

Natural disasters (WA) – property issues

If you have a property which was damaged or destroyed, or you were buying or selling property which has been affected by, natural disasters such as bushfires, catastrophic storms or floods in Western Australia, this infosheet may answer some of your queries.

The law is complex in this area. It is important to get legal advice about your individual situation. Do this as soon as possible as limitation dates may apply which could affect your options.

Buying or selling property

I made an offer to buy a property but it was then destroyed (or damaged). Can I withdraw from the offer?

There are a lot of factors to consider if you want to end a contract. Get advice from a lawyer.

If you want to go ahead with the sale, it is generally up to the seller to fix and pay for the things that need to be repaired.

You have the right to ask the seller to restore the house to the way it was when you entered the contract to purchase it. You can generally delay settlement until these repairs are done.

My property was burnt down or damaged (due to bushfires or floods) and I now have an offer for it. What should I do?

If you are approached to sell your property, regardless of whether your house has been damaged or destroyed, take your time to consider the offer.

Talk to other people in your local area about the amount of the offer and to experts such as real estate agents, conveyancers and lawyers. Have a

good think about your overall financial position before accepting any offer.

If you are approached to sell your property, regardless of whether your house has been damaged or destroyed, take your time to consider the offer.

I want to sell or rebuild a jointly-owned property that was affected by the bushfires (or floods). The other owner does not want to sell or rebuild. What can we do?

If you are one of two or more owners and you want to do anything with your jointly owned land (for example, lease or sell or repair or renovate), you and the other owner both need to agree to it. If you cannot agree, you may need to apply to the Supreme Court of Western Australia for a decision to be made.

Your mortgagee or credit provider might also get involved and want to have a say in how the insurance money is spent.

Mortgage and debts

The property I used as security for my mortgage or loan has been damaged or destroyed. What happens now?

A property may be used as security for a loan. The property is protection for the lender if you miss repayments on the loan. If the property is damaged, you still need to make regular loan repayments.

Usually you need to tell the lender as soon as possible about any damage to a property that is being used as security.

In most cases, the lender has standard expectations for the property being used as security, such as requiring that you have insurance on the property. If the property is damaged or destroyed, the lender may require that you pay them any insurance money you get. After this happens, you and the lender will work together to use that money for repairs, replacements and rebuilding. You can expect that the lender will take control of any negotiations with the insurer. However, not all arrangements work like this. Check the terms of your mortgage document.

If the damaged or destroyed property was not insured, the lender might want to work out a new arrangement for security for the loan and could require you to give more security or repay the loan. They might want the loan paid in full or in part.

Usually, you need to tell the lender as soon as possible about any damage to a property that is being used for security.

My property was destroyed. I owe tradespeople money for work on the property. Do I have to pay?

Yes. Your contract with the tradespeople (to do work on the house) is treated separately. You have to pay for the work that they completed under the contract. If the damaged property is insured, you

may be able to claim on the insurance policy and recover your losses separately.

I was building (or renovating) my home at the time of the bushfires (or floods) and now the building work is damaged. What should I do?

Usually, you still have to pay for work that tradespeople or your builder have already done under the contract. Talk to your builder.

The builder's general construction insurance may cover the damage. You will still have a contract between yourself and the builder. Contact your builder and ask for another copy of the contract if you no longer have yours.

Your insurance may cover damage to the building or renovation works.

Is any financial help available from the government?

In cases of natural disaster, government assistance may be available.

Information about assistance may be available on:

- The Services Australia website under the heading Help in a natural disaster: <https://www.servicesaustralia.gov.au/natural-disaster>, or
- the Department of Fire and Emergency Services' website under [Disaster Recovery Funding Arrangements Western Australia](#). If you need help in deciding if you qualify for any assistance, email drfawa@dfes.wa.gov.au or phone the numbers provided on the website.

See also the *Infosheet: Natural disasters (WA) – debt issues* which is available from the Legal Aid WA website or any office.

Where can I get more information?

- See the [Legal Aid WA](#) website under the heading Natural disasters or contact the Infoline on 1300 650 579 for information and referral.

- Contact the [Law Society of WA](#) on (08) 9324 8600 or visit the website for referral to a specialist property lawyer.
- Individuals can contact the [Australian Financial Complaints Authority](#) (AFCA) on 1800 931 678 to lodge a complaint about the outcome of your financial hardship application. A complaint can also be lodged online at: <https://www.afca.org.au/make-a-complaint/>.
- For advice and counselling on credit related issues, contact the Consumer Credit Legal Service WA on (08) 9221 7066, Monday to Friday, 9.00am to 4.00 pm (WST): <https://www.cclswa.org.au/>.
- Contact the [National Debt Hotline](#) on 1800 007 007. It is a free confidential service for those with financial problems and queries.
- First Nations callers can call the free [Mob Strong Debt Helpline](#) on 1800 808 488. The helpline is open Monday to Friday 9:30am to 4:30pm.
- To find your nearest financial counsellor visit the Financial Counsellors Association of WA website at: www.financialcounsellors.org/.

LEGAL AID WA OFFICES



Infoline: 1300 650 579
Legal Yarn: 1800 319 803
 (for First Nations callers)



Translating & Interpreting Service:
 131 450



Website/InfoChat:
www.legalaid.wa.gov.au



National Relay Service: 133 677
 (for hearing and speech impaired)

Perth Office

32 St Georges Terrace,
 Perth, WA 6000
 1300 650 579
 (08) 9261 6222

Midwest & Gascoyne Office

Unit 8, The Boardwalk,
 273 Foreshore Drive,
 Geraldton, WA 6530
 (08) 9921 0200

West Kimberley Office

Upper Level, Woody's Arcade,
 15-17 Dampier Terrace,
 Broome, WA 6725
 (08) 9195 5888

Great Southern Office

Unit 3, 43-47 Duke Street,
 Albany, WA 6330
 (08) 9892 9700

Goldfields Office

Suite 3, 120 Egan Street,
 Kalgoorlie, WA 6430
 (08) 9025 1300

East Kimberley Office

98 Konkerberry Drive,
 Kununurra, WA 6743
 (08) 9166 5800

Southwest Office

7th Floor, Bunbury Tower,
 61 Victoria Street,
 Bunbury, WA 6230
 (08) 9721 2277

Pilbara Office

28 Throssell Road,
 South Hedland, WA 6722
 (08) 9172 3733

Indian Ocean Office

Administration Building,
 20 Jalan Pantai, Christmas Island,
 Indian Ocean, WA 6798
 (08) 9164 7529

© Copyright Legal Aid WA. You may use, copy or share part or all of this resource for non-commercial purposes if you make it clear it was created by Legal Aid WA. For any other use, you must get prior written permission from Legal Aid WA.

This resource contains general information about the law. Speak to a lawyer if you need specific legal advice. Legal Aid WA aims to provide accurate information but does not accept responsibility for any inaccuracies.

CMS ID: 2560667v4