

Emergency Rule
LSA Document #08-941(E)

DIGEST

Temporarily adds provisions concerning individual assistance. Statutory authority: P.L.57-2008. Effective July 15, 2008. *NOTE: [IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. This document was filed with the Publisher December 16, 2008.*

SECTION 1. (a) The definitions in this SECTION apply throughout this document.

(b) "Affected area" means the county or counties that are included in the USSBA disaster declaration.

(c) "Amount of loss" is the total estimated loss suffered by the applicant that may be compensated and which shall be not less than five hundred dollars (\$500) and not more than five thousand dollars (\$5,000).

(d) "Applicant" means any individual who submits an application on behalf of a household for financial assistance pursuant to [IC 10-14-4](#) or any county, city, or town whose executive submits an application for a grant pursuant [IC 10-14-4](#).

(e) "Applicant's agent" means the person who is authorized by the governing body executive to act on behalf of the applicant in administering financial assistance.

(f) "Certification" means that part of the application where the applicant must certify that the applicant is not engaging in any fraudulent conduct.

(g) "Compensation" means financial assistance not to exceed five thousand dollars (\$5,000) per household for any loss of real or personal property suffered by the applicant as a direct result of an event for which the USSBA declared a disaster.

(h) "Damage assessment" means a comprehensive assessment of all public damages to include verifiable estimates of repair or replacement costs.

(i) "Department" means the department of homeland security created pursuant to [IC 10-19-2-1](#).

(j) "Director" means the executive director of the department of homeland security appointed under [IC 10-19-3-1](#).

(k) "Disaster" has the meaning as set forth in [IC 10-14-3-1](#).

(l) "Eligible items" means the following for individual assistance applicants:

- (1) General repairs to the applicant's primary residence, including mobile home repairs.**
- (2) Utilities replacement or repairs.**
- (3) Heating, ventilating, or air conditioning equipment replacement or repairs.**
- (4) Personal property, including, without limitation, clothing, appliances, essential tools for employment or school, repairs, or replacement.**
- (5) Motor vehicles that are essential transportation and currently registered to the applicant.**

(m) "Emergency management director" means the director.

(n) "Emergency management program" means a program as described by [IC 10-14-3-16](#) and [IC 10-14-3-17](#).

(o) "Individual Disaster Assistance Program" means the provisions of [IC 10-14-4-13](#).

(p) "Nature of loss" means damage or loss of eligible items.

(q) "Proof of loss" means documentation required as part of the application process described in

SECTION 3 of this document and including, without limitation, one (1) or more of the following:

- (1) A damage report of a damage estimate from:
 - (A) a contractor regularly engaged in the business of disaster damage, repair, or replacement and that is not the subject of a complaint to the Indiana Better Business Bureau within the twenty-four (24) months preceding the disaster;
 - (B) a professional engineer registered under [IC 25-31](#) or a registered architect who is registered under [IC 25-4](#);
 - (C) an employee of a local, state, or federal government agency.
- (2) An invoice from any person described in subsection (p)(1) above *[redesignated subsection (q)(1) by the Publisher]* that documents the nature of loss and eligible items.
- (3) A letter of denial of coverage from the applicant's insurer for eligible items.

(r) "Resident" means an individual renting, leasing, or owning real property that is their primary residence within the affected area at the time of a disaster declaration declared pursuant to [IC 10-14-3-12](#).

(s) "USSBA" means the United States Small Business Administration.

(t) "USSBA declared disaster" means a disaster declaration by the United States Small Business Administration.

(u) "USSBA Disaster Loan Program" means the United States Small Business Administration loan program operated pursuant to 15 U.S.C. 631 et seq.

SECTION 2. (a) Eligible individuals and families suffering damages shall apply for Individual Disaster Assistance Program financial assistance as follows:

- (1) Meet the eligibility requirements as set forth in **SECTION 3** of this document.
- (2) Complete the Individual Disaster Assistance Program Financial Assistance Application Form provided by the department including the following information:
 - (A) The applicant's name, address, and telephone number.
 - (B) A description of the loss and the eligible items as result of the disaster.
 - (C) The applicant's proof of ownership or rent receipts.
 - (D) The applicant's proof of loss.
- (3) Submit the application to the department not more than thirty (30) days after the denial of United States Small Business Administration disaster loan or ninety (90) days after the governor's disaster declaration for the county in which the applicant's losses occurred, whichever is applicable.

(b) The decision granting or denying, in whole or in part, the application for Individual Disaster Assistance Program financial assistance shall be issued by the department in accordance with the requirements of Indiana Code 4-21.5-3-5. If a petition for review is subsequently granted under [IC 4-21.5-3-7](#), the department shall conduct the resulting administrative proceeding.

(c) Individual Disaster Assistance Program financial assistance amounts will be determined based the receipts or repair estimates supplied by the applicant.

SECTION 3. Applicants shall comply with the requirements of the program and meet all of the following eligibility requirements for the Individual Disaster Assistance Program financial assistance:

- (1) Applicant shall prove that they did not qualify for a United States Small Business Administration disaster loan by presenting a copy of the letter of denial issued by the United States Small Business Administration, where applicable.
- (2) Applicant shall demonstrate that the amount of loss is an uninsured loss by:
 - (A) presenting a letter from the applicant's insurance company stating that it is an uninsured loss; or
 - (B) submission of an affidavit under penalty of perjury by the applicant that the applicant does not have insurance coverage for the amount of loss.
- (3) Applicant shall demonstrate a need for the financial assistance by documenting proof of loss.
- (4) Applicant shall correctly complete the Individual Disaster Assistance Program financial assistance application form.
- (5) The applicant's damages must have occurred at their primary residence, and the applicant may be either owner or renter of such primary residence.
- (6) The applicant shall provide a copy of a deed, lease, or certified statement of the property owner evidencing that the applicant does reside at the location described in (5) above *[subdivision (5)]*.

(7) The applicant shall be a resident of the primary county of the United States Small Business Administration disaster declaration and not a contiguous county.

(8) The application shall be submitted or postmarked not later than thirty (30) days after the date of the denial letter from the a United States Small Business Administration described in (1) above [subdivision (1)].

SECTION 4. (a) Inspections of the property that is the subject of the financial assistance application may be made by an inspector or program verifier employed by, or authorized to act on behalf of, the department to verify:

- (1) the damages claimed;
- (2) the documents required under section 3.5(6) above [sic];
- (3) general repairs, electrical, utility repairs, heating and plumbing repairs, mobile home repairs;
- (4) personal property repair or replacement costs;
- (5) transportation costs; and
- (6) medical costs limited to medical equipment or devices.

(b) Verification of medical costs described in (a)(6) above [subsection (a)(6)] shall consist of written verification from a physician who prescribed or recommended the medical equipment or device.

(c) Financial assistance found by the department to have been spent for a purpose other than the specific purpose for which the financial assistance was made:

- (1) shall be refunded by the applicant and returned to the disaster relief fund; and
- (2) the department may, in addition to the amount of the inappropriately spent financial assistance, seek reimbursement for all costs associated with the collection of the improperly expended financial assistance funds.

SECTION 5. Random audits of financial assistance may be conducted by or on behalf of the department when all eligible financial assistance has been made and all appeals are final. Audits of financial assistance application files and receipts may be conducted for a period of up to three (3) years after the award of financial assistance to verify financial assistance approved use of financial assistance funds. In addition, financial assistance application files may be audited to ensure that an application was properly processed even if no financial assistance was awarded to the applicant.

SECTION 6. (a) Program financial assistance is available for the repair, restoration, or actions relating to the following categories of damages owned by, or rented by, an eligible applicant:

- (1) For home repairs, building materials, electrical, plumbing and plumbing materials, floors and floor coverings, paint, hardware, and wall coverings.
- (2) Essential furnishings including living room furniture, bedroom furniture, and kitchen furnishings.
- (3) Appliances range, refrigerator, water heater and furnace (natural gas, LP, oil, electric and coal). Space heaters or portable heaters will be counted if they are the only source of heat for the room in the house. Air conditioners are acceptable either central units or window units if there is a medical condition that warrants such appliances. Window fans or any other fans to move air that is used for cooling or drying wet surfaces.
- (4) Medical expenses if there is no medical insurance to cover medical devices such as eye glasses or contact lenses, false teeth, wheel chairs, crutches, leg braces, prosthetic devices, and/or motorized chairs.
- (5) Essential transportation motor vehicle repair (two (2) estimates are required). The motor vehicle must be used and essential for employment or medical care, a current license and registration to the applicant or coapplicant is required, and the motor vehicle shall be covered by at least liability insurance or the minimum required by the state of Indiana for car insurance. If the immediate need for the family is essential transportation, the entire amount of financial assistance may be used for that purpose.
- (6) Essential tools and equipment that are needed for employment shall be verified by the applicant's employer on company letterhead, with a listing of what tools or equipment are needed for the employee's job. The applicant's employer's letter shall include a statement concerning the need for tools or equipment for the performance of the job.
- (7) Most immediate need to the family/individual, i.e., the individual or household, may determine how the financial assistance is to be allocated among eligible items when the value of the damage or loss to more than one (1) of the eligible items equals or exceeds the total amount of the financial assistance.

(b) Program financial assistance shall not be used for costs for medical care, injuries from the disaster, prescription medicines, allergies, removal of mold or mildew.

SECTION 7. Any damage costs recouped or services and/or materials provided at no cost, such as any insurance settlements and donations of services or materials, will be considered in the evaluation of an application to ensure that financial assistance from the fund is not duplicating benefits received from other sources. The following are examples of benefits that must be identified on the application form:

- (1) Insurance settlements.**
- (2) Donations of services or materials.**
- (3) Other needs assistance provided by the Federal Emergency Management Agency.**
- (4) Proceeds of one (1) or more loans from the USSBA.**

SECTION 8. When information resulting from an audit conducted pursuant to SECTION 5 of this document identifies financial assistance that constitutes overpayment or duplicate payment, or financial assistance that has been spent in violation of Indiana law, the agency may exercise all its legal rights to recover such financial assistance. Such exercise may include, without limitation, the use of a debt collection agency.

SECTION 9. This document expires July 1, 2009.

LSA Document #08-941(E)

Filed with Publisher: December 16, 2008, 2:58 p.m.

Posted: 12/24/2008 by Legislative Services Agency

An [html](#) version of this document.