



LEGAL AID

WESTERN AUSTRALIA

WA Bushfires - property

This fact sheet is for people whose properties were damaged or destroyed or who were buying or selling property which has been affected by bushfires.

It will explain your legal rights and options, and has the contact details of helpful organisations at the end. The law is complex in this area. Get legal advice about your specific circumstances.

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 and I have now got 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 estate agents, conveyancers and lawyers. Have a good think about your overall financial position before accepting any offer.

I want to sell or rebuild a jointly-owned property that was affected by the bushfires. 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, sell, 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 / lender might also get involved and want to have a say in how the insurance money is spent.

Mortgage and debts information

My destroyed property was used as security for my mortgage or loan on that (or another) property. What happens now?

A property which has been used as security for a loan acts as a protection for the lender if you miss repayments on the loan. If the property was damaged, you still need to make regular loan repayments. Usually you need to tell the lender as soon as possible about any damage to the property that was 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. Not all arrangements work like this though. Check the terms of your mortgage document.

If the 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.

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 and the fires have damaged the building work. What should I do?

Usually, you still have to pay for work that tradespeople or your builder did 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. It is possible that your insurance covers any renovations that were taking place.

Is any financial help available from the government?

Australian and/or State Government assistance may be available if the impact of the bushfires meets the criteria to be declared an "eligible natural disaster" for the purposes of Natural Disaster Relief and Recovery Arrangements (NDRRA). For more information on this see **Information sheet 88 Bushfires – debt** which is available from any Legal Aid WA office.

Where can I get help?

- Contact **Legal Aid WA's InfoLine** on **1300 650579** for information and referral
- Contact the **Law Society of WA** on **(08) 9322 7877** for referral to a lawyer who specialises in property law
- Contact the **Financial Ombudsman Service Natural Disaster Hotline** on **1800 337 444** or email FOSdisaster@fos.org.au for help and information on financial hardship, insurance claims and other financial issues experienced as a result of extreme weather events or call **1300 78 08 08** to register a dispute about a financial hardship application. A dispute can also be registered online with FOS
- For advice and counselling on credit related issues, contact the **Consumer Credit Legal Service WA** on **(08) 9221 7066**, Monday to Friday, 9.30am to 5pm <http://www.cclswa.org.au/>
- Contact the **Financial Counselling Hotline** on **1800 007 007**. It is a free confidential service for all Western Australians with financial problems and queries
- For how to find your nearest financial counsellor, contact **Financial Counsellors Association of Western Australia** on **(08) 9325 1617**



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Legal Aid Offices

TELEPHONE INFOLINE: 1300 650 579 (General Enquiries)

Translating and Interpreting Service 131 450

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

www.legalaid.wa.gov.au

Perth Office

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

Fremantle Regional Office

Shop 7, Queensgate Arcade, William Street, Fremantle, WA 6160
(08) 9336 9100

Midland Regional Office

Landgate Building, 1 Midland Square
Cnr The Avenue and Old Great Northern Highway
Midland, WA 6056
(08) 9274 3327

Southwest Regional Office

Koombana Court, 141 Victoria Street, Bunbury, WA 6230
(08) 9721 2277

Great Southern Regional Office

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

Goldfields Regional Office

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

Midwest & Gascoyne Regional Office

Unit 7, The Boardwalk, 273 Foreshore Drive, Geraldton, WA 6530
(08) 9921 0200

Pilbara Regional Office

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

West Kimberley Regional Office

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

East Kimberley Regional Office

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

Christmas/Cocos Islands Office

Administration Building Gaze Road,
Christmas Island, Indian Ocean, WA 6798
(08) 9164 7529

This document is based on a Fact Sheet produced by Victoria Legal Aid. Legal Aid WA acknowledges the invaluable assistance provided by Victoria Legal Aid.

This information contains a summary of the law and is correct at the date of publication. It is not legal advice. You should always seek legal advice about your individual situation. Any services referred to which are not operated by Legal Aid Western Australia are not endorsed or approved by Legal Aid Western Australia.

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