

Hurley Flood Relief Program Guidelines

Updated November 29, 2022

Program Overview

The Virginia Department of Housing and Community Development (“DHCD”) is committed to creating safe, affordable, and prosperous communities to live, work, and do business in Virginia. DHCD partners with Virginia’s communities to develop their economic potential, regulates Virginia’s building and fire codes, provides training and certification for building officials, and invests more than \$150 million each year into housing and community development projects throughout the commonwealth.

The purpose of the Hurley Flood Relief Program (“Program”) funding is to provide relief in the form of claim payments to Virginia residents with property damages caused by the flooding event occurring after August 1, 2021 but before September 30, 2021 and which was subject to the declaration of emergency by the Governor of Virginia on August 31, 2021, and subject to a Major Disaster Declaration (FEMA-4628-DR) issued by President Biden October 26, 2021.

Through the Program, direct assistance will be provided to eligible households and businesses whose properties sustained flood-related damage according to the guidelines laid out in this document. DHCD is partnering with the Buchanan County Department of Social Services (DSS) to administer this funding program, intake and review applications, process payments, and resolve claims for those eligible homeowners, property owners, or businesses.

The Hurley Flood Relief Program Guidelines (“Guidelines”) is a working document designed to provide current policies and procedures to administrators, staff, and sub grantees, and subject to change as DHCD deems necessary. In compliance with state and federal guidelines, the policies and procedures outlined in the Guidelines ensure the equitable use of funds for the Hurley community. To the extent that these Guidelines and the Hurley Flood Relief Budget Bill (“Budget Bill”) terms differ, the Budget Bill terms shall control. The text of the Budget Bill is set forth at the end of these Guidelines. If further information is needed, general questions pertaining to the Program should be emailed to Hurleyrelief@dhcd.virginia.gov.

Additionally, applicants may contact the Buchanan County Department of Social Services Monday-Friday, 8:30AM-5:30PM (EST) by phone at (276) 935-8106. More information about the Program can be answered by contacting DSS or DHCD.

Definitions

“*Budget Bill*” means the Hurley Flood Relief Budget Bill and is established by K of Item 114 of Chapter 2 of the 2021 Acts of Assembly, Special Session I.

“*Damage Categories*” as defined by the Budget Bill and/or for the purpose of this program, include:

“*Total loss*” means real property that has been destroyed by the Disaster Event (as defined below), such that there is a total loss of the structure, the structure is not economically feasible to repair, or there is a complete failure to major structural components, such as the collapse of the basement, structural wall, or roof.

“*Major damage*” means real property that - due to the Disaster Event - has substantial failure to its structural elements, such as walls, floor, or foundation, or that has sustained damage that will take more than 30 days to repair.

“*Less than major damage*” means damage that occurred due to the Disaster Event, and that does not rise to the level of ‘major damage’ or ‘total loss.’

“*Disaster Event*” is the weather related (flooding, mudslide, landslide) events in the community of Hurley after August 1, 2021 but before September 30, 2021 and which was subject to the declaration of emergency by the Governor of Virginia on August 31, 2021, and subject to a Major Disaster Declaration (FEMA-4628-DR) issued by President Biden October 26, 2021.

“*Eligible applicant*” means any individual property owner or business owner, or holder of a life estate or remainderman, who lost or sustained real property damage as a result of a flood disaster, mudslide, or landslide occurring on or after August 1, 2021, but before September 30, 2021, and subject to a Major Disaster Declaration (FEMA-4628-DR) issued by President Biden on October 26, 2021.

“*Guidelines*” means the Hurley Flood Relief Program Guidelines as outlined by this document.

“*Program*” means the Hurley Flood Relief Program authorized by K of Item 114 of Chapter 2 of the 2021 Acts of Assembly, Special Session I and administered by the Virginia Department of

Housing and Community Development in partnership with the Buchanan County Department of Social Services.

“*Real Property*” means land and the improvements and fixtures appurtenant thereto and affixed to the land, whether for residential or business/commercial use. For the purposes of this program, modular and manufactured housing including ‘single wide trailers’ are considered the same as ‘real property’ related to eligibility for assistance. Recreational vehicles, travel trailers, and similar are not considered the same as real property.

Eligible Applicants

Eligible applicants must have been Virginia residents at the time of the flooding event, and must have owned the eligible real property or properties at the time of the Disaster Event, per K of Item 114 of Chapter 2 of the 2022 Acts of Assembly, Special Session I. Only owners of affected properties that were actively occupied on or after August 1, 2021, but before September 30, 2021 are eligible. Ineligible applicants include property owners whose property(ies) were abandoned, uninhabited, or out of use during the time of the disaster, or who have acquired the property since the disaster.

Eligible Properties

The Program provides relief based on damage to real property with an active residential or commercial use that was affected by flood events between August 1, 2021 and September 30, 2021. Eligible real property must have been in active use at the time of the event, and cannot have been abandoned or uninhabited.

Multiple Property Claims – An eligible applicant that owns multiple, noncontiguous properties that were affected by the disaster may file separate claims for each parcel, with maximums as set forth in the budget applicable to each filing. The agency recognizes “noncontiguous properties” as non-bordering properties.

Eligible Expenses

The Program provides financial assistance to eligible applicants based on the following conditions or for the following expenses:

Residential Or Commercial	Type of Damage	Lesser Of			Minus
Residential	Total Loss	175% property value	or	\$500,000	Federal/state relief or insurance payments
	Major Damage	175% property value	or	\$500,000	Federal/state relief or insurance payments
	Less than Major Damage	Repair costs up to 175% property value	or	\$500,000	Federal/state relief or insurance payments
Commercial	Total Loss	175% property value	or	\$1,000,000	Federal/state relief or insurance payments
	Major Damage	175% property value	or	\$1,000,000	Federal/state relief or insurance payments
	Less than Major Damage	Repair costs up to 175% property value	or	\$1,000,000	Federal/state relief or insurance payments

‘Federal/state relief or insurance payments’ shall not include Federal Small Business Administration loans related to the Disaster Event unless the loans are forgiven at the time of application.

Award amounts may be based on real property damage assessments and/or cost estimates completed at a time reasonably contemporaneous with the Disaster Event, or may be based on inspections and cost estimates/contracts by appropriately licensed and qualified professionals at the request of the property owner since the Disaster Event, or by appropriately licensed and qualified professionals at the direction and discretion of DSS or DHCD.

The following are general descriptions of the categories of loss covered by the Program. They are non-exhaustive. DSS and DHCD may use their discretion in interpreting the Budget Language and these Guidelines.

TOTAL LOSS: Properties declared a total loss through the early assessment process will be accepted as such and calculation for claims will be based on the formula above, minus other payments as noted above.

MAJOR DAMAGE: This category of property damage may be accepted as such based on real property damage assessments and/or cost estimates completed reasonably contemporaneous with the Disaster Event, or may be based on a subsequent inspection and written cost estimate by or written contract with an appropriately licensed and qualified professional, with a license appropriate to the level of work required, at the request of the property owner since the Disaster Event, or by an appropriately licensed and qualified professional at the direction and discretion of DSS or DHCD since the Disaster Event.

Examples of major damage and substantial failure include but are not limited to an exterior or interior load bearing wall that is in danger of collapse, indicated by bending or bowing; and a roof including damage to a significant percentage of shingles, underlayment, and framing and trusses, to a level of severity such that the unit is unfit or dangerous for habitation.

If the determination is that there is not ‘substantial failure’, the question will then be to determine whether it would take a competent, licensed contractor more than 30 days (whether consecutive or nonconsecutive), working 8 hours a day, to correct the damage. If the written determination by an appropriately licensed and qualified professional, at the direction of the property owner or the direction of DSS or DHCD, is that the damage could be corrected in less than 30 full 8 hour working days, the unit will be reclassified as having ‘Less Than Major Damage.’

LESS THAN MAJOR DAMAGE: This category of property may be accepted as such based on the real property damage assessments and/or cost estimates completed reasonably contemporaneous with the Disaster Event, or may be based on a subsequent inspection and written cost estimate by or written contract with an appropriately licensed and qualified professional, with a license appropriate to the level of work required, at the request of the property owner since the Disaster Event, or by an appropriately licensed and qualified professional at the direction and discretion of DSS or DHCD since the Disaster Event.

In the case of work performed by a property owner on their own property, the cost of materials documented with legitimate and verifiable receipts from an established and known business may be included in the calculation of benefit.

If in any case documentation is not available to verify the value of work performed, DSS and DHCD will work with the eligible applicant to determine an eligible claim amount. DSS and DHCD have the right to request additional information from the applicants to ensure that funding provided is consistent with the formula as provided in the budget bill.

Any award shall be expressly subject to and conditioned upon the availability of funds. If completed claims exceed available funds, the department shall make payments in the order that completed claims were received. For property owners owning multiple properties, eligible applicants may file separate claims for each affected parcel given the property was occupied on or after August 1, 2021, but before September 30, 2021. The specified maximum amounts will apply to each individual property damage claim.

In the instance of a property identified as eligible for a federal buy-out program, such as but not limited to FEMA or Army Corps of Engineers, such property may receive state funding only after a federal funding offer has been reviewed and approved or rejected.

Any buy-out or insurance benefits received as a result of flood event-related claims for specific eligible properties will be deducted from the eligible claim amount under this program.

Application, Supporting Documentation, and Filing Requirements

Applicants must file an application using the form provided by DSS. The application shall be signed by the owner or owners under oath. Applicants shall be solely responsible for establishing all elements of their eligibility for relief, including, without limitation, their ownership interest in the subject real property and percentage of ownership, documentation of relevant funds expended and received, the amount of loss, and the existence of insurance policies or other relief that the applicant could apply for or from which the applicant received payment or the lack thereof. Applicants shall supply and execute all information and documentation required by the DSS and DHCD, including, without limitation, proof of ownership, proof of occupancy, insurance policies, receipts, and affidavits and releases of liability. DSS and DHCD reserve the right to investigate and independently confirm all information provided including information gaps and inconsistencies, as well as conducting title searches as DSS and DHCD determine at their discretion.

The Program requires the least burdensome documentation possible, while adhering to programmatic, state, and federal guidelines. To meet compliance criteria, an applicant must submit the following supporting documentation with their application, or in some cases information will be in the hands of DSS:

1. Proof of Identification, Property Ownership, and Property Status, noting that if an applicant is unable to locate the required documentation, they should submit the information available; DSS and DHCD will work with applicants to secure required documentation:
 - a. A government-issued, picture identification (ie: current driver's license or state-issued ID card);
 - b. Social Security Card / number;
 - c. The title or deed to your property/properties, and/or other official record that legally documents your ownership of your property, including life estate possessions (DSS and DHCD reserve the right to require a current owner title search in order to resolve ownership);
 - d. Mortgage Statement (as of August 30, 2021) and (A) Copy of your Homeowners and/or Flood policy/coverage that was in effect on August 30, 2021, (B) For both homeowners and flood insurance policies - An official letter from said insurance companies detailing a claim denial or detailing proceeds received from claims from August 30, 2021 to present;
 - e. Damage Assessment (reasonable and documented expenses to document damage are reimbursable):
 - TOTAL LOSS and MAJOR DAMAGE - Documentation evidencing the degree of damage, which can include photographs or video during and/or immediately following the Disaster Event; or
 - LESS THAN MAJOR DAMAGE - Documentation evidencing the degree of damage, which can include photographs or video during and/or immediately following the Disaster Event, and pictures of any damages remaining to be corrected; and
 - f. MULTIPLE-OWNERS OF A SINGLE PROPERTY: Whether married or unmarried, related or unrelated, all owners of the property for which relief is sought must jointly sign the application.
2. No recourse agreement including a release of all claims and a covenant not to bring legal suit/action against DSS and/or DHCD and releasing both DHCD and DSS in order to receive financial assistance from the Commonwealth of Virginia ("No Recourse Agreement").

3. Signed affidavit verifying (a) the accuracy of all information and documentation submitted in all respects, (b) the applicant's percentage of ownership in the Real Property, (c) that the applicant is justly entitled to the funds requested for the intended use of funds (replacement or repair of eligible damaged real property, and (d) that the applicant will use the funding provided for the intended purposes of repairing or replacing (on the original site or a different site) property damaged by the Disaster Event, and or covering business or housing or related costs in the time since the Disaster Event.

The affidavit also documents the applicant's acknowledgement that willfully providing false information for the purpose of receipt of greater benefit is illegal, and may result in prosecution, and in the state recovering any and all amounts exceeding that to which the applicant is properly entitled.

4. Authorization for sharing of any and all event-related information, including personal identifying information at any time since the Disaster Event, and all information collected from the applicant between DSS, DHCD, and other local, state, and federal entities, as well as for profit entities such as financial institutions and insurance companies.
5. Acknowledgement that by signing the application, the applicant is affirming that they understand the processes and terms of the Program and these Guidelines.
6. Acknowledgement that by signing the application, the applicant is affirming that they agree to all terms of the Program and these Guidelines.

As needed, DSS shall also qualify each applicant's respective percentage share of ownership in the Real Property made the subject of each respective application. Eligible applicants whose applications are approved and who do not have a 100% ownership interest in the subject real property shall only receive a pro rata share based on their respective ownership interest.

DSS will track and monitor claims made by each property owner to third parties, to include, without limitation, insurance claims, federal relief payments, state relief payments, and local relief payments, as well as, all insurance claims paid for damages occurred on or after August 1, 2021, but before September 30, 2021.

Submitting an Application

After an applicant has collected the required documentation, an application is ready to be completed and submitted. The Program offers eligible applicants multiple methods in which they may apply.

- In Person: Applicants may make an appointment with DSS to review and complete their application for assistance.
- By Third Party In Person: Applicants who prefer to have a trusted third party complete their application may appoint a power of attorney for doing so. However, this will not excuse the applicant from the requirement to sign the application under oath or sign such other documentation as may be required by DHCD or DSS. Such applicants shall include a copy of a valid power of attorney properly executed by the applicant with their application.
- Accommodations for those with disabilities will be provided upon request. This may include but not be limited to a member of DSS staff conducting a home visit within Buchanan County, or assistance filling out a written application. The response will be tailored to the needs of the applicant.

Applications will be processed in the order they are received on a first come, first served basis. Every application will be given a reference number, and will be noted with the date and time received. At the discretion of DSS, pertinent information received since August 1, 2021 may be used and verified as part of the application materials. If relief claims exceed available funding from the Program, DSS will make payments to eligible applicants in the order that the **fully completed and approved** applications, with all required documentation, are received. All applications will be reviewed and processed through DSS. Upon application approval, DSS will execute a signed agreement with the property owner indicating the amount of assistance to be paid and declaring the use of funds for the intended purpose. DSS will remit payment to the property owner through a paper check unless the applicant has made other arrangements with DSS. DHCD will make funding available to DSS.

By signing a Program application, the applicant expressly agrees to all of the terms of these Guidelines.

All applications will be made at or through DSS.

Application Review Process

Once an applicant has submitted a *complete* application through the DSS Support Center, they will receive an email or written notification within 10 business days with one of the following status updates:

- **Ineligible:** Applicants that do not meet program eligibility criteria will receive written notification with an explanation of their ineligibility.
- **Awaiting Documentation:** Applicants that are eligible for assistance, but have submitted an application with incomplete supporting documentation or missing information, will receive written notification with specific instructions on how to complete the application.
- **Awaiting Review:** Applicants that are eligible for assistance, have submitted a complete application, including the required documentation, and are awaiting review by the DSS Support Center for approval or denial.
- **Determination:** Applicants will receive notification of their application approval or denial. If approved, the applicant will be informed of how much money is to be paid, and provided a No Recourse Agreement to sign. Applicants must sign the No Recourse Agreement in order to receive funds. A fully and properly executed No Recourse Agreement shall be a condition precedent to payment.
- Approved payments through the DSS Support Center will be processed in the form of a hard copy check unless the applicant makes other arrangements with DSS.

Appeal Process

Program applicants may contest any application determination or denial based on program policies or assistance calculations by requesting an appeals form from DHCD and emailing to Hurleyrelief@dhcd.virginia.gov OR to DSS.

The appeal process is not an opportunity to submit missing documentation required as part of the initial application. If an applicant fails to file an appeal within ten (10) business days from receipt of a denial in writing via email, the determination is final and the applicant is encouraged to submit a new application only if they have new or different information that will directly affect the application review process. Applicants who file an appeal are encouraged to provide specific facts or circumstances, as well as supporting documents to justify their petition. The Program Administrators have the discretion to accept or reject new documentation based upon its relevance to the circumstances of the appeal. Appeals may be denied or approved in whole or in part after a thorough review of the circumstances, the information already included in an applicant's file, and any relevant new documentation submitted.

How to file an Appeal: To submit an appeal, an applicant must request an appeal form by emailing Hurleyrelief@dhcd,virginia.gov with the subject "Appeal for Application <insert application number>." An applicant must complete the appeal form and email it to Hurleyrelief@dhcd.virgina.gov with a subject line "Appeal for Application <insert application number>" within ten (10) business days of the initial application determination. DSS will assist applicants without access to email and the date of delivery shall be the date that DHCD receives the appeal, not the date on which the appeal was submitted to DSS. The Program will acknowledge receipt of the appeal within three (3) business days, review and make a determination on the appeal within fifteen (15) business days of its receipt, and within five (5) additional business days will convey that determination to the applicant. That determination is final and binding. An applicant may not appeal a determination that is based on the Program's compliance with state statutory requirements.

All information provided by an applicant may be disclosed to appropriate investigatory or law enforcement authorities.

Nothing contained within these Guidelines, the Budget Bill, or the Program shall be deemed or construed so as to (i) confer a private right of action upon any Program applicant or recipient of funds from the Program, or (ii) establish a contract between the Commonwealth, the Virginia Department of Housing and Community Development, or any other agency of the Commonwealth and any Program applicant or recipient of funds from the Program, or (iii) impose any liability in favor of any Program applicant or recipient of funds from the Program against the Commonwealth or the Virginia Department of Housing and Community Development, or any other agency of the Commonwealth.

Fraud Prevention and Misuse of Funds

Applicants who misrepresent any information or fail to disclose information requested on the required forms may disqualify themselves from participation in the Program. Misrepresentation or failure to disclose may be grounds for termination or repayment of assistance. **WARNING:** It is unlawful to provide false information to the government when applying for recovery assistance. By accepting the relief offered, the applicant is affirming that the relief will be used for the intended purpose as noted above. Nonconforming uses, particularly frivolous uses, may result in state action to recoup funds provided.

Recordkeeping

DSS must keep application and payment records and make weekly reports that DHCD requires within the specified timeframe. All contractual and project participant records must be maintained for at least three years after final payment has been processed and DSS' relevant audit has been completed and accepted by DHCD. Records include both program records such as the damage assessment documentation, financial records such as payment documents, and program participant records; and operational records to include but not be limited to certified personnel timesheets, documentation of supplies and materials purchased to carry out the program, and documentation of Board actions related to the program. Copies of canceled checks/bank statements or expenses associated with all elements of the program including the program participant documenting payments for damage to eligible property within the program time period, must also be retained. A record of all program participants that are reviewed and classified as ineligible for relief payment shall also be retained. This must include documentation of the reason for the determination of ineligibility.

Compliance

Fair Housing and Civil Rights Laws

(1) Contractor must comply with all applicable state and federal fair housing and civil rights requirements (see 24 CFR 5.105(a)). This includes the Virginia Values Act (effective July 1, 2020) which expands the list of protected classes under the Virginia Fair Housing Act. As expanded, the Virginia Fair Housing Act prohibits discrimination based on race, color, national origin, sex, pregnancy, childbirth or other related conditions (including lactation), age (over 40), marital status, disability, sexual orientation, gender identity, or veteran status (collectively the "Protected Classes").

Americans with Disabilities Act Compliance

Contractors shall adhere to Title II and III of the Americans with Disabilities Act (ADA). Title II prohibits discrimination in the form of excluding an otherwise qualified person with a disability (i.e. a person who would qualify for the program or activity but for their disability) from participating in programs or activities is prohibited. Service providers are required to make reasonable accommodations in policies and practices and to make reasonable modifications in physical structures to ensure equal access to the programs. Title III prohibits discrimination on the basis of disability in the activities of places of public accommodations which include shelters, social service establishments, and other public accommodations providing housing and

requires newly constructed or altered places of public accommodation—as well as commercial facilities (privately owned, nonresidential facilities such as factories, warehouses, or office buildings)—to comply with the ADA Standards.

NOTES

Hurley Relief Budget Language Text

Hurley Flood Relief Budget Bill - HB 30 (Chapter 2), Item 114 K.1 through 9 (2022 Special Session I Text:

K.1. The authorization provided under Item 113, Paragraph L. of House Bill 29 of the 2022 General Assembly, Special Session I that directs the department to use up to \$11,400,000 of unobligated balances in the Low-Income Energy Efficiency Program Fund (02017) for flood relief is hereby continued. Using these funds, the department shall continue to establish and administer a program for the purposes of providing relief to residents of Virginia that lost or sustained property damage as a result of a flood disaster, mudslide, or landslide occurring on or after August 1, 2021, but before September 31, 2021, and subject to a Major Disaster Declaration (FEMA-4628-DR) issued by President Biden on October 26, 2021.

2. The department shall establish procedures for filing and resolving claims, which shall include measures to prevent fraud, and which may include any criteria the department determines reasonable to carry out the provisions of this paragraph. The amount of relief provided to an eligible applicant shall be equal to 175 percent of the property value for the realty that sustained major damage or represents a total loss, as defined by 7. and 8. below. The department shall award funds for estimated repairs up to the maximums contained in this paragraph for a realty that does not meet the definition of total loss or major damage, as defined by 7. and 8. below. Any payment made to an eligible applicant from this paragraph shall not exceed \$500,000 for a residential realty and \$1,000,000 for a commercial realty. If an eligible applicant owns multiple, noncontiguous properties in an area affected by the disaster in paragraph K.1. of this item, the eligible applicant may file separate claims for each parcel, and the maximums described in this paragraph shall apply to each separate claim. The department shall reduce payments by any federal or state relief or insurance payments received by the eligible applicant for property repairs or damage related to the disaster described in paragraph K.1. of this item.

3. Payments under paragraph K. of this item shall be subject to the availability of funds. If claims exceed available funds, the department shall make payments in the order that claims were received.

4. The Department shall not provide relief under this section for a realty that was abandoned or uninhabited at the time of the disaster described in paragraph K.1 of this item.

5. No recourse may be had by any person, organization, or entity against a recipient of payment under this paragraph, absent any evidence of misuse of funds. Misuse of funds shall be

established by a showing that a recipient knowingly misapplied the proceeds of a payment received under this paragraph. If a showing of misuse of funds has been made, then a person may seek recourse against the recipient for an amount no greater than the extent of the payment.

6. Relief awarded pursuant to this paragraph is excluded from gross income and is not subject to taxation.

7. "Total loss" means real property that has been destroyed, such that there is a total loss of the structure, the structure is not economically feasible to repair, or there is a complete failure to major structural components, such as the collapse of the basement, wall, or roof.

8. "Major damage" means real property that has substantial failure to its structural elements, such as walls, floor, or foundation, or that has sustained damage that will take more than 30 days to repair.

9. "Eligible applicant" means any individual property owner or business owner that lost or sustained property damage as a result of a flood disaster, mudslide, or landslide occurring on or after August 1, 2021, but before September 31, 2021, and subject to a Major Disaster Declaration (FEMA-4628-DR) issued by President Biden on October 26, 2021.