

Article 1A.

North Carolina Emergency Management Act.

Part 1. General Provisions.

**§ 166A-19. Short title.**

This Article may be cited as "North Carolina Emergency Management Act." (1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, s. 120; 2012-12, s. 1(b).)

**§ 166A-19.1. Purposes.**

The purposes of this Article are to set forth the authority and responsibility of the Governor, State agencies, and local governments in prevention of, preparation for, response to, and recovery from natural or man-made emergencies or hostile military or paramilitary action and to do the following:

- (1) Reduce vulnerability of people and property of this State to damage, injury, and loss of life and property.
- (2) Prepare for prompt and efficient rescue, care, and treatment of threatened or affected persons.
- (3) Provide for the rapid and orderly rehabilitation of persons and restoration of property.
- (4) Provide for cooperation and coordination of activities relating to emergency mitigation, preparedness, response, and recovery among agencies and officials of this State and with similar agencies and officials of other states, with local and federal governments, with interstate organizations, and with other private and quasi-official organizations. (1959, c. 337, s. 1; 1975, c. 734, s. 1; 1977, c. 848, s. 2; 1995, c. 509, s. 121; 2012-12, s. 1(b).)

**§ 166A-19.2. Limitations.**

Nothing in this Article shall be construed to do any of the following:

- (1) Interfere with dissemination of news or comment on public affairs; but any communications facility or organization, including, but not limited to, radio and television stations, wire services, and newspapers may be requested to transmit or print public service messages furnishing information or instructions in connection with an emergency, disaster, or war.
- (2) Limit, modify, or abridge the authority of the Governor to declare martial law or exercise any other powers vested in the Governor under the North Carolina Constitution, statutes, or common law of this State independent of, or in conjunction with, any provisions of this Article. (1975, c. 734, s. 2; 1977, c. 848, s. 2; 1995, c. 509, s. 122; 2012-12, s. 1(b).)

**§ 166A-19.3. Definitions.**

The following definitions apply in this Article:

- (1) Repealed by Session Laws 2015-241, s. 6.19(c), effective July 1, 2015.
- (2) Chair of the board of county commissioners. – The chair of the board of county commissioners or, in case of the chair's absence or disability, the person authorized to act in the chair's stead. Unless the governing body of the county has specified who is to act in lieu of the chair with respect to a particular power

or duty set out in this Article, this term shall mean the person generally authorized to act in lieu of the chair.

- (2d) Concurrence of the Council of State. – The consensus, within 48 hours of contact, of a majority of the Council of State prior to the Governor exercising a power or authority requiring a concurrence of the Council of State. The Governor shall document the contact and response of each Council of State member and shall release the concurrence, nonconcurrence, or no response provided by each member by name and position on the same website in which the executive order is published. If consensus is achieved, the release of the information by the Governor shall be prior to, or simultaneously with, exercising the stated authority. Any failure to respond to the Governor within the 48 hours of contact shall be deemed a concurrence by the member of the Council of State failing to respond. All documentation of the contact and response of each member of the Council of State shall be a public record.
- (2m) Council of State. – The Lieutenant Governor, Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Attorney General, Commissioner of Agriculture, Commissioner of Labor, Commissioner of Insurance, or any interim officer or acting officer appointed in accordance with Section 7 of Article III of the State Constitution.
- (3) Disaster declaration. – A gubernatorial declaration that the impact or anticipated impact of an emergency constitutes a disaster of one of the types enumerated in G.S. 166A-19.21(b).
- (4) Division. – The Division of Emergency Management established in Subpart A of Part 5 of Article 13 of Chapter 143B of the General Statutes.
- (5) Eligible entity. – Any political subdivision. The term also includes an owner or operator of a private nonprofit utility that meets the eligibility criteria set out in this Article.
- (6) Emergency. – An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, terrorism, weather-related, public health, explosion-related, riot-related cause, or technological failure or accident, including, but not limited to, a cyber incident, an explosion, a transportation accident, a radiological accident, or a chemical or other hazardous material incident. An emergency may also be caused by a disruption in the supply chain that creates a significant threat to a local government's ability to acquire products or services required to provide essential services such as electricity and water to the populace or required to restore such essential services in the event of widespread or severe damage to the local government system used to provide such essential services.
- (7) Emergency area. – The geographical area covered by a state of emergency.
- (8) Emergency management. – Those measures taken by the populace and governments at federal, State, and local levels to minimize the adverse effect of any type emergency, which includes the never-ending preparedness cycle of planning, prevention, mitigation, warning, movement, shelter, emergency assistance, and recovery.

- (9) Emergency management agency. – A State or local governmental agency charged with coordination of all emergency management activities for its jurisdiction.
- (10) Hazard risk management. – The systematic application of policies, practices, and resources to the identification, assessment, and control of risk associated with hazards affecting human health and safety and property. Hazard, risk, and cost-benefit analysis are used to support development of risk reduction options, program objectives, and prioritization of issues and resources.
- (11) Mayor. – The mayor or other chief executive official of a municipality or, in case of that person's absence or disability, the person authorized to act in that person's stead. Unless the governing body of the municipality has specified who is to act in lieu of the mayor with respect to a particular power or duty set out in this Article, the term shall mean the person generally authorized to act in lieu of the mayor.
- (12) Political subdivision. – Counties and incorporated cities, towns, and villages.
- (13) Preliminary damage assessment. – The initial estimate prepared by State, local, or federal emergency management workers used to determine the severity and magnitude of damage caused by an emergency.
- (14) Private nonprofit utility. – A utility that would be eligible for federal public assistance disaster funds pursuant to 44 C.F.R. Part 206.
- (15) Secretary. – The Secretary of the Department of Public Safety.
- (16) Stafford Act. – The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288, 88 Stat. 143, codified generally at 42 U.S.C. § 5121, et seq., as amended.
- (17) State Acquisition and Relocation Fund. – State funding for supplemental grants to homeowners participating in a federal Hazard Mitigation Grant Program Acquisition and Relocation Program. These grants are used to acquire safe, decent, and sanitary housing by paying the difference between the cost of the home acquired under the federal Hazard Mitigation Grant Program Acquisition and Relocation Program and the cost of a comparable home located outside the 100-year floodplain.
- (17a) State Emergency Response and Disaster Relief Fund. – The fund established in G.S. 166A-19.42.
- (18) State Emergency Response Team. – The representative group of State agency personnel designated to carry out the emergency management support functions identified in the North Carolina Emergency Operations Plan. The State Emergency Response Team leader shall be the Director of the Division, who shall have authority to manage the Team pursuant to G.S. 166A-19.12(1), as delegated by the Governor. The Team shall consist of the following State agencies:
  - a. Department of Public Safety.
  - b. Department of Transportation.
  - c. Department of Health and Human Services.
  - d. Department of Environmental Quality.
  - e. Department of Agriculture and Consumer Services.

- f. Any other agency identified in the North Carolina Emergency Operations Plan.
- (19) State of emergency. – A finding and declaration by any of the following authorities that an emergency exists:
- a. The Governor, acting under the authority of G.S. 166A-19.20.
  - b. The General Assembly, acting under the authority of G.S. 166A-19.20.
  - c. The governing body of a municipality or the mayor of a municipality, acting under the authority of G.S. 166A-19.22.
  - d. The governing body of a county or the chair of the board of commissioners of a county, acting under the authority of G.S. 166A-19.22.
- (20) Statewide emergency area. – Any emergency area applicable to two-thirds or more of the counties in this State. (1951, c. 1016, s. 2; 1953, c. 1099, s. 1; 1955, c. 387, s. 1; 1975, c. 734, ss. 4-6, 14; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, s. 123; 2001-214, s. 1; 2006-66, ss. 6.5(c), (d); 2009-193, ss. 1, 2; 2009-397, s. 2; 2012-12, s. 1(b); 2012-90, s. 10; 2015-241, ss. 6.19(c), 14.30(u); 2016-87, s. 5; 2021-180, s. 19E.6(a); 2023-137, s. 39(a).)

**§ 166A-19.4: Reserved for future codification purposes.**

**§ 166A-19.5: Reserved for future codification purposes.**

**§ 166A-19.6: Reserved for future codification purposes.**

**§ 166A-19.7: Reserved for future codification purposes.**

**§ 166A-19.8: Reserved for future codification purposes.**

**§ 166A-19.9: Reserved for future codification purposes.**

Part 2. State Emergency Management.

**§ 166A-19.10. Powers of the Governor.**

(a) State Emergency Management Program. – The State Emergency Management Program includes all aspects of preparations for, response to, recovery from, and mitigation against war or peacetime emergencies.

(b) Powers of the Governor. – The Governor is authorized and empowered to do the following:

- (1) To exercise general direction and control of the State Emergency Management Program and to be responsible for carrying out the provisions of this Article, other than those provisions that confer powers and duties exclusively on local governments.
- (2) To make, amend, or rescind the necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor herein, with due consideration of the policies of the federal government.
- (3) To delegate any authority vested in the Governor under this Article and to provide for the subdelegation of any such authority.

- (4) To cooperate and coordinate with the President and the heads of the departments and agencies of the federal government, and with other appropriate federal officers and agencies, and with the officers and agencies of other states and local units of government in matters pertaining to the emergency management of the State and nation.
- (5) To enter into agreements with the American National Red Cross, Salvation Army, Mennonite Disaster Service, and other disaster relief organizations.
- (6) To make, amend, or rescind mutual aid agreements in accordance with G.S. 166A-19.72.
- (7) To utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the State and of the political subdivisions thereof. The officers and personnel of all such departments, offices, and agencies are required to cooperate with and extend such services and facilities to the Governor upon request. This authority shall extend to a state of emergency declared pursuant to G.S. 166A-19.20, to the imminent threat of an emergency that will likely require an emergency to be declared pursuant to G.S. 166A-19.20, or to emergency management planning and training purposes.
- (8) To agree, when required to obtain federal assistance in debris removal, that the State will indemnify the federal government against any claim arising from the removal of the debris.
- (9) To sell, lend, lease, give, transfer, or deliver materials or perform services for emergency purposes on such terms and conditions as may be prescribed by any existing law, and to account to the State Treasurer for any funds received for such property.
- (10) In an emergency, or when requested by the governing body of a political subdivision in the State, to assume operational control over all or any part of the emergency management functions within this State. (1951, c. 1016, ss. 3, 9; 1953, c. 1099, s. 3; 1955, c. 387, ss. 2, 3, 5; 1957, c. 950, s. 5; 1975, c. 734, ss. 9, 10, 14, 16; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, s. 124; 2001-214, s. 2; 2002-179, s. 12; 2009-192, s. 1; 2009-193, s. 3; 2009-196, s. 1; 2009-225, s. 1; 2011-145, s. 19.1(g); 2012-12, s. 1(b).)

**§ 166A-19.11. Powers of the Secretary of Public Safety.**

The Secretary shall be responsible to the Governor for State emergency management activities. The Secretary shall have the following powers and duties as delegated by the Governor:

- (1) To activate the State and local plans applicable to the areas in question and to authorize and direct the deployment and use of any personnel and forces to which the plan or plans apply, and the use or distribution of any supplies, equipment, materials, and facilities available pursuant to this Article or any other provision of law.
- (2) To adopt the rules to implement those provisions of this Article that deal with matters other than those that are exclusively local.
- (3) To develop a system to produce a preliminary damage assessment from which the Secretary will recommend the appropriate level of disaster declaration to the Governor. The system shall, at a minimum, consider whether the damage

involved and its effects are of such a severity and magnitude as to be beyond the response capabilities of the local government or political subdivision.

- (3a) To notify the Director of the Budget, the Office of the Governor, the chairs of the House of Representatives and Senate Appropriations Committees, the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety, the Fiscal Research Division, and any other State entities deemed necessary of the potential for using Community Development Block Grant-Disaster Recovery (CDBG-DR) funds to cover the nonfederal share of matching requirements for eligible programs at the following times:
  - a. June 1 of each year.
  - b. Within five days of a presidential disaster declaration for the State of North Carolina.
- (3b) To report annually by December 1 to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety on the amount of State funds used to pay contractors for performing CDBG-DR activities that could have been paid for using federal CDBG-DR funds during the calendar year.
- (4) Additional authority, duties, and responsibilities as may be prescribed by the Governor. The Secretary may subdelegate his authority to the appropriate member of the Secretary's department. (1951, c. 1016, ss. 3, 9; 1953, c. 1099, s. 3; 1955, c. 387, ss. 2, 3, 5; 1957, c. 950, s. 5; 1975, c. 734, ss. 9, 10, 14, 16; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, s. 124; 2001-214, s. 2; 2002-179, s. 12; 2009-192, s. 1; 2009-193, s. 3; 2009-196, s. 1; 2009-225, s. 1; 2011-145, s. 19.1(g); 2012-12, s. 1(b); 2019-250, s. 3.5(a).)

#### **§ 166A-19.12. Powers of the Division of Emergency Management.**

The Division of Emergency Management shall have the following powers and duties as delegated by the Governor and Secretary of Public Safety:

- (1) Coordination of the activities of all State agencies for emergency management within the State, including planning, organizing, staffing, equipping, training, testing, and activating and managing the State Emergency Response Team and emergency management programs.
- (2) Preparation and maintenance of State plans for emergencies. The State plans or any parts thereof may be incorporated into department regulations and into executive orders of the Governor.
- (3) Coordination with the State Health Director to amend or revise the North Carolina Emergency Operations Plan regarding public health matters. At a minimum, the revisions to the Plan shall provide for the following:
  - a. The epidemiologic investigation of a known or suspected threat caused by nuclear, biological, or chemical agents.
  - b. The examination and testing of persons and animals that may have been exposed to a nuclear, biological, or chemical agent.
  - c. The procurement and allocation of immunizing agents and prophylactic antibiotics.
  - d. The allocation of the Strategic National Stockpile.

- e. The appropriate conditions for quarantine and isolation in order to prevent further transmission of disease.
  - f. Immunization procedures.
  - g. The issuance of guidelines for prophylaxis and treatment of exposed and affected persons.
- (4) Repealed by Session Laws 2023-92, s. 1, effective July 10, 2023.
  - (5) Promulgation of standards and requirements for local plans and programs consistent with federal and State laws and regulations, determination of eligibility for State financial assistance provided for in G.S. 166A-19.15, and provision of technical assistance to local governments. Standards and requirements for local plans and programs promulgated under this subdivision shall be reviewed by the Division at least biennially and updated as necessary.
  - (6) Development and presentation of training programs, including the Emergency Management Certification Program established under Article 5 of this Chapter, and public information programs to insure the furnishing of adequately trained personnel and an informed public in time of need.
  - (7) Making of such studies and surveys of the resources in this State as may be necessary to ascertain the capabilities of the State for emergency management, maintaining data on these resources, and planning for the most efficient use thereof.
  - (8) Coordination of the use of any private facilities, services, and property.
  - (9) Preparation for issuance by the Governor of executive orders, declarations, and regulations as necessary or appropriate.
  - (10) Cooperation and maintenance of liaison with the other states, the federal government, and any public or private agency or entity in achieving any purpose of this Article and in implementing programs for emergency or war prevention, preparation, response, and recovery.
  - (11) Making recommendations, as appropriate, for zoning, building, and other land-use controls, and safety measures for securing mobile homes or other nonpermanent or semipermanent works designed to protect against or mitigate the effects of an emergency.
  - (12) Coordination of the use of existing means of communications and supplementing communications resources and integrating them into a comprehensive State or State-federal telecommunications or other communications system or network.
  - (13) Administration of federal and State grant funds provided for emergency management purposes, including those funds provided for planning and preparedness activities by emergency management agencies.
  - (14) Serving as the lead State agency for the coordination of information and resources for hazard risk management, which shall include the following responsibilities:
    - a. Coordinating with other State agencies and county governments in conducting hazard risk analysis. To the extent another State agency has primary responsibility for the adoption of hazard mitigation standards, those standards shall be applied in conducting a hazard risk analysis.

- b. Establishing and maintaining a hazard risk management information system and tools to display natural hazards and vulnerabilities and conducting risk assessment.
  - c. Acquiring and leveraging all natural hazard data generated or maintained by State agencies and county governments.
  - d. Acquiring and leveraging all vulnerability data generated or maintained by State agencies and county governments.
  - e. Maintaining a clearinghouse for methodologies and metrics for calculating and communicating hazard probability and loss estimation.
- (15) Utilizing and maintaining technology that enables efficient and effective communication and management of resources between political subdivisions, State agencies, and other governmental entities involved in emergency management activities.
- (16) Establishing and operating a 24-hour Watch Center to serve as a single point of contact for local governments to report the occurrence of emergency and disaster events and to coordinate local and State response assets. The Division shall record all telephone calls to the 24-hour Watch Center emergency hotline and shall maintain the recording of each telephone call for at least one year.
- (17) Developing, maintaining, and implementing plans for response to any emergency occurring at a fixed nuclear power generating facility located in or near the borders of the State of North Carolina.
- (18) Maintaining the State Emergency Operations Center as the facility to house the State Emergency Response Team whenever it is activated for disaster response.
- (19) Serving as the agency responsible for the management of intrastate and interstate mutual aid planning, implementation, and resource procurement necessary for supporting emergency response and recovery.
- (20) Coordination with the Commissioner of Agriculture, or the Commissioner's designee, to amend or revise the North Carolina Emergency Operations Plan regarding agricultural matters. At a minimum, the revisions to the Plan shall provide for the following:
- a. The examination and testing of animals that may have been exposed to a nuclear, biological, or chemical agent.
  - b. The appropriate conditions for quarantine and isolation of animals in order to prevent further transmission of disease.
- (21) Maintenance of an effective statewide urban search and rescue program.
- (22) Serving as the lead State agency for the implementation and maintenance of the statewide School Risk and Response Management System (SRRMS) under G.S. 115C-105.49A.
- (23) Coordination with the State Chief Information Officer and the Adjutant General to manage statewide response to cybersecurity incidents and significant cybersecurity incidents as defined by G.S. 143B-1320. This includes, but is not limited to:
- a. Development and promulgation of necessary policies, plans, and procedures for cybersecurity and critical infrastructure protection; and
  - b. Annual review, update, and testing of cybersecurity incident response plans and procedures.

- (24) The Division may contract for services from vendors specializing in housing, rehabilitation, or construction on private residential structures funded by State or federal funds provided to the State as a result of a disaster declared by the President under the Stafford Act or a disaster declared by the Governor under G.S. 166A-19.21. Nothing in this subdivision is intended to exempt the Division from other requirements of Article 8 of Chapter 143 of the General Statutes.
- (25) The Division may contract for services from vendors specializing in housing elevation, acquisition, demolition, and mitigation reconstruction on private residential structures to implement the federal Hazard Mitigation Grant Program on behalf of the State or political subdivisions. Nothing in this subdivision is intended to exempt the Division from other requirements of Article 8 of Chapter 143 of the General Statutes.
- (26) The Division may contract for services from vendors specializing in (i) repair, replacement, construction, or improvements to infrastructure or equipment on private residential structures or public structures damaged as a result of hazard mitigation and (ii) construction or improvement of infrastructure to support hazard mitigation on private residential structures and public structures for the purpose of implementing hazard mitigation programs on behalf of the State or political subdivisions of the State. For the purposes of this subdivision, the term "infrastructure" includes nonresidential buildings that serve the public, water, sewer, and stormwater systems, and other publicly owned assets. Nothing in this subdivision is intended to exempt the Division from other requirements of Article 8 of Chapter 143 of the General Statutes.
- (27) The Division shall establish and maintain a Statewide Interoperability Coordinator (SWIC) to coordinate voice and data interoperability programs, processes, and initiatives. The SWIC shall be designated as the individual currently serving as the Executive Director of the North Carolina Interoperability Executive Committee, and the Committee shall address matters of governance, technology, usage, training, exercises, and policy that pertain to voice and data interoperability.
- (28) The Division shall support local, regional, State, and federal disaster communications planning and response through integrated planning, including all of the following:
- a. Disaster response communications processes.
  - b. Public safety answering point disaster and recovery planning and consequence management, including developing and maintaining the Telecommunicator Emergency Response Team program.
  - c. Backup primary, alternate, contingent, and emergent communications planning for essential information pathways.
  - d. Training and qualifying communications personnel and resources that can respond to requests for assistance. (1951, c. 1016, ss. 3, 9; 1953, c. 1099, s. 3; 1955, c. 387, ss. 2, 3, 5; 1957, c. 950, s. 5; 1975, c. 734, ss. 9, 10, 14, 16; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, s. 124; 2001-214, s. 2; 2002-179, s. 12; 2009-192, s. 1; 2009-193, s. 3; 2009-196, s. 1; 2009-225, s. 1; 2011-145, s. 19.1(g); 2012-12, s. 1(b);

2012-90, ss. 11, 12; 2014-27, s. 3; 2014-122, s. 6(c); 2015-241, s. 8.26(j); 2019-200, s. 6(b); 2021-180, s. 5.9(q); 2023-92, s. 1.)

**§ 166A-19.13. Data collection, reporting, use of State and federal funds.**

(a) The Department of Public Safety shall establish mechanisms to regularly solicit input from entities receiving federal or State disaster recovery funds regarding ways to improve the administration of the funds and associated programs. The mechanisms may include surveys and focus groups.

(b) By December 1, 2020, the Department of Public Safety shall modify its policies and procedures for disaster recovery to do the following:

- (1) Where permitted by State law and administrative rule, require the Office of Recovery and Resiliency (Office) to use cost as a factor when awarding contracts for professional services that may be eligible for reimbursement from federal funds. Contracts subject to Article 3D of Chapter 143 of the General Statutes are exempt from this subsection.
- (2) Establish minimum competencies for staff who administer the Community Development Block Grant-Disaster Recovery (CDBG-DR) program, including experience with either traditional CDBG programs or CDBG-DR programs.
- (3) Describe how the input obtained from the mechanisms established in subsection (a) of this section will be incorporated into revisions of its policies and procedures.

(c) By January 1, 2020, the Office of Recovery and Resiliency (Office) shall develop performance metrics for all entities receiving federal or State disaster recovery funds, including the following:

- (1) Total number of projects managed overall.
- (2) Outreach and intake metrics.
- (3) Amount of disaster recovery funds spent on administrative activities.
- (4) Amount of disaster recovery funds disbursed on behalf of recipients. (2019-250, s. 3.5(b).)

**§ 166A-19.14. Priority consideration of North Carolina-based companies when addressing public health emergencies; NC 2-1-1 system.**

(a) Priority Consideration. – During a public health emergency, the Department of Health and Human Services and the North Carolina Division of Emergency Management within the Department of Public Safety shall first consider North Carolina-based companies that can provide mobile response units with capabilities to reach rural areas of the State. Operations that shall be considered include patient testing or sample collections, feeding operations, triage facilities, and other operations where it is necessary to deliver mobile services to individuals.

(b) NC 2-1-1 Cooperation. – In response to disaster declarations or declared states of emergency, the Division and all other responding and coordinating State agencies shall first consult with the nonprofit organization or other entity operating the NC 2-1-1 system and consider using the NC 2-1-1 system when planning any new or expanded customer service, awareness, education, or other assistance initiative, campaign, or program involving telephonic or text communications to individuals in the State affected by the disaster declaration or declared state of emergency. Nothing in this subsection shall be construed to mandate any State agency use of the NC 2-1-1 system for these purposes. (2020-3, s. 3C.2(a); 2022-74, s. 19E.1(a).)

**§ 166A-19.14A. North Carolina Flood Inundation Mapping and Alert Network records.**

(a) Notwithstanding G.S. 132-6, any electronic mailing list of individual subscribers to the North Carolina Flood Inundation Mapping and Alert Network shall be made available for public inspection in either printed or electronic format, or both, in the discretion of the Division of Emergency Management. The Division shall not be required to provide a copy of the list of individual subscribers upon request.

(b) The Division may only use the list for the following purposes:

- (1) For the purpose for which the individual was subscribed to the list.
- (2) To notify the subscribers of an emergency to the public health or public safety.
- (3) To notify subscribers of the existence of any similar lists to subscribe to in the event the list is deleted. (2023-92, s. 4.)

Part 3. Local Emergency Management.

**§ 166A-19.15. County and municipal emergency management.**

(a) Governing Body of Counties Responsible for Emergency Management. – The governing body of each county is responsible for emergency management within the geographical limits of such county. All emergency management efforts within the county will be coordinated by the county, including activities of the municipalities within the county.

(b) Counties May Establish and Maintain Emergency Management Agencies. – The governing body of each county is hereby authorized to establish and maintain an emergency management agency for the purposes contained in G.S. 166A-19.1. The governing body of each county which establishes an emergency management agency pursuant to this authorization shall appoint a coordinator who will have a direct responsibility for the organization, administration, and operation of the county program and will be subject to the direction and guidance of such governing body. In the event that any county fails to establish an emergency management agency, and the Governor, in the Governor's discretion, determines that a need exists for such an emergency management agency, then the Governor is hereby empowered to establish an emergency management agency within that county.

(c) Municipalities May Establish and Maintain Emergency Management Agencies. – All incorporated municipalities are authorized to establish and maintain emergency management agencies subject to coordination by the county.

(d) Joint Agencies Authorized. – Counties and incorporated municipalities are authorized to form joint emergency management agencies composed of a county and one or more municipalities within the county's borders, between two or more counties, or between two or more counties and one or more municipalities within the borders of those counties.

(e) Local Appropriations Authorized. – Each county and incorporated municipality in this State is authorized to make appropriations for the purposes of this Article and to fund them by levy of property taxes pursuant to G.S. 153A-149 and G.S. 160A-209 and by the allocation of other revenues, use of which is not otherwise restricted by law.

(f) Additional Powers. – In carrying out the provisions of this Article each political subdivision is authorized to do the following:

- (1) To appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management purposes and to provide for the health and safety of persons and property, including emergency assistance, consistent with this Article.

- (1a) To award contracts for the repair, rehabilitation, or construction of private residential structures funded by State or federal funds provided to the political subdivision as a result of a disaster declared by the Governor under G.S. 166A-19.21 covering the political subdivision. For purposes of contracts awarded under this subdivision for a particular disaster, a political subdivision is authorized to contract with contractors prequalified by the Division in accordance with G.S. 143-135.8 for that disaster. In so contracting, the political subdivision is not required to follow the procedures for prequalifying contractors set forth in G.S. 143-135.8. Nothing in this subdivision is intended to exempt a political subdivision from other requirements of Article 8 of Chapter 143 of the General Statutes.
- (2) To direct and coordinate the development of emergency management plans and programs in accordance with the policies and standards set by the Division, consistent with federal and State laws and regulations.
- (3) To assign and make available all available resources for emergency management purposes for service within or outside of the physical limits of the subdivision.
- (4) To delegate powers in a local state of emergency declared pursuant to G.S. 166A-19.22.
- (5) To coordinate the voluntary registration of functionally and medically fragile persons in need of assistance during an emergency either through a registry established by this subdivision or by the State. All records, data, information, correspondence, and communications relating to the registration of persons with special needs or of functionally and medically fragile persons obtained pursuant to this subdivision are confidential and are not a public record pursuant to G.S. 132-1 or any other applicable statute, except that this information shall be available to emergency response agencies, as determined by the local emergency management director. This information shall be used only for the purposes set forth in this subdivision.

(g) County Eligibility for State and Federal Financial Assistance. – Each county which establishes an emergency management agency pursuant to State standards and which meets requirements for local plans and programs may be eligible to receive State and federal financial assistance, including State and federal funding appropriated for emergency management planning and preparedness, and for the maintenance and operation of a county emergency management program. Such financial assistance is subject to an appropriation being made for this purpose. Where the appropriation does not allocate appropriated funds among counties, the amount allocated to each county shall be determined annually by the Division. The size of this allocation shall be based in part on the degree to which local plans and programs meet State standards and requirements promulgated by the Division, including those relating to professional competencies of local emergency management personnel. However, in making an allocation determination, the Division shall, where appropriate, take into account the fact that a particular county may lack sufficient resources to meet the standards and requirements promulgated by the Division. (1951, c. 1016, s. 6; 1953, c. 1099, s. 4; 1957, c. 950, s. 2; 1959, c. 337, s. 5; 1973, c. 620, s. 9; 1975, c. 734, ss. 12, 14, 16; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, ss. 126, 127; 2009-196, s. 2; 2009-225, s. 2; 2012-12, s. 1(b); 2019-250, s. 3.2.)

**§ 166A-19.16. Emergency supply chain declaration.**

Article 8 of Chapter 143 of the General Statutes shall not apply to any contracts that an entity otherwise subject to Article 8 may award for apparatus, supplies, materials, or equipment, or construction or repair work requiring apparatus, supplies, materials, or equipment, where such apparatus, supplies, materials, or equipment is either:

- (1) Listed in an emergency declaration arising from a supply chain disruption as described in G.S. 166A-19.3(6).
- (2) Listed in an order or regulation issued by an agency of the federal government under the Defense Production Act of 1950, as amended. The exemption in this section shall terminate upon expiration or termination of the emergency declaration or order or regulation issued under the Defense Production Act of 1950, as amended. (2023-137, s. 39(b).)

**§ 166A-19.17: Reserved for future codification purposes.**

**§ 166A-19.18: Reserved for future codification purposes.**

**§ 166A-19.19: Reserved for future codification purposes.**

Part 4. Declarations of State of Emergency.

**§ 166A-19.20. Gubernatorial or legislative declaration of state of emergency.**

(a) Declaration. – A state of emergency may be declared by the Governor or by a resolution of the General Assembly, if either of these finds that an emergency exists.

(b) Emergency Area. – An executive order or resolution declaring a state of emergency shall include a definition of the area constituting the emergency area.

(c) Expiration of States of Emergency. – A state of emergency declared pursuant to this section shall expire as follows:

- (1) If not a statewide emergency area, when it is rescinded by the authority that issued it.
- (2) If a statewide emergency area, 30 calendar days after issuance without a concurrence of the Council of State. A declaration of emergency may not be continued without the concurrence of the Council of State. If the Council of State concurs with the declaration of emergency, the declaration of emergency shall expire 60 calendar days after issuance, unless the General Assembly extends the declaration of emergency by enactment of a general law. If the General Assembly does not extend the declaration of emergency by enactment in accordance with this subdivision, the Governor shall not issue a substantially similar declaration of emergency arising from the same events that formed the basis to issue the initial declaration of emergency that was not extended.

(c1) Effect of Failure of Concurrence of the Council of State. – If the concurrence of the Council of State fails with the issuance or continuation of a declaration of emergency under subdivision (c)(2) of this section, the Governor shall not issue the same or any other substantially similar declarations of emergency based on the same emergency.

(c2) Multiple Declarations to Avoid Concurrence of Council of State. – If the Governor declares more than one state of emergency based on the same emergency that would extend the application of the emergency area, when combined, to more than two-thirds of the counties in the

State, the Governor shall obtain the concurrence of the Council of State in accordance with subdivision (c)(2) of this section for each declaration of emergency.

(d) Exercise of Powers Not Contingent on Declaration of Disaster Type. – Once a state of emergency has been declared pursuant to this section, the fact that a declaration of disaster type has not been issued shall not preclude the exercise of powers otherwise conferred during a state of emergency.

(e) Extra Session; Emergency Transportation Expenditures. – The General Assembly considers a determination by the Secretary of Transportation under G.S. 136-44.2E(f) that anticipated emergency expenses will exceed the funds in the Transportation Emergency Reserve within the meaning of the term "extraordinary occasions," and therefore the Governor is authorized to convene the General Assembly in Extra Session under Section 5(7) of Article III of the North Carolina Constitution. The General Assembly strongly urges the Governor to convene the General Assembly in Extra Session within 14 days of notice by the Secretary under G.S. 136-44.2E(f) for the purpose of appropriating funds from the Savings Reserve to the Emergency Reserve to address the transportation needs of the State necessitated by a major disaster. (1951, c. 1016, s. 4; 1955, c. 387, s. 4; 1959, c. 284, s. 2; c. 337, s. 4; 1975, c. 734, ss. 11, 14; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1993, c. 321, s. 181(a); 1995, c. 509, s. 125; 2001-214, s. 3; 2011-145, s. 19.1(g); 2011-183, s. 127(c); 2012-12, s. 1(b); 2020-91, s. 4.7(c); 2021-180, s. 19E.6(b).)

#### **§ 166A-19.21. Gubernatorial disaster declaration.**

(a) Preliminary Damage Assessment. – When a state of emergency is declared pursuant to G.S. 166A-19.20 or G.S. 166A-19.22, the Secretary shall provide the Governor and the General Assembly with a preliminary damage assessment as soon as the assessment is available.

(b) Declaration of Disaster. – Upon receipt of a preliminary damage assessment, the Governor is authorized to issue a disaster declaration declaring the impact or anticipated impact of the emergency to constitute a disaster of one of the following types:

- (1) Type I disaster. – A Type I disaster may be declared by the Governor prior to, and independently of, any action taken by the Small Business Administration, the Federal Emergency Management Agency, or any other federal agency, if all of the following criteria are met:
  - a. A local state of emergency has been declared pursuant to G.S. 166A-19.22 and a written copy of the declaration has been forwarded to the Governor.
  - b. The preliminary damage assessment meets or exceeds the criteria established for the Small Business Administration Disaster Loan Program pursuant to 13 C.F.R. Part 123 or meets or exceeds the State infrastructure criteria set out in G.S. 166A-19.41(b)(2)a.
  - c. A major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared.
- (2) Type II disaster. – A Type II disaster may be declared if the President of the United States has issued a major disaster declaration pursuant to the Stafford Act. The Governor may request federal disaster assistance under the Stafford Act without making a Type II disaster declaration.
- (3) Type III disaster. – A Type III disaster may be declared if the President of the United States has issued a major disaster declaration under the Stafford Act and either of the following is true:

- a. The preliminary damage assessment indicates that the extent of damage is reasonably expected to meet the threshold established for an increased federal share of disaster assistance under applicable federal law and regulations.
  - b. The preliminary damage assessment prompts the Governor to call a special session of the General Assembly to establish programs to meet the unmet needs of individuals, businesses, or political subdivisions affected by the emergency.
- (c) Expiration of Disaster Declarations. –
- (1) Expiration of Type I disaster declarations. – A Type I disaster declaration shall expire 60 days after its issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type I disaster declaration.
  - (2) Expiration of Type II disaster declarations. – A Type II disaster declaration shall expire twelve months after its issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of three months each. A Type II disaster declaration and any renewals of that declaration shall not exceed a total of 24 months. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type II disaster declaration.
  - (3) Expiration of Type III disaster declarations. – A Type III disaster declaration shall expire 24 months after its issuance unless renewed by the General Assembly.
  - (4) Expiration of disaster declarations declared prior to July 1, 2001. – Any state of disaster declared or proclaimed before July 1, 2001, irrespective of type, shall terminate by a declaration of the Governor or resolution of the General Assembly. A declaration or resolution declaring or terminating a state of disaster shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent or impede, promptly filed with the Secretary, the Secretary of State, and the clerks of superior court in the area to which it applies.

(d) Effect of Disaster Declaration Expiration. – Expiration of a Type II or III disaster declaration shall not affect the State's obligations under federal-State agreements entered into prior to the expiration of the disaster declaration. (1951, c. 1016, s. 4; 1955, c. 387, s. 4; 1959, c. 284, s. 2; c. 337, s. 4; 1975, c. 734, ss. 11, 14; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1993, c. 321, s. 181(a); 1995, c. 509, s. 125; 2001-214, s. 3; 2011-145, s. 19.1(g); 2011-183, s. 127(c); 2012-12, s. 1(b); 2012-90, ss. 7, 8; 2022-58, s. 4(a).)

**§ 166A-19.22. Municipal or county declaration of state of emergency.**

(a) Declaration. – A state of emergency may be declared by the governing body of a municipality or county, if either of these finds that an emergency exists. Authority to declare a state of emergency under this section may also be delegated by ordinance to the mayor of a municipality or to the chair of the board of county commissioners of a county.

(b) Emergency Area. – The emergency area shall be determined in accordance with the following:

- (1) Unless another subdivision of this subsection is applicable, the emergency area shall not exceed the area over which the municipality or county has jurisdiction to enact general police-power ordinances. The governing body declaring the state of emergency may declare that the emergency area includes part or all of the governing body's jurisdiction. Unless the governing body declaring the state of emergency provides otherwise, the emergency area includes this entire jurisdiction, subject to the limitations contained in the other subdivisions in this subsection.
- (2) The emergency area of a state of emergency declared by a county shall not include any area within the corporate limits of any municipality, or within any area of the county over which a municipality has jurisdiction to enact general police-power ordinances, unless the municipality's governing body or mayor consents to or requests the state of emergency's application. Such an extension may be with respect to one or more of the prohibitions and restrictions imposed in that county pursuant to the authority granted in G.S. 166A-19.31 and need not be with respect to all prohibitions and restrictions authorized by that section.
- (3) The board of commissioners or chair of the board of commissioners of any county who has been requested to do so by a mayor may by declaration extend the emergency area of a state of emergency declared by a municipality to any area within the county in which the board or chair determines it to be necessary to assist in the controlling of the emergency within the municipality. The extension may be with respect to one or more of the prohibitions and restrictions imposed in that mayor's municipality pursuant to the authority granted in G.S. 166A-19.31 and need not be with respect to all prohibitions and restrictions authorized by that section. Extension of the emergency area pursuant to this subdivision shall be subject to the following additional limitations:
  - a. The extension of the emergency area shall not include any area within the corporate limits of a municipality, or within any area of the county over which a municipality has jurisdiction to enact general police-power ordinances, unless the mayor or governing body of that other municipality consents to its application.
  - b. A chair of a board of county commissioners extending the emergency area under the authority of this subdivision shall take reasonable steps to give notice of its terms to those likely to be affected.
  - c. The chair of the board of commissioners shall declare the termination of any prohibitions and restrictions extended pursuant to this subdivision upon the earlier of the following:
    1. The chair's determination that they are no longer necessary.
    2. The determination of the board of county commissioners that they are no longer necessary.
    3. The termination of the prohibitions and restrictions within the municipality.
  - d. The powers authorized under this subdivision may be exercised whether or not the county has enacted ordinances under the authority of G.S.

166A-19.31. Exercise of this authority shall not preclude the imposition of prohibitions and restrictions under any ordinances enacted by the county under the authority of G.S. 166A-19.31.

(c) Expiration of States of Emergency. – Unless an ordinance adopted pursuant to G.S. 166A-19.31 provides otherwise, a state of emergency declared pursuant to this section shall expire when it is terminated by the official or governing body that declared it.

(d) Effect of Declaration. – The declaration of a state of emergency pursuant to this section shall activate the local ordinances authorized in G.S. 166A-19.31 and any and all applicable local plans, mutual assistance compacts, and agreements and shall also authorize the furnishing of assistance thereunder. (Former G.S. 14-288.13: 1969, c. 869, s. 1; 1993, c. 539, s. 195; 1994, Ex. Sess., c. 24, s. 14(c). Former G.S. 14-288.14: 1969, c. 869, s. 1; 1993, c. 539, s. 196; 1994, Ex. Sess., c. 14, s. 7; c. 24, s. 14(c). Former G.S. 166A-8: 1951, c. 1016, s. 6; 1953, c. 1099, s. 4; 1957, c. 950, s. 2; 1959, c. 337, s. 5; 1973, c. 620, s. 9; 1975, c. 734, ss. 12, 14, 16; 1977, c. 848, s. 2; 2012-12, s. 1(b).)

### **§ 166A-19.23. Excessive pricing prohibitions.**

A declaration issued pursuant to this Article shall trigger the prohibitions against excessive pricing during states of disaster, states of emergency, or abnormal market disruptions pursuant to G.S. 75-37 and G.S. 75-38. (2012-12, s. 1(b).)

### **§ 166A-19.24. Remote meetings during certain declarations of emergency.**

(a) Remote Meetings. – Notwithstanding any other provision of law, upon issuance of a declaration of emergency under G.S. 166A-19.20, any public body within the emergency area may conduct remote meetings in accordance with this section and Article 33C of Chapter 143 of the General Statutes throughout the duration of that declaration of emergency. Compliance with this statute establishes a presumption that a remote meeting is open to the public.

(b) Requirements. – The public body shall comply with all of the following with respect to remote meetings conducted under this section:

- (1) The public body shall give proper notice under G.S. 143-318.12 and under any other requirement for notice applicable to the public body. The notice shall also specify the means by which the public can access the remote meeting as that remote meeting occurs.
- (2) Any member of the public body participating by a method of simultaneous communication in which that member cannot be physically seen by the public body must identify himself or herself in each of the following situations:
  - a. When the roll is taken or the remote meeting is commenced.
  - b. Prior to participating in the deliberations, including making motions, proposing amendments, and raising points of order.
  - c. Prior to voting.
- (3) All documents to be considered during the remote meeting shall be provided to each member of the public body.
- (4) The method of simultaneous communication shall allow for any member of the public body to do all of the following:
  - a. Hear what is said by the other members of the public body.
  - b. Hear what is said by any individual addressing the public body.

- c. To be heard by the other members of the public body when speaking to the public body.
- (5) All votes shall be roll call; no vote by secret or written ballots, whether by paper or electronic means or in accordance with G.S. 143-318.13(b), may be taken during the remote meeting.
- (6) The public body shall comply with G.S. 143-318.13(c).
- (7) The minutes of the remote meeting shall reflect that the meeting was conducted by use of simultaneous communication, which members were participating by simultaneous communication, and when such members joined or left the remote meeting.
- (8) All chats, instant messages, texts, or other written communications between members of the public body regarding the transaction of the public business during the remote meeting are deemed a public record.
- (9) The remote meeting shall be simultaneously streamed live online so that simultaneous live audio, and video, if any, of such meeting is available to the public. If the remote meeting is conducted by conference call, the public body may comply with this subdivision by providing the public with an opportunity to dial in or stream the audio live and listen to the remote meeting.

(b1) If a public body has provided notice of an official meeting and one or more of the members of the public body desire to participate remotely after the issuance of the notice, the public body may amend the notice of the meeting to include the means whereby the public can access the remote meeting as that remote meeting occurs. Such amended notice of remote meeting shall comply with all of the following:

- (1) Be issued no less than six hours prior to the official meeting.
- (2) Be distributed in accordance with G.S. 143-318.12(b)(2) and (b)(3), as applicable.
- (3) Be posted in accordance with G.S. 143-318.12(e).

(c) Quorum. – A member of the public body participating by simultaneous communication under this section shall be counted as present for quorum purposes only during the period while simultaneous communication is maintained for that member. The provisions of G.S. 153A-44 and G.S. 160A-75 shall apply to all votes of each member of a county or municipal governing board taken during a remote meeting.

(d) Voting by Members of the Public Body. – Votes of each member of a public body made during a remote meeting under this section shall be counted as if the member were physically present only during the period while simultaneous communication is maintained for that member.

(e) Public Hearings. – A public body may conduct any public hearing required or authorized by law during a remote meeting, and take action thereon, provided the public body allows for written comments on the subject of the public hearing to be submitted between publication of any required notice and 24 hours prior to the scheduled time for the beginning of the public hearing.

(f) Quasi-Judicial Hearings. – A public body may conduct a quasi-judicial proceeding as a remote meeting only when all of the following apply:

- (1) The right of an individual to a hearing and decision occur during the emergency.
- (2) All persons subject to the quasi-judicial proceeding who have standing to participate in the quasi-judicial hearing have been given notice of the quasi-judicial hearing and consent to the remote meeting.

(3) All due process rights of the parties affected are protected.

(g) Closed Sessions. – The public body may conduct a closed session as authorized in G.S. 143-318.11. While in closed session, the public body is not required to provide access to the remote meeting to the public.

(h) Not Exclusive. – This section applies only during emergency declarations and does not supersede any authority for electronic meetings under Article 33C of Chapter 143 of the General Statutes.

(i) Definitions. – For purposes of this section, the following definitions apply:

(1) Official meeting. – As defined in G.S. 143-318.10(d).

(2) Public body. – As defined in G.S. 143-318.10(b) and (c).

(3) Remote meeting. – An official meeting, or any part thereof, with between one and all of the members of the public body participating by simultaneous communication.

(4) Simultaneous communication. – Any communication by conference telephone, conference video, or other electronic means. (2020-3, s. 4.31(a); 2021-35, s. 1.)

**§ 166A-19.25: Reserved for future codification purposes.**

**§ 166A-19.26: Reserved for future codification purposes.**

**§ 166A-19.27: Reserved for future codification purposes.**

**§ 166A-19.28: Reserved for future codification purposes.**

**§ 166A-19.29: Reserved for future codification purposes.**

Part 5. Additional Powers During States of Emergency.

**§ 166A-19.30. Additional powers of the Governor during state of emergency.**

(a) In addition to any other powers conferred upon the Governor by law, during a gubernatorially or legislatively declared state of emergency, the Governor shall have the following powers:

(1) To utilize all available State resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of State agencies or units thereof for the purpose of performing or facilitating emergency services.

(2) To take such action and give such directions to State and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article and with the orders, rules, and regulations made pursuant thereto.

(3) To take steps to assure that measures, including the installation of public utilities, are taken when necessary to qualify for temporary housing assistance from the federal government when that assistance is required to protect the public health, welfare, and safety.

(4) Subject to the provisions of the State Constitution to relieve any public official having administrative responsibilities under this Article of such responsibilities

for willful failure to obey an order, rule, or regulation adopted pursuant to this Article.

- (5) Through issuance of an executive order to waive requirements for an environmental document or permit issued under Articles 1, 4, and 7 of Chapter 113A of the General Statutes for the repair, protection, safety enhancement, or replacement of a component of the State highway system that provides the sole road access to an incorporated municipality or an unincorporated inhabited area bordering the Atlantic Ocean or any coastal sound where bridge or road conditions as a result of the events leading to the declaration of the state of emergency pose a substantial risk to public health, safety, or welfare. The executive order shall list the duration of the waiver and the activities to which the waiver applies. For purposes of this subdivision, "coastal sound" shall have the definition set forth in G.S. 113A-103, and "replacement" shall not be interpreted to exclude a replacement that increases size or capacity or that is located in a different location than the component that is replaced.

(b) During a gubernatorially or legislatively declared state of emergency, with the concurrence of the Council of State, the Governor has the following powers:

- (1) To direct and compel the evacuation of all or part of the population from any stricken or threatened area within the State, to prescribe routes, modes of transportation, and destinations in connection with evacuation; and to control ingress and egress of an emergency area, the movement of persons within the area, and the occupancy of premises therein.
- (2) To establish a system of economic controls over all resources, materials, and services to include food, clothing, shelter, fuel, rents, and wages, including the administration and enforcement of any rationing, price freezing, or similar federal order or regulation.
- (3) To regulate and control the flow of vehicular and pedestrian traffic, the congregation of persons in public places or buildings, lights and noises of all kinds, and the maintenance, extension, and operation of public utility and transportation services and facilities.
- (4) To waive a provision of any regulation or ordinance of a State agency or a political subdivision which restricts the immediate relief of human suffering.
- (5) To perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population.
- (6) To appoint or remove an executive head of any State agency or institution, the executive head of which is regularly selected by a State board or commission.
  - a. Such an acting executive head will serve during the following:
    1. The physical or mental incapacity of the regular office holder, as determined by the Governor after such inquiry as the Governor deems appropriate.
    2. The continued absence of the regular holder of the office.
    3. A vacancy in the office pending selection of a new executive head.
  - b. An acting executive head of a State agency or institution appointed in accordance with this subdivision may perform any act and exercise any

power which a regularly selected holder of such office could lawfully perform and exercise.

c. All powers granted to an acting executive head of a State agency or institution under this section shall expire immediately:

1. Upon the termination of the incapacity as determined by the Governor of the officer in whose stead the Governor acts;
2. Upon the return of the officer in whose stead the Governor acts; or
3. Upon the selection and qualification of a person to serve for the unexpired term, or the selection of an acting executive head of the agency or institution by the board or commission authorized to make such selection, and the person's qualification.

(7) To procure, by purchase, condemnation, seizure, or by other means to construct, lease, transport, store, maintain, renovate, or distribute materials and facilities for emergency management without regard to the limitation of any existing law.

(c) In addition to any other powers conferred upon the Governor by law, during a gubernatorially or legislatively declared state of emergency, if the Governor determines that local control of the emergency is insufficient to assure adequate protection for lives and property because (i) needed control cannot be imposed locally because local authorities responsible for preservation of the public peace have not enacted appropriate ordinances or issued appropriate declarations as authorized by G.S. 166A-19.31; (ii) local authorities have not taken implementing steps under such ordinances or declarations, if enacted or declared, for effectual control of the emergency that has arisen; (iii) the area in which the emergency exists has spread across local jurisdictional boundaries, and the legal control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; or (iv) the scale of the emergency is so great that it exceeds the capability of local authorities to cope with it, the Governor has the following powers:

(1) To impose by declaration prohibitions and restrictions in the emergency area. These prohibitions and restrictions may, in the Governor's discretion, as appropriate to deal with the emergency, impose any of the types of prohibitions and restrictions enumerated in G.S. 166A-19.31(b), and may amend or rescind any prohibitions and restrictions imposed by local authorities. Prohibitions and restrictions imposed pursuant to this subdivision shall take effect in accordance with the provisions of G.S. 166A-19.31(d) and shall expire upon the earliest occurrence of either of the following: (i) the prohibition or restriction is terminated by the Governor or (ii) the state of emergency is terminated.

(2) Give to all participating State and local agencies and officers such directions as may be necessary to assure coordination among them. These directions may include the designation of the officer or agency responsible for directing and controlling the participation of all public agencies and officers in the emergency. The Governor may make this designation in any manner which, in the Governor's discretion, seems most likely to be effective. Any law enforcement officer participating in the control of a state of emergency in which the Governor is exercising control under this section shall have the same power and authority as a sheriff throughout the territory to which the law enforcement officer is assigned.

(c1) Upon exercise of any of the powers granted in subsection (c) of this section, the following shall apply:

- (1) The Governor shall notify the affected local authorities immediately upon exercising any of the powers and any extensions thereof.
- (2) In exercising any of the powers, notwithstanding subdivision (c)(1) of this section, the Governor shall obtain a concurrence of the Council of State.
- (3) The duration of the exercise of any power by the Governor shall expire in accordance with G.S. 166A-19.20.

(d) Violation. – Any person who violates any provision of a declaration or executive order issued pursuant to this section shall be guilty of a Class 2 misdemeanor in accordance with G.S. 14-288.20A. (Former G.S. 14-288.15; 1969, c. 869, s. 1; 1993, c. 539, s. 197; 1994, Ex. Sess., c. 24, s. 14(c). Former G.S. 166A-6; 1951, c. 1016, s. 4; 1955, c. 387, s. 4; 1959, c. 284, s. 2; c. 337, s. 4; 1975, c. 734, ss. 11, 14; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1993, c. 321, s. 181(a); 1995, c. 509, s. 125; 2001-214, s. 3; 2011-145, s. 19.1(g); 2011-183, s. 127(c); 2012-90, s. 1; 2012-12, s. 1(b); 2014-100, s. 14.7(i); 2021-180, s. 19E.6(c).)

### **§ 166A-19.31. Power of municipalities and counties to enact ordinances to deal with states of emergency.**

(a) Authority to Enact Prohibitions and Restrictions. – The governing body of any municipality or county may enact ordinances designed to permit the imposition of prohibitions and restrictions within the emergency area during a state of emergency declared pursuant to G.S. 166A-19.22. Authority to impose by declaration prohibitions and restrictions under this section, and to impose those prohibitions and restrictions at a particular time as appropriate, may be delegated by ordinance to the mayor of a municipality or to the chair of the board of county commissioners of a county.

(b) Type of Prohibitions and Restrictions Authorized. – The ordinances authorized by this section may permit prohibitions and restrictions:

- (1) Of movements of people in public places, including any of the following:
  - a. Imposing a curfew.
  - b. Directing and compelling the voluntary or mandatory evacuation of all or part of the population from any stricken or threatened area within the governing body's jurisdiction.
  - c. Prescribing routes, modes of transportation, and destinations in connection with evacuation.
  - d. Controlling ingress and egress of an emergency area, and the movement of persons within that area.
  - e. Providing for the closure, within the emergency area, of streets, roads, highways, bridges, public vehicular areas, or other areas ordinarily used for vehicular travel, except to the movement of emergency responders and other persons necessary for recovery from the emergency. In addition to any other notice or dissemination of information, notification of any closure of a road or public vehicular area under the authority of this sub-subdivision shall be given to the Department of Transportation as soon as practicable. The ordinance may designate the sheriff to exercise the authority granted by this sub-subdivision. G.S. 166A-19.70(c) and (d) shall apply to this sub-subdivision.

- (2) Of the operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate.
- (3) Upon the possession, transportation, sale, purchase, and consumption of alcoholic beverages.
- (4) Upon the possession, transportation, sale, purchase, storage, and use of gasoline, and dangerous weapons and substances, except that this subdivision does not authorize prohibitions or restrictions on lawfully possessed firearms or ammunition. As used in this subdivision, the term "dangerous weapons and substances" has the same meaning as it does under G.S. 14-288.1. As used in this subdivision, the term "firearm" has the same meaning as it does under G.S. 14-409.39(2).
- (5) Upon other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency.

The ordinances authorized by this section need not require or provide for the imposition of all of the types of prohibitions or restrictions, or any particular prohibition or restriction, authorized by this section during an emergency but may instead authorize the official or officials who impose those prohibitions or restrictions to determine and impose the prohibitions or restrictions deemed necessary or suitable to a particular state of emergency.

(c) When Ordinances Take Effect. – Notwithstanding any other provision of law, whether general or special, relating to the promulgation or publication of ordinances by any municipality or county, upon the declaration of a state of emergency by the mayor or chair of the board of county commissioners within the municipality or the county, any ordinance enacted under the authority of this section shall take effect immediately unless the ordinance sets a later time. If the effect of this section is to cause an ordinance to go into effect sooner than it otherwise could under the law applicable to the municipality or county, the mayor or chair of the board of county commissioners, as the case may be, shall take steps to cause reports of the substance of the ordinance to be disseminated in a fashion that its substance will likely be communicated to the public in general, or to those who may be particularly affected by the ordinance if it does not affect the public generally. As soon as practicable thereafter, appropriate distribution or publication of the full text of any such ordinance shall be made.

(d) When Prohibitions and Restrictions Take Effect. – All prohibitions and restrictions imposed by declaration pursuant to ordinances adopted under this section shall take effect in the emergency area immediately upon publication of the declaration unless the declaration sets a later time. Publication shall include at least (i) posting of a signed copy of the declaration conspicuously posted on the Web site of the municipality or county, if the municipality or county has a Web site, and (ii) submittal of notice and a signed copy of the declaration to the Department of Public Safety WebEOC critical incident management system. Publication may also consist of reports of the substance of the prohibitions and restrictions in the mass communications media serving the emergency area or other effective methods of disseminating the necessary information quickly. As soon as practicable, however, appropriate distribution of the full text of any declaration shall be made. This subsection shall not be governed by the provisions of G.S. 1-597.

(e) Expiration of Prohibitions and Restrictions. – Prohibitions and restrictions imposed pursuant to this section shall expire upon the earliest occurrence of any of the following:

- (1) The prohibition or restriction is terminated by the official or entity that imposed the prohibition or restriction.

(2) The state of emergency terminates.

(e1) Notice of Expiration of Prohibitions and Restrictions. – At the time prohibitions and restrictions imposed pursuant to this section and states of emergency declared pursuant to G.S. 166A-19.22 expire or terminate, the municipality or county shall do the following:

(1) Post a notice of the expiration or termination of the prohibition or restriction conspicuously on the website of the municipality or county, if the municipality or county has a website.

(2) Submit a notice of expiration or termination of the prohibition or restriction to the Department of Public Safety WebEOC critical incident management system.

(f) Intent to Supplement Other Authority. – This section is intended to supplement and confirm the powers conferred by G.S. 153A-121(a), G.S. 160A-174(a), and all other general and local laws authorizing municipalities and counties to enact ordinances for the protection of the public health and safety in times of riot or other grave civil disturbance or emergency.

(g) Previously Enacted Ordinances Remain in Effect. – Any ordinance of a type authorized by this section promulgated prior to October 1, 2012, if otherwise valid, continue in full force and effect without reenactment.

(h) Violation. – Any person who violates any provision of an ordinance or a declaration enacted or declared pursuant to this section shall be guilty of a Class 2 misdemeanor in accordance with G.S. 14-288.20A. (Former G.S. 14-288.12; 1969, c. 869, s. 1; 1981, c. 412, s. 4(4); c. 747, s. 66; 1989, c. 770, s. 2; 1993, c. 539, s. 194; 1994, Ex. Sess., c. 24, s. 14(c); 2009-146, s. 1. Former G.S. 14-288.13; 1969, c. 869, s. 1; 1993, c. 539, s. 195; 1994, Ex. Sess., c. 24, s. 14(c). Former G.S. 14-288.16; 1969, c. 869, s. 1. Former G.S. 14-288.17; 1969, c. 869, s. 1. 2012-12, s. 1(b); 2019-89, s. 1; 2020-83, s. 11.7; 2022-57, s. 1.)

**§ 166A-19.32: Reserved for future codification purposes.**

**§ 166A-19.33: Reserved for future codification purposes.**

**§ 166A-19.34: Reserved for future codification purposes.**

**§ 166A-19.35: Reserved for future codification purposes.**

**§ 166A-19.36: Reserved for future codification purposes.**

**§ 166A-19.37: Reserved for future codification purposes.**

**§ 166A-19.38: Reserved for future codification purposes.**

**§ 166A-19.39: Reserved for future codification purposes.**

Part 6. Funding of Emergency Preparedness and Response.

**§ 166A-19.40. Use of contingency and emergency funds.**

(a) Use of Contingency and Emergency Funds. – The Governor may use contingency and emergency funds:

- (1) As necessary and appropriate to provide relief and assistance from the effects of an emergency.
- (2) As necessary and appropriate for National Guard training in preparation for emergencies with the concurrence of the Council of State.
- (b) Repealed by Session Laws 2015-241, s. 6.19(a), effective July 1, 2015.
- (c) Use of Other Funds. – The Governor may reallocate such other funds as may reasonably be available within the appropriations of the various departments when all of the following conditions are satisfied:
  - (1) The severity and magnitude of the emergency so requires.
  - (2) Contingency and emergency funds are insufficient or inappropriate.
  - (3) A state of emergency has been declared pursuant to G.S. 166A-19.20(a).
  - (4) Funds in the State Emergency Response and Disaster Relief Fund are insufficient. (Former G.S. 166A-5: 1951, c. 1016, ss. 3, 9; 1953, c. 1099, s. 3; 1955, c. 387, ss. 2, 3, 5; 1957, c. 950, s. 5; 1975, c. 734, ss. 9, 10, 14, 16; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, s. 124; 2001-214, s. 2; 2002-179, s. 12; 2009-192, s. 1; 2009-193, s. 3; 2009-196, s. 1; 2009-225, s. 1; 2011-145, s. 19.1(g). Former G.S. 166A-6: 1951, c. 1016, s. 4; 1955, c. 387, s. 4; 1959, c. 284, s. 2; c. 337, s. 4; 1975, c. 734, ss. 11, 14; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1993, c. 321, s. 181(a); 1995, c. 509, s. 125; 2001-214, s. 3; 2011-145, s. 19.1(g); 2011-183, s. 127(c); 2012-12, s. 1(b); 2015-241, s. 6.19(a).)

**§ 166A-19.41. State emergency assistance funds.**

(a) Governor May Make Funds Available for Emergency Assistance. – In the event of a gubernatorially or legislatively declared state of emergency, the Governor may make State funds available for emergency assistance as authorized by this section. Any State funds made available by the Governor for emergency assistance may be administered through State emergency assistance programs which may be established by the Governor upon the declaration of a state of emergency. It is the intent of the General Assembly in authorizing the Governor to make State funds available for emergency assistance and in authorizing the Governor to establish State emergency assistance programs to provide State assistance for recovery from those emergencies for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the emergency area.

(b) Emergency Assistance in a Type I Disaster. – In the event that a Type I disaster is declared, the Governor may make State funds available for emergency assistance in the emergency area in the form of individual assistance and public assistance as provided in this subsection.

- (1) Individual assistance. – State emergency assistance in the form of grants to individuals and families may be made available when damage meets or exceeds the criteria set out in 13 C.F.R. Part 123 for the Small Business Administration Disaster Loan Program. Individual assistance grants shall include benefits comparable to those provided by the Stafford Act and may be provided for the following:
  - a. Provision of temporary housing and rental assistance.
  - b. Repair or replacement of dwellings. Grants for repair or replacement of housing may include amounts necessary to locate the individual or family in safe, decent, and sanitary housing.

- c. Replacement of personal property (including clothing, tools, and equipment).
  - d. Repair or replacement of privately owned vehicles.
  - e. Medical or dental expenses.
  - f. Funeral or burial expenses resulting from the emergency.
  - g. Funding for the cost of the first year's flood insurance premium to meet the requirements of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. § 4001, et seq.
- (2) Public assistance. – State emergency assistance in the form of public assistance grants may be made available to eligible entities located within the emergency area on the following terms and conditions:
- a. Eligible entities shall meet the following qualifications:
    - 1. The eligible entity suffers a minimum of ten thousand dollars (\$10,000) in uninsurable losses.
    - 2. The eligible entity suffers uninsurable losses in an amount equal to or exceeding one percent (1%) of the annual operating budget.
    - 3. For a state of emergency declared pursuant to G.S. 166A-19.20(a) after the deadline established by the Federal Emergency Management Agency pursuant to the Disaster Mitigation Act of 2002, P.L. 106-390, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act.
    - 4. For a state of emergency declared pursuant to G.S. 166A-19.20(a), after August 1, 2002, the eligible entity shall be participating in the National Flood Insurance Program in order to receive public assistance for flooding damage.
  - b. Eligible entities shall be required to provide non-State matching funds equal to twenty-five percent (25%) of the eligible costs of the public assistance grant.
  - c. An eligible entity that receives a public assistance grant pursuant to this subsection may use the grant for the following purposes only:
    - 1. Debris clearance.
    - 2. Emergency protective measures.
    - 3. Roads and bridges.
    - 4. Crisis counseling.
    - 5. Assistance with public transportation needs.

(c) Emergency Assistance in a Type II Disaster. – If a Type II disaster is declared, the Governor may make State funds available for emergency assistance in the emergency area in the form of the following types of grants:

- (1) State Acquisition and Relocation Funds.
- (2) Supplemental repair and replacement housing grants available to individuals or families in an amount necessary to locate the individual or family in safe, decent, and sanitary housing, not to exceed twenty-five thousand dollars (\$25,000) per family.

(d) Emergency Assistance in a Type III Disaster. – If a Type III disaster is declared, the Governor may make State funds available for emergency assistance in the emergency area in the form of the following types of grants:

- (1) State Acquisition and Relocation Funds.
- (2) Supplemental repair and replacement housing grants available to individuals or families in an amount necessary to locate the individual or family in safe, decent, and sanitary housing, not to exceed twenty-five thousand dollars (\$25,000) per family.
- (3) Any programs authorized by the General Assembly. (2001-214, s. 4; 2001-487, s. 98; 2002-24, s. 1; 2002-159, s. 57.5; 2006-66, s. 6.5(a); 2012-12, s. 1(b).)

**§ 166A-19.42. State Emergency Response and Disaster Relief Fund.**

(a) Account Established. – There is established a State Emergency Response and Disaster Relief Fund as a reserve in the General Fund. Any funds appropriated to the Fund shall remain available for expenditure as provided by this section, unless directed otherwise by the General Assembly.

(b) Use of Funds. – The Governor may spend funds from the Fund for the following purposes:

- (1) To cover the start-up costs of State Emergency Response Team operations for an emergency that poses an imminent threat of a Type I, Type II, or Type III disaster.
- (2) To cover the cost of first responders to a Type I, Type II, or Type III disaster and any related supplies and equipment needed by first responders that are not provided for under subdivision (1) of this subsection.
- (3) To provide relief and assistance in accordance with G.S. 166A-19.41 from the effects of an emergency.

(c) Reporting Requirement. – The Governor shall report to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Appropriations Committees of the Senate and House of Representatives on any expenditures from the State Emergency Response and Disaster Relief Fund no later than 30 days after making the expenditure. The report shall include a description of the emergency and type of action taken. (2006-66, s. 6.5(b); 2012-12, s. 1(b); 2015-241, s. 6.19(b).)

**§ 166A-19.43: Reserved for future codification purposes.**

**§ 166A-19.44: Reserved for future codification purposes.**

**§ 166A-19.45: Reserved for future codification purposes.**

**§ 166A-19.46: Reserved for future codification purposes.**

**§ 166A-19.47: Reserved for future codification purposes.**

**§ 166A-19.48: Reserved for future codification purposes.**

**§ 166A-19.49: Reserved for future codification purposes.**

**§ 166A-19.50: Reserved for future codification purposes.**

**§ 166A-19.51: Reserved for future codification purposes.**

**§ 166A-19.52: Reserved for future codification purposes.**

**§ 166A-19.53: Reserved for future codification purposes.**

**§ 166A-19.54: Reserved for future codification purposes.**

**§ 166A-19.55: Reserved for future codification purposes.**

**§ 166A-19.56: Reserved for future codification purposes.**

**§ 166A-19.57: Reserved for future codification purposes.**

**§ 166A-19.58: Reserved for future codification purposes.**

**§ 166A-19.59: Reserved for future codification purposes.**

Part 7. Immunity and Liability.

**§ 166A-19.60. Immunity and exemption.**

(a) Generally. – All functions hereunder and all other activities relating to emergency management as provided for in this Chapter or elsewhere in the General Statutes are hereby declared to be governmental functions. Neither the State nor any political subdivision thereof, nor, except in cases of willful misconduct, gross negligence, or bad faith, any emergency management worker, firm, partnership, association, or corporation complying with or reasonably attempting to comply with this Article or any order, rule, or regulation promulgated pursuant to the provisions of this Article or pursuant to any ordinance relating to any emergency management measures enacted by any political subdivision of the State, shall be liable for the death of or injury to persons, or for damage to property as a result of any such activity.

(b) Immunity. – The immunity provided to firms, partnerships, associations, or corporations, under subsection (a) of this section, is subject to all of the following conditions:

(1) The immunity applies only when the firm, partnership, association, or corporation is acting without compensation or with compensation limited to no more than actual expenses and one of the following applies:

- a. Emergency management services are provided at any place in this State during a state of emergency declared by the Governor or General Assembly pursuant to this Article, and the services are provided under the direction and control of the Secretary pursuant to G.S. 166A-19.10, 166A-19.11, 166A-19.12, 166A-19.20, 166A-19.30, and 143B-602, or the Governor.
- b. Emergency management services are provided during a state of emergency declared pursuant to G.S. 166A-19.22, and the services are provided under the direction and control of the governing body of a

municipality or county under G.S. 166A-19.31, or the chair of a board of county commissioners under G.S. 166A-19.22(b)(3).

- c. The firm, partnership, association, or corporation is engaged in planning, preparation, training, or exercises with the Division, the Division of Public Health, or the governing body of each county or municipality under G.S. 166A-19.15 related to the performance of emergency management services or measures.
- (2) The immunity shall not apply to any firm, partnership, association, or corporation, or to any employee or agent thereof, whose act or omission caused in whole or in part the actual or imminent emergency or whose act or omission necessitated emergency management measures.
- (3) To the extent that any firm, partnership, association, or corporation has liability insurance, that firm, partnership, association, or corporation shall be deemed to have waived the immunity to the extent of the indemnification by insurance for its negligence. An insurer shall not under a contract of insurance exclude from liability coverage the acts or omissions of a firm, partnership, association, or corporation for which the firm, partnership, association, or corporation would only be liable to the extent indemnified by insurance as provided by this subdivision.

(c) No Effect on Benefits. – The rights of any person to receive benefits to which the person would otherwise be entitled under this Article or under the Workers' Compensation Law or under any pension law and the right of any such person to receive any benefits or compensation under any act of Congress shall not be affected by performance of emergency management functions.

(d) License Requirements Suspended. – Any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any authorized emergency management worker who shall, in the course of performing the worker's duties as such, practice such professional, mechanical, or other skill during a state of emergency.

(e) Definition of Emergency Management Worker. – As used in this section, the term "emergency management worker" shall include any full or part-time paid, volunteer, or auxiliary employee of this State or other states, territories, possessions, or the District of Columbia, of the federal government or any neighboring country or of any political subdivision thereof, or of any agency or organization performing emergency management services at any place in this State, subject to the order or control of or pursuant to a request of the State government or any political subdivision thereof. The term "emergency management worker" under this section shall also include any health care worker performing health care services as a member of a hospital-based or county-based State Medical Assistance Team designated by the North Carolina Office of Emergency Medical Services and any person performing emergency health care services under G.S. 90-12.2.

(f) Powers of Individuals Operating Pursuant to Mutual Aid Agreements. – Any emergency management worker, as defined in this section, performing emergency management services at any place in this State pursuant to agreements, compacts, or arrangements for mutual aid and assistance to which the State or a political subdivision thereof is a party, shall possess the same powers, duties, immunities, and privileges the person would ordinarily possess if performing duties in the State, or political subdivision thereof, in which normally employed or rendering services. (1957, c. 950, s. 4; 1975, c. 734, s. 14; 1977, c. 848, s. 2; 1979, c. 714, s. 2; 1979, 2nd

Sess., c. 1310, s. 2; 1995, c. 509, ss. 130, 131; 2002-179, s. 20(b); 2006-81, s. 1; 2008-200, s. 1; 2009-146, s. 2; 2011-145, s. 19.1(g), (hhh); 2012-12, s. 1(b).)

**§ 166A-19.61. No private liability.**

Any person, firm, or corporation, together with any successors in interest, if any, owning or controlling real or personal property who, voluntarily or involuntarily, knowingly or unknowingly, with or without compensation, grants a license or privilege or otherwise permits or allows the designation or use of the whole or any part or parts of such real or personal property for the purpose of activities or functions relating to emergency management as provided for in this Chapter or elsewhere in the General Statutes shall not be civilly liable for the death of or injury to any person or the loss of or damage to the property of any persons where such death, injury, loss, or damage resulted from, through, or because of the use of the said real or personal property for any of the above purposes, provided that the use of said property is subject to the order or control of or pursuant to a request of the State government or any political subdivision thereof. (1957, c. 950, s. 3; 1977, c. 848, s. 2; 2012-12, s. 1(b); 2012-90, s. 9.)

**§ 166A-19.62. Civil liability of persons who willfully ignore a warning in an emergency.**

In an emergency, a person who willfully ignores a warning regarding personal safety issued by a federal, State, or local law enforcement agency, emergency management agency, or other governmental agency responsible for emergency management under this Article is civilly liable for the cost of a rescue effort to any governmental agency or nonprofit agency cooperating with a governmental agency conducting a rescue on the endangered person's behalf if all of the following are true:

- (1) The person ignores the warning and (i) engages in an activity or course of action that a reasonable person would not pursue or (ii) fails to take a course of action that a reasonable person would pursue.
- (2) As a result of ignoring the warning, the person places himself or herself or another in danger.
- (3) A governmental rescue effort is undertaken on the endangered person's behalf. (1997-232, s. 1; 2012-12, s. 1(b).)

**§ 166A-19.63: Reserved for future codification purposes.**

**§ 166A-19.64: Reserved for future codification purposes.**

**§ 166A-19.65: Reserved for future codification purposes.**

**§ 166A-19.66: Reserved for future codification purposes.**

**§ 166A-19.67: Reserved for future codification purposes.**

**§ 166A-19.68: Reserved for future codification purposes.**

**§ 166A-19.69: Reserved for future codification purposes.**

Part 8. Miscellaneous Provisions.

**§ 166A-19.70. Ensuring availability of emergency supplies and utility services; protection of livestock, poultry, and agricultural crops.**

(a) Executive Order. – In addition to any other powers conferred on the Governor by law, whenever a curfew has been imposed, the Governor may declare by executive order that the health, safety, or economic well-being of persons or property in this State require that persons transporting essentials in commerce to the curfew area, or assisting in ensuring their availability, and persons assisting in restoring utility services, be allowed to enter or remain in areas from which they would otherwise be excluded for the limited purpose of delivering the essentials, assisting in ensuring their availability, or assisting in restoring utility services.

(b) Maximum Hours of Service Waiver. – As part of an executive order issued pursuant to subsection (a) of this section, or independently of such an order, the Governor may declare by executive order that the health, safety, or economic well-being of persons or property in this State require that the maximum hours of service prescribed by the Department of Public Safety pursuant to G.S. 20-381 and similar rules be waived for persons transporting essentials or assisting in the restoration of utility services.

(c) Certification System. – The Secretary shall develop a system pursuant to which a person who transports essentials in commerce, or assists in ensuring their availability, and persons who assist in the restoring of utility services can be certified as such. The certification system shall allow for both pre-emergency declaration and post-emergency declaration certification with renewable precertification. The Secretary shall only allow those who routinely transport or distribute essentials or assist in the restoring of utility services to be certified. A certification of the employer shall constitute a certification of the employer's employees. The Secretary shall create an easily recognizable indicium of certification in order to assist local officials' efforts to determine which persons have received certification by the system established under this subsection.

(d) Presence in Curfew Area Permitted. – Notwithstanding the existence of any curfew, a person who is certified pursuant to the system established under subsection (c) of this section shall be allowed to enter or remain in the curfew area for the limited purpose of delivering or assisting in the distribution of essentials or assisting in the restoration of utility services and shall be allowed to provide service that exceeds otherwise applicable hours of service maximums, to the extent authorized by an executive order executed pursuant to subsection (a) of this section. Nothing in this section prohibits law enforcement or other local officials from specifying the permissible route of ingress or egress for persons with certifications.

(e) Abnormal Market Disruptions with Respect to Petroleum. – If the Governor declares the existence of an abnormal market disruption with respect to petroleum pursuant to G.S. 75-38(f), the Governor shall contemporaneously seek all applicable waivers under the federal Clean Air Act, 42 U.S.C. § 7401, et seq., and any other applicable federal law to facilitate the transportation of fuel within this State in order to address or prevent a fuel supply emergency in this State. Waiver requests shall be directed to the appropriate federal agencies and shall seek waivers of the following:

- (1) The Reformulated Gasoline requirements throughout the State.
- (2) The Federal and State Implementation Plan summertime gasoline requirements (low RVP) throughout the State.
- (3) Any other waiver that will, if obtained, facilitate the transportation of fuel within this State.

(f) Definitions. – The following definitions apply in this section:

- (1) Curfew. – Any restriction on ingress and egress to the emergency area of a state of emergency or any restriction on the movement of persons within such an area.
- (2) Curfew area. – The area that is subject to a curfew.
- (3) Essentials. – Any goods that are consumed or used as a direct result of an emergency or which are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being of persons or their property. The Secretary shall determine what goods constitute essentials for purposes of this section.

(g) Upon the recommendation of the Commissioner of Agriculture it shall be lawful for the Governor, by an executive order issued pursuant to G.S. 166A-19.20 or independently of such an order, to direct the Department of Public Safety to temporarily suspend weighing, pursuant to G.S. 20-118.1, those vehicles used to transport livestock, poultry, or crops from designated counties in an emergency area as defined in G.S. 166A-19.3(7), or counties designated by the Governor in an executive order issued independently of an order pursuant to G.S. 166A-19.20, if there exists an imminent threat of severe economic loss of livestock or poultry or widespread or severe damage to crops ready to be harvested. The Department of Public Safety shall develop procedures to carry out the provisions of this subsection. This subsection shall not be construed to permit the gross weight of any vehicle or combination in excess of the safe load carrying capacity established by the Department of Transportation on any bridge pursuant to G.S. 136-72, or to permit the operation of a vehicle when a law enforcement officer has probable cause to believe the vehicle is creating an imminent hazard to public safety. A suspension authorized pursuant to the provisions of this subsection shall end when the Governor determines the threat of widespread or severe loss or damage in the designated counties has passed. (2001-214, s. 4; 2001-487, s. 98; 2002-24, s. 1; 2002-159, s. 57.5; 2006-66, s. 6.5(a); 2012-12, s. 1(b); 2013-230, s. 1; 2018-114, s. 7.)

**§ 166A-19.70A. Facilitate critical infrastructure disaster relief.**

(a) Purpose. – The State finds that it is appropriate to exclude nonresident businesses and nonresident employees who temporarily come to this State at the request of a critical infrastructure company solely to perform disaster-related work during a disaster response period from the following tax and regulatory requirements:

- (1) Corporate and individual income tax, as provided under G.S. 105-130.1 and G.S. 105-153.2.
- (2) Franchise tax, as provided under G.S. 105-114.
- (3) Unemployment tax, as provided under G.S. 96-1(b)(12).
- (4) Certificate of Authority from the Secretary of State to transact business in this State, as provided under G.S. 55-15-01(d) and G.S. 57D-1-24(d).

(b) Definitions. – In addition to the definitions in G.S. 166A-19.3, the following definitions apply in this section:

- (1) Corporation. – Defined in G.S. 105-130.2.
- (2) Critical infrastructure. – Property and equipment owned or used by a critical infrastructure company for utility or communications transmission services provided to the public in the State. Examples of critical infrastructure include communications networks, electric generation, transmission and distribution systems, natural gas transmission and distribution systems, water pipelines, and

- related support facilities. Related support facilities may include buildings, offices, lines, poles, pipes, structures, and equipment.
- (3) Critical infrastructure company. – One of the following:
    - a. A registered public communications provider.
    - b. A registered public utility.
  - (4) Disaster-related work. – Repairing, renovating, installing, building, or performing services on critical infrastructure that has been damaged, impaired, or destroyed as a result of a disaster or emergency in an area covered by the disaster declaration.
  - (5) Disaster response period. – A period that begins 10 days prior to the first day of a disaster declaration and expires on the earlier of the following:
    - a. Sixty days following the expiration of the disaster declaration, as provided under G.S. 166A-19.21(c).
    - b. One hundred eighty days following the issuance of the disaster declaration.
  - (6) Employee. – Defined in G.S. 105-163.1.
  - (7) Nonresident business. – An entity that has not been required to file an income or franchise tax return with the State for three years prior to the disaster response period, other than those arising from the performance of disaster-related work during a tax year prior to the enactment of this section, and that meets one or more of the following conditions:
    - a. Is a nonresident entity.
    - b. Is a nonresident individual who owns an unincorporated business as a sole proprietor.
  - (8) Nonresident employee. – A nonresident individual who is one of the following:
    - a. An employee of a nonresident business.
    - b. An employee of a critical infrastructure company who is temporarily in this State to perform disaster-related work during a disaster response period.
  - (9) Nonresident entity. – Defined in G.S. 105-163.1.
  - (10) Nonresident individual. – Defined in G.S. 105-153.3.
  - (11) Registered public communications provider. – A corporation doing business in this State prior to the disaster declaration that provides the transmission to the public of one or more of the following:
    - a. Broadband.
    - b. Mobile telecommunications.
    - c. Telecommunications.
    - d. Wireless Internet access.
  - (12) Registered public utility. – A corporation doing business in this State prior to the disaster declaration that is subject to the control of one or more of the following entities:
    - a. North Carolina Utilities Commission.
    - b. North Carolina Rural Electrification Authority.
    - c. Federal Communications Commission.
    - d. Federal Energy Regulatory Commission.

(c) **Critical Infrastructure Company Notification.** – A critical infrastructure company must provide notification to the Department of Revenue within 90 days of the expiration of the disaster response period. The notification must be in the form and manner required by the Department. The notification must include the following:

- (1) A list of all nonresident businesses who performed disaster-related work in this State during a disaster response period at the request of the critical infrastructure company.
- (2) A list of nonresident employees who performed disaster-related work in this State for the critical infrastructure company during a disaster response period. The notification must include the amount of compensation paid to the nonresident employee performing disaster-related work in this State.

(d) **Nonresident Business Notification.** – A nonresident business must provide notification to the Department of Revenue within 90 days of the date the nonresident business concludes its disaster-related work in the State. The notification must be in the form and manner required by the Department. The notification must include a list of nonresident employees who performed disaster-related work in this State during a disaster response period, along with the amount of compensation paid to the nonresident employee performing disaster-related work in this State. Failure to submit a timely notification forfeits the relief provided by this section for the nonresident business.

(e) **Limitation.** – The intent of this section is to provide relief to nonresident businesses and nonresident employees who would not otherwise be subject to this State's tax and regulatory requirements if they had not performed disaster-related work during the disaster response period. The relief provided under this section does not apply to any tax year that is part of the disaster response period if the nonresident business or nonresident employee continues to perform disaster-related work following the end of the disaster response period. The relief provided under this section does not apply to a tax year that is part of the disaster response period if the nonresident business or nonresident employee is required to file an income tax return for that tax year with the Department of Revenue for reasons other than the performance of disaster-related work. (2019-187, s. 1(a).)

#### **§ 166A-19.71. Accept services, gifts, grants, and loans.**

Whenever the federal government or any agency or officer thereof or of any person, firm, or corporation shall offer to the State, or through the State to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for emergency management purposes, the State acting through the Governor, or such political subdivision, acting with the consent of the Governor and through its governing body, may accept such offer. Upon such acceptance the Governor of the State or governing body of such political subdivision may authorize any officer of the State or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the State or of such political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. (1951, c. 1016, s. 8; 1973, c. 803, s. 45; 1975, c. 19, s. 72; c. 734, ss. 13, 14; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 2012-12, s. 1(b).)

#### **§ 166A-19.72. Establishment of mutual aid agreements.**

(a) **Governor Authorized to Enter Agreements with Other States and Federal Government.** – The Governor may establish mutual aid agreements with other states and with the federal

government provided that any special agreements so negotiated are within the Governor's authority.

(b) Governor Authorized to Enter Agreements with Political Subdivisions. – The Governor may establish mutual aid agreements with political subdivisions in the State with the concurrence of the subdivision's governing body.

(c) Political Subdivisions Authorized to Enter Agreements with Other Political Subdivisions. – The chief executive of each political subdivision, with the concurrence of the subdivision's governing body, may develop mutual aid agreements for reciprocal emergency management aid and assistance. Such agreements shall be consistent with the State emergency management program and plans.

(d) Political Subdivisions Authorized to Enter Agreements with Political Subdivisions in Other States. – The chief executive officer of each political subdivision, with the concurrence of the governing body and subject to the approval of the Governor, may enter into mutual aid agreements with local chief executive officers in other states for reciprocal emergency management aid and assistance. These agreements shall be consistent with the State emergency management program and plans.

(e) Terms of Agreements. – Mutual aid agreements may include, but are not limited to, the furnishing or exchange of such supplies, equipment, facilities, personnel, and services as may be needed; the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items; and on such terms and conditions as deemed necessary. (1951, c. 1016, s. 7; 1975, c. 734, ss. 14, 16; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 2009-194, s. 1; 2012-12, s. 1(b).)

### **§ 166A-19.73. Compensation.**

(a) Extent of Compensation. – Compensation for services or for the taking or use of property shall be only to the extent that legal obligations of individual citizens are exceeded in a particular case and then only to the extent that the claimant has not been deemed to have volunteered his services or property without compensation.

(b) Limitation; Basis of Compensation. – Compensation for property shall be only if the property was commandeered, seized, taken, condemned, or otherwise used in coping with an emergency and this action was ordered by the Governor. The State shall make compensation for the property so seized, taken, or condemned on the following basis:

(1) In case property is taken for temporary use, the Governor, within 30 days of the taking, shall fix the amount of compensation to be paid for such damage or failure to return. Whenever the Governor shall deem it advisable for the State to take title to property taken under this section, the Governor shall forthwith cause the owner of such property to be notified thereof in writing by registered mail, postage prepaid, or by the best means available, and forthwith cause to be filed a copy of said notice with the Secretary of State.

(2) If the person entitled to receive the amounts so determined by the Governor as just compensation is unwilling to accept the same as full and complete compensation for such property or the use thereof, the person shall be paid seventy-five percent (75%) of such amount and shall be entitled to recover from the State of North Carolina in an action brought in the superior court in the county of residence of claimant, or in Wake County, in the same manner as other condemnation claims are brought, within three years after the date of the Governor's award. (1977, c. 848, s. 2; 2012-12, s. 1(b).)

**§ 166A-19.74. Nondiscrimination in emergency management.**

State and local governmental bodies and other organizations and personnel who carry out emergency management functions under the provisions of this Article are required to do so in an equitable and impartial manner. Such State and local governmental bodies, organizations, and personnel shall not discriminate on the grounds of race, color, religion, nationality, sex, age, or economic status in the distribution of supplies, the processing of applications, and other relief and assistance activities. (1975, c. 734, s. 3; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, s. 128; 2012-12, s. 1(b).)

**§ 166A-19.75. Emergency management personnel.**

(a) Limitation. – No person shall be employed or associated in any capacity in any emergency management agency established under this Article if that person does or has done any of the following:

- (1) Advocates or has advocated a change by force or violence in the constitutional form of the Government of the United States or in this State.
- (2) Advocates or has advocated the overthrow of any government in the United States by force or violence.
- (3) Has been convicted of any subversive act against the United States.
- (4) Is under indictment or information charging any subversive act against the United States.
- (5) Has ever been a member of the Communist Party.

(b) Repealed by Session Laws 2022-58, s. 16, effective July 8, 2022.

(c) No Violation of Dual Office Holding Prohibition. – No position created by or pursuant to this Article shall be deemed an office within the meaning of Section 9 of Article 6 of the North Carolina Constitution. (1951, c. 1016, s. 10; 1975, c. 734, ss. 14, 16; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, s. 129; 2012-12, s. 1(b); 2022-58, s. 16.)

**§ 166A-19.76. Leave options for voluntary firefighters, rescue squad workers, and emergency medical service personnel called into service.**

(a) Leave Without Pay. – A member of a volunteer fire department, rescue squad, or emergency medical services agency called into service of the State after a declaration of a state of emergency by the Governor or by the General Assembly, or upon the activation of the State Emergency Response Team in response to an emergency, shall have the right to take leave without pay from his or her civilian employment. No member of a volunteer fire department, rescue squad, or emergency medical services agency shall be forced to use or exhaust his or her vacation or other accrued leave from his or her civilian employment for a period of active service. The choice of leave shall be solely within the discretion of the member.

(b) Request in Writing Required. – For the volunteer member to be entitled to take leave without pay pursuant to this section, his or her services shall be requested in writing by the Director of the Division or by the head of a local emergency management agency. The request shall be directed to the Chief of the member's volunteer fire department, rescue squad, or emergency medical services agency, and a copy shall be provided to the member's employer. This section shall not apply to those members whose services have been certified by their employer to the Director of the Division, or to the head of a local emergency management agency, as essential to the employer's own ongoing emergency relief activities.

(c) Definition of an Emergency Requiring Activation of the State Emergency Response Team. – For purposes of this section, an emergency requiring the activation of the State Emergency Response Team means an emergency at Activation Level 2 or greater according to the North Carolina State Emergency Operations Plan of November 2002. Activation Level 2 requires the State Emergency Operations Center to be fully activated with 24-hour staffing from all State Emergency Response Team members.

(d) Enforcement. – The Commissioner of Labor shall enforce the provisions of this section pursuant to Chapter 95 of the General Statutes. (2003-103, s. 1; 2012-12, s. 1(b).)

**§ 166A-19.77. North Carolina Forest Service designated as emergency response agency.**

The North Carolina Forest Service of the Department of Agriculture and Consumer Services is designated an emergency response agency of the State of North Carolina for purposes of the following:

- (1) Supporting the North Carolina Forest Service in responding to all-risk incidents.
- (2) Receipt of any applicable State or federal funding.
- (3) Training of other State and local agencies in emergency management.
- (4) Any other emergency response roles for which the North Carolina Forest Service has special training or qualifications. (2005-128, s. 1; 2011-145, ss. 13.25(ww), 19.1(g); 2012-12, s. 1(b); 2013-155, s. 24.)

**§ 166A-19.77A. Agricultural Emergency Response Teams authorized.**

The Department of Agriculture and Consumer Services is designated as an emergency response agency for purposes of the following:

- (1) Deploying Agricultural Emergency Response Teams, as that term is defined in G.S. 106-1042, to respond to agriculture-related incidents.
- (2) Receipt of any applicable State or federal funding.
- (3) Training of other State and local agencies in agricultural emergency response.
- (4) Any other emergency response roles for which Agricultural Emergency Response Teams have special training or qualifications. (2016-113, s. 2(b).)

**§ 166A-19.78. Governor's power to order evacuation of public building.**

When it is determined by the Governor that a great public crisis, disaster, riot, catastrophe, or any other similar public emergency exists, or the occurrence of any such condition is imminent, and, in the Governor's opinion it is necessary to evacuate any building owned or controlled by any department, agency, institution, school, college, board, division, commission, or subdivision of the State in order to maintain public order and safety or to afford adequate protection for lives or property, the Governor is hereby authorized to issue an order of evacuation directing all persons within the building to leave the building and its premises forthwith. The order shall be delivered to any law enforcement officer or officer of the National Guard, and such officer shall, by a suitable public address system, read the order to the occupants of the building and demand that the occupants forthwith evacuate said building within the time specified in the Governor's order. (1969, c. 1129; 1993, c. 539, s. 198; 1994, Ex. Sess., c. 24, s. 14(c); 2009-281, s. 1; 2012-12, s. 1(b).)

**§ 166A-19.78A. Cybersecurity support requests.**

Requests from units of local government, State agencies, or critical infrastructure partners for operational support from or access to operational cyber resources shall be sent to the North Carolina Emergency Management 24-Hour Watch for intake and activation. For purposes of this section, the term "critical infrastructure partners" means any entity that manages, oversees, or is otherwise responsible for critical infrastructure, as defined in 42 U.S.C. § 5195c. (2023-134, s. 19I.3(a).)

**§ 166A-19.79. Severability.**

If any provision of this Article or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable. (1977, c. 848, s. 2; 1995, c. 509, s. 132; 2012-12, s. 1(b).)