madison, Matagorda, Maverick, McLennan, Montague, Montgomery, Nacogdoches, Nueces, Orange, Palo Pinto, Panola, Parker, Polk, Rockwall, Sabine, San Jacinto, San Patricio, Scurry, Shelby, Smith, Stephens, Tarrant, Travis, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wharton, Wichita, Williamson, Wilson and Wise.

On February 23, 2021, an additional 31 Texas counties were added to the above list: Anderson, Austin, Bosque, Bowie, Burnet, Cherokee, Colorado, Erath, Fannin, Freestone, Gonzalez, Grayson, Gregg, Harrison, Hill, Houston, Hunt, Jackson, Jim Wells, Jones, Limestone, Lubbock, Medina, Milam, Navarro, Rusk, Taylor, Tom Green, Val Verde, Washington, and Wood. [Click here for the press release.](#)

On February 26, 2021, an additional 18 counties were added to the above list: Atascosa, Bandera, Brooks, Duval, Eastland, Ector, Goliad, Howard, Jim Hogg, Karnes, Kleberg, Leon, Llano, Newton, Robertson, Trinity, Webb and Willacy. [Click here for the press release.](#)

# Texas Disaster Legal Help



Texas Disaster Legal Help

## Welcome

Welcome to **Texas Disaster Legal Help**, a joint project of Texas Legal Aid partners. Legal Aid is a nationwide network of nonprofit law firms that provides free legal services to eligible low- income individuals and families.

## How Can This Site Help Me with My Legal Problem?

- **Texas Disaster Legal Help** will guide you through a series of questions about your legal problem. Along the way, you'll get **free information** and a **summary** of the interview at the end.
- **Texas Disaster Legal Help** can connect you with **free legal services** if you qualify.
- **Texas Disaster Legal Help** is **free to all users**.

We are building this site one topic at a time. Right now, we can answer questions and provide information about:

- **Title Clearing** - Problems with proving homeownership, including how to replace documents lost in a disaster.
- **Foreclosure** - If someone is trying to take your property (foreclose) because of problems with paying your mortgage, property taxes, or other loans against your property.
- **Contractor Fraud** - Problems with people you hired to work on your property.
- **Materialmen's/Mechanic's Lien** - Problems with liens against your property by building contractors or suppliers.



- ABA Young Lawyers Division  
Disaster Legal Services Program  
[https://www.americanbar.org/groups/young\\_lawyers/projects/disaster-legal-services/](https://www.americanbar.org/groups/young_lawyers/projects/disaster-legal-services/)
- National Disaster Legal Aid  
<https://www.disasterlegalaid.org/>
- State Bar of Texas Pro Bono  
Texas  
<https://www.probonotexas.org/>
- Texas RioGrande Legal Aid  
[www.trla.org/probono](http://www.trla.org/probono)



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## About Disaster Legal Services

Through the Disaster Legal Services Program, the ABA Young Lawyers Division (ABA YLD) and the Federal Emergency Management Agency (FEMA) provide immediate temporary legal assistance to disaster survivors at no charge. Since September 2007 the ABA YLD has responded to 222 declared disasters in 45 states and 5 U.S. territories.

→



# How to Apply for FREE Legal Services

- **Call us at 1-888-988-9996**
- Intake Hours: Monday through Friday from 9:00 a.m. – 5:00 p.m
- Remote Working due to COVID-19
- <https://www.trla.org/help>

# Disaster Legal Services

- People who need to apply for free disaster legal services:
  1. SBOT Disaster Hotline: [1-800-504-7030](tel:1-800-504-7030)
  2. TRLA Hotline [-1-866-988-9996](tel:1-866-988-9996)

GO BACK TO GET HELP

ESPAÑOL



Texas RioGrande Legal Aid

# WINTER DISASTER 2021

In the winter storm's complicated aftermath, we are committed to providing legal assistance and resources to help low-income Texans. We've compiled the resources below to address a wide variety of concerns, from disaster assistance to renter's rights, and hope they will be of service to our communities. As always, our attorneys are available to provide free legal services to 68 Texas counties. You can learn more on our [Get Help page](#).

## Getting Disaster Assistance

If your property has been damaged by the storm, you should file a claim with your insurance and then apply for assistance through the Federal Emergency Management Agency (FEMA). The application process through FEMA will also include consideration for Small Business Administration (SBA) disaster loans, which are available to both individual homeowners and business entities alike. **You do not have to have insurance to receive FEMA Disaster Assistance.**

1. Filing An Insurance Claim After A Disaster

# Check Out Our Website