

ANNEX HHHH

DISASTER LEGAL SERVICES

A. PURPOSE

Consumer abuses and other problems that may require legal recourse frequently plague individuals affected by natural or man-made disasters. Section 412 of Public Law 93-288 authorizes legal services to low-income disaster victims and others that, as a result of a Presidentially declared disaster, lack sufficient resources to secure adequate legal assistance. This annex describes policies, responsibilities and procedures for providing legal and consumer protection services.

B. CONCEPT OF OPERATIONS

1. Disaster legal services are limited to assisting major disaster victims in securing benefits and settling claims arising out of the Presidentially declared disaster. Any victim who lacks sufficient resources to secure the services of a private lawyer is eligible for legal assistance.
2. The FEMA III Regional Director, in conjunction with the State Coordinating Officer (SCO), determines if legal services are required and establishes the terms under which these services will be provided.
3. Upon request of the SCO, the Executive Director of the West Virginia State Bar notifies the Bar's Standing Committee on Disaster Relief to organize voluntary consultation services and the State Young Lawyers Division (YLD) Chairman to alert the YLD Officer in the District serving the affected area. The Executive Director maintains liaison between the Standing Committee and the SCO throughout the emergency or disaster.
4. Admittance to the West Virginia State Bar obligates all attorneys to uphold the law and abide by the Code of Professional Responsibility whether or not they are receiving fees for their services. Any disaster victim who believes a volunteer lawyer is engaged in professional misconduct may file a formal complaint with the West Virginia State Bar for investigation and possible judicial processing. Victims needing assistance in preparing complaints may conduct the State Bar Office.
5. The FEMA III Regional Director is responsible for obtaining additional legal personnel to supplement State and local resources.

C. TASK ASSIGNMENTS

1. The SCO notifies the State Bar that legal assistance is needed in affected areas.

2. The West Virginia State Bar, through its standing Committee on Disaster Relief, organizes free legal consultation and provides guidance to YLD attorneys providing disaster legal services under Section 412.
3. The State Coordinating Officer requests the Consumer Protection Division of the Attorney General's Office to assign representatives to Disaster Recovery Centers.
4. The Consumer Protection Division provides victims with information about consumer abuse and procedures to follow in filing complaints.
5. The Office of the Attorney General evaluates and processes consumer claims filed for action.
6. The West Virginia University Extension Service assists the Consumer Protection Division with the consumer protection public information program.
7. Local consumer protection organizations, the West Virginia University Extension Service and the Consumer Protection Division conduct a coordinated public information program to educate victims about consumer abuses common in the wake of a disaster.
8. The West Virginia Attorney General's Office considers a consumer's claim filed for action when it is submitted in written form and signed.
9. Claims filed with the Attorney General are assigned to an Assistant Attorney General for evaluation and processing.

D. AUTHORITIES AND REFERENCES

1. West Virginia Code, Chapter 55, Article 1, as amended
2. West Virginia Code, Chapter 51, Article 1, as amended
3. West Virginia Code, Chapter 46A, as amended
4. PL 93-288, Section 412, "Legal Services"
5. Code of Federal Regulations, Title 44, Part 206.164
6. Agreement Between the Young Lawyers Division (American Bar Association) and the Federal Emergency Management Agency (FEMA) Concerning Disaster Legal Services, December, 1980
7. Manual for Disaster Legal Services, FEMA and the American Bar Association Young Lawyers Division (1994 Edition)

ANNEX HHHH
APPENDIX 1
EXAMPLES OF CONSUMER ABUSES THAT
ARISE AS A RESULT OF A DISASTER

DEBRIS REMOVAL

If there are any major debris problems, amateur or unknown groups invade the area and charge outlandish prices for removing debris. They sometimes quote an estimate and then double or triple the price at rendering of bill.

REAL ESTATE

Real estate speculators take advantage of disaster victims during a period of emotional upset. They attempt, sometimes successfully, to purchase victims' property at a greatly deflated value.

MOVING

Moving companies prey on disaster victims and charge unbelievable high rates for short-distance moves. Sometimes they offer an estimate and they double the cost at the point of destination, perhaps even refusing to unload the truck unless paid at the increased rate.

REPAIRS

Unethical repairs contractors take advantage through greatly inflated prices, poor workmanship or getting partial or whole payment and then disappearing without completing (or even beginning) the repairs.

RETAIL SALES

Price gouging by retail outlets for building materials is common. The day after a disaster, prices for lumber, paint, etc. will double.

All of the above are known for getting disaster victims to agree to purchase services or materials at inflated costs by telling them that their insurance company is going to pick up the expense. It is usually a couple of weeks before the victim discovers that his insurance company will not agree to these costs. The victim is caught with contract bills he cannot pay and a delayed insurance settlement.