

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 451

Short Title: Amend NC Emergency Management Laws. (Public)

Sponsors: Representatives Rogers, Arnold, Smith, and Wright.

Referred to: Judiciary I.

March 1, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAWS REGARDING EMERGENCY MANAGEMENT
3 AS RECOMMENDED BY THE LEGISLATIVE DISASTER RESPONSE AND
4 RECOVERY COMMISSION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 166A-4 reads as rewritten:

7 "§ 166A-4. Definitions.

8 The following definitions apply in this Article:

- 9 (1) "Associated Expenses." – The costs of administering the disaster or
10 emergency assistance program.
11 (1) ~~"Emergency Management." – Those measures taken by the populace~~
12 ~~and governments at federal, State, and local levels to minimize the~~
13 ~~adverse effect of any type disaster, which include the never ending~~
14 ~~preparedness cycle of prevention, mitigation, warning, movement,~~
15 ~~shelter, emergency assistance and recovery.~~
16 (2) ~~"Emergency Management Agency." – A State or local governmental~~
17 ~~agency charged with coordination of all emergency management~~
18 ~~activities for its jurisdiction.~~
19 (2) "Contiguous Counties or Other Political Subdivisions." – Those land
20 areas that abut the land area of the declared disaster area without
21 geographic separation other than by a minor body of water, not to
22 exceed one mile between the land areas of the counties or other
23 political subdivisions.
24 (3) "Disaster." – An occurrence or imminent threat of widespread or
25 severe damage, injury, or loss of life or property resulting from any
26 natural or man-made accidental, military or paramilitary cause.
27 (4) "Disaster Area." – The geographical areas affected by the disaster,
28 including contiguous counties or other political subdivisions.

- 1 (5) "Eligible Entity." – Any political subdivision. The term also includes
2 an owner or operator of a private nonprofit utility that meets the
3 eligibility criteria set out in this Chapter of the General Statutes.
- 4 (6) "Emergency." – The condition that exists whenever, during times of
5 public crisis, disaster, rioting, catastrophe, or similar public
6 emergency, public safety authorities are unable to maintain public
7 order or afford adequate protection for lives or property, or whenever
8 the occurrence of any such condition is imminent.
- 9 (7) "Emergency Management." – Those measures taken by the populace
10 and governments at federal, State, and local levels to minimize the
11 adverse effect of any type disaster, which include the never-ending
12 preparedness cycle of prevention, mitigation, warning, movement,
13 shelter, emergency assistance, and recovery.
- 14 (8) "Emergency Management Agency." – A State or local governmental
15 agency charged with coordination of all emergency management
16 activities for its jurisdiction.
- 17 (9) "Law Enforcement Officer." – Any officer of the State of North
18 Carolina or any of its political subdivisions authorized to make arrests;
19 any other person authorized under the laws of North Carolina to make
20 arrests and either acting within his territorial jurisdiction or in an area
21 in which he has been lawfully called to duty by the Governor or any
22 mayor or chair of the board of county commissioners; any member of
23 the armed forces of the United States, the North Carolina national
24 guard, or the State defense militia called to duty in a state of
25 emergency in North Carolina and made responsible for enforcing the
26 laws of North Carolina or preserving the public peace; or any officer
27 of the United States authorized to make arrests without warrant and
28 assigned to duties that include preserving the public peace in North
29 Carolina.
- 30 (10) "Mayor." – The mayor or other chief executive official of a
31 municipality or, in case of the mayor's absence or disability, the person
32 authorized to act in the mayor's stead. Unless the governing body of
33 the municipality has specified who is to act in lieu of the mayor with
34 respect to a particular power or duty set out in this Article, the word
35 "mayor" shall apply to the person generally authorized to act in lieu of
36 the mayor.
- 37 (4)(11) "Political Subdivision." – Counties and incorporated cities, towns and
38 villages.
- 39 (12) "Preliminary Damage Assessment." – The process used by State, local,
40 or federal emergency management workers to determine the severity
41 and magnitude of damages caused by a disaster event.
- 42 (13) "Private Nonprofit Utilities." – A utility that would be eligible for
43 federal public assistance disaster funds pursuant to 44 C.F.R. Part 206.

- 1 (14) "State Acquisition and Relocation Fund." – State funding for
2 supplemental grants to homeowners participating in a Hazard
3 Mitigation Grant Program (HMGP) Acquisition and Relocation
4 program. These grants are used to acquire safe, decent, and sanitary
5 housing by paying the difference between the cost of the home
6 acquired under the HMGP Program and the cost of a comparable home
7 located outside the 100-year floodplain.
- 8 (15) "State of Emergency." – A state of emergency found and proclaimed
9 by the Governor under the authority of G.S. 166A-6, by any mayor or
10 other municipal official or officials, by any chair of the board of
11 commissioners of any county or other county official or officials, by
12 any chair of the board of county commissioners, by any chief
13 executive official or acting chief executive official of any county or
14 municipality acting under the authority of any other applicable statute
15 or provision of the common law to preserve the public peace in a state
16 of emergency, or by any executive official or military commanding
17 officer of the United States or the State of North Carolina who
18 becomes primarily responsible under applicable law for the
19 preservation of the public peace within any part of North Carolina.
- 20 (16) "Type I Disaster." – A disaster of limited severity that causes damages
21 within the jurisdictional boundaries of one or more political
22 subdivisions: (i) that meet or exceed the criteria established for the
23 Small Business Administration Disaster Loan Program pursuant to 13
24 C.F.R. Part 123; or (ii) that meet or exceed the State infrastructure
25 criteria as provided in this Chapter, but for which the State has not yet
26 received a major disaster declaration by the President of the United
27 States pursuant to the Robert T. Stafford Disaster Relief and
28 Emergency Assistance Act, 42 U.S.C. § 5121, et seq., ("The Stafford
29 Act").
- 30 (17) "Type II Disaster." – A disaster that causes damages within the
31 jurisdictional boundaries of one or more political subdivisions that
32 meet or exceed the criteria established for a major disaster declaration
33 under the Stafford Act.
- 34 (18) "Type III Disaster." – A disaster that causes damages within the
35 jurisdictional boundaries of one or more political subdivisions that:
36 a. Meet or exceed the criteria established for a major disaster
37 declaration under the Stafford Act that are reasonably expected
38 to meet the threshold established for an increased federal share
39 of disaster assistance under applicable federal law and
40 regulations; or
41 b. Require the Governor to call a special session of the General
42 Assembly to implement, activate, or retool programs
43 established in S.L. 1999-463 Extra Session or to create other

1 programs to meet the unmet needs of individuals, persons, or
2 political subdivisions affected by a disaster."

3 **SECTION 2.** G.S. 166A-5 reads as rewritten:

4 "**§ 166A-5. State emergency management.**

5 The State emergency management program includes all aspects of preparations for,
6 response to and recovery from war or peacetime disasters.

7 (1) Governor. – The Governor shall have general direction and control of
8 the State emergency management program and shall be responsible for
9 carrying out the provisions of this Article.

10 a. The Governor is authorized and empowered:

- 11 1. To make, amend or rescind the necessary orders, rules
12 and regulations within the limits of the authority
13 conferred upon him herein, with due consideration of the
14 policies of the federal government.
- 15 2. To delegate any authority vested in him under this
16 Article and to provide for the subdelegation of any such
17 authority.
- 18 3. To cooperate and coordinate with the President and the
19 heads of the departments and agencies of the federal
20 government, and with other appropriate federal officers
21 and agencies, and with the officers and agencies of other
22 states and local units of government in matters pertaining
23 to the emergency management of the State and nation.
- 24 4. To enter into agreements with the American National
25 Red Cross, Salvation Army, Mennonite Disaster Service
26 and other disaster relief organizations.
- 27 5. To make, amend, or rescind mutual aid agreements in
28 accordance with G.S. 166A-10.
- 29 6. To utilize the services, equipment, supplies and facilities
30 of existing departments, offices and agencies of the State
31 and of the political subdivisions thereof. The officers and
32 personnel of all such departments, offices and agencies
33 are required to cooperate with and extend such services
34 and facilities to the Governor upon request. This
35 authority shall extend to a state of emergency, state of
36 disaster, imminent threat of disaster or emergency
37 management planning and training purposes.
- 38 7. To agree, when required to obtain federal assistance in
39 debris removal, that the State will indemnify the federal
40 government against any claim arising from the
41 ~~removal~~ removal of the debris.
- 42 8. To sell, lend, lease, give, transfer or deliver materials or
43 perform services for disaster purposes on such terms and
44 conditions as may be prescribed by any existing law, and

- 1 to account to the State Treasurer for any funds received
2 for such property.
- 3 9. To use contingency and emergency funds as necessary
4 and appropriate to provide relief and assistance from the
5 effects of a disaster, and to reallocate such other funds as
6 may reasonably be available within the appropriations of
7 the various departments when the severity and
8 magnitude of such disaster so requires and the
9 contingency and emergency funds are insufficient or
10 inappropriate.
- 11 b. In the threat of or event of a disaster, or when requested by the
12 governing body of any political subdivision in the State, the
13 Governor may assume operational control over all or any part
14 of the emergency management functions within this State.
- 15 (2) Secretary of Crime Control and Public Safety. – The Secretary of
16 Crime Control and Public Safety shall be responsible to the Governor
17 for State emergency management activities and shall have:
- 18 a. The power, as delegated by the Governor, to activate the State
19 and local plans applicable to the areas in question and he shall
20 be empowered to authorize and direct the deployment and use
21 of any personnel and forces to which the plan or plans apply,
22 and the use or distribution of any supplies, equipment, materials
23 and facilities available pursuant to this Article or any other
24 provision of law.
- 25 a1. The power, as delegated by the Governor, to adopt the rules and
26 procedures needed to implement this Chapter.
- 27 a2. The Secretary shall develop a system of damage assessment
28 through which the Secretary will recommend the appropriate
29 level of disaster declaration to the Governor. The system shall,
30 at a minimum, consider whether the damage involved and its
31 effects are of such a severity and magnitude as to be beyond the
32 response capabilities of the local government or political
33 subdivision.
- 34 b. Additional authority, duties, and responsibilities as may be
35 prescribed by the Governor, and he may subdelegate his
36 authority to the appropriate member of his department.
- 37 (3) Functions of State Emergency Management. – The functions of the
38 State emergency management program include:
- 39 a. Coordination of the activities of all agencies for emergency
40 management within the State, including planning, organizing,
41 staffing, equipping, training, testing, and the activation of
42 emergency management programs.
- 43 b. Preparation and maintenance of State plans for man-made or
44 natural disasters. The State plans or any parts thereof may be

1 incorporated into department regulations and into executive
2 orders of the Governor.

- 3 c. Promulgation of standards and requirements for local plans and
4 programs, determination of eligibility for State financial
5 assistance provided for in G.S. 166A-7 and provision of
6 technical assistance to local governments.
- 7 d. Development and presentation of training programs and public
8 information programs to insure the furnishing of adequately
9 trained personnel and an informed public in time of need.
- 10 e. Making of such studies and surveys of the resources in this
11 State as may be necessary to ascertain the capabilities of the
12 State for emergency management, maintaining data on these
13 resources, and planning for the most efficient use thereof.
- 14 f. Coordination of the use of any private facilities, services, and
15 property.
- 16 g. Preparation for issuance by the Governor of executive orders,
17 proclamations, and regulations as necessary or appropriate.
- 18 h. Cooperation and maintenance of liaison with the other states,
19 federal government and any public or private agency or entity
20 in achieving any purpose of this Article and in implementing
21 programs for emergency, disaster or war prevention,
22 preparation, response, and recovery.
- 23 i. Making recommendations, as appropriate, for zoning, building
24 and other land-use controls, and safety measures for securing
25 mobile homes or other nonpermanent or semipermanent works
26 designed to protect against or mitigate the effects of a disaster.
- 27 j. Coordination of the use of existing means of communications
28 and supplementing communications resources and integrating
29 them into a comprehensive State or State-federal
30 telecommunications or other communications system or
31 network."

32 **SECTION 3.** G.S. 166A-6 reads as rewritten:

33 **"§ 166A-6. State of emergency, threatened disaster, and state of disaster.**

34 (a) The existence of a state of disaster may be proclaimed by the Governor, or by
35 a resolution of the General Assembly if either of these finds that a disaster threatens or
36 exists.

37 (a1) When the Governor determines that a state of emergency exists in any part of
38 North Carolina, the Governor may exercise the powers conferred by this section if the
39 Governor further finds that local control of the emergency is insufficient to assure
40 adequate protection for lives and property. Local control shall be deemed insufficient
41 only if any of the following circumstances exist:

- 42 (1) Needed control cannot be imposed locally because local
43 authorities responsible for preservation of the public peace have

1 not enacted appropriate ordinances or issued appropriate
2 proclamations as authorized by G.S. 166A-8.

3 (2) Local authorities have not taken implementing steps under such
4 ordinances or proclamations, if enacted or proclaimed, for
5 effectual control of the emergency that has arisen.

6 (3) The area in which the state of emergency exists has spread
7 across local jurisdictional boundaries, and the legal control
8 measures of the jurisdictions are conflicting or uncoordinated to
9 the extent that efforts to protect life and property are, or
10 unquestionably will be, severely hampered.

11 (4) The scale of the emergency is so great that it exceeds the
12 capability of local authorities to cope with it.

13 (a2) The Governor, when acting under the authority of this section, may by
14 proclamation impose prohibitions and restrictions in all areas affected by the state of
15 emergency and give to all participating State and local agencies and officers any
16 directions needed to assure coordination among them. These directions may include the
17 designation of the officer or agency responsible for directing and controlling the
18 participation of all public agencies and officers in the emergency. The Governor may
19 make this designation in any manner that, in the Governor's discretion, seems most
20 likely to be effective. Any law enforcement officer participating in the control of a state
21 of emergency in which the Governor is exercising control under this section shall have
22 the same power and authority as a sheriff throughout the territory to which the law
23 enforcement officer is assigned.

24 (a3) The Governor in the Governor's discretion, as appropriate to deal with the
25 emergency then occurring or likely to occur, may impose any one or more or all of the
26 types of prohibitions and restrictions enumerated in G.S. 166A-8A and may amend or
27 rescind any prohibitions and restrictions imposed by local authorities.

28 (a4) Any person who violates any provision of a proclamation of the Governor
29 issued under the authority of this section is guilty of a Class 2 misdemeanor.

30 (a5) The Governor, by proclamation, or the General Assembly, by resolution, may
31 declare a Type I, Type II, or Type III Disaster, if warranted, based upon the severity of
32 damage caused by a disaster that impacts the State. Such a declaration, if made, shall be
33 based upon a preliminary damage assessment provided to the Governor or the General
34 Assembly.

35 (a6) A Type I disaster may be declared if all of the following criteria are met:

36 (1) A local state of emergency has been declared pursuant to G.S. 166A-8.

37 (2) The governing body of any municipality or county seeking disaster
38 assistance sends a written request for a Type I disaster declaration to
39 the Governor or the General Assembly within five days of the
40 declaration of the local state of emergency.

41 (3) The preliminary damage assessment meets or exceeds the criteria
42 established for the Small Business Administration Disaster Loan
43 Program pursuant to 13 C.F.R. Part 123 or meets or exceeds the State
44 infrastructure criteria as provided in this Chapter.

1 (4) A major disaster declaration by the President of the United States
2 pursuant to 42 U.S.C. § 5121, et seq. ("The Stafford Act") has not yet
3 been declared.

4 (a7) A Type I disaster declaration may be made by the Governor or the General
5 Assembly prior to, and independently of, any action taken by the Small Business
6 Administration, the Federal Emergency Management Agency (FEMA), or any other
7 federal agency. A Type I disaster declaration shall expire 30 days after its issuance
8 unless renewed by the Governor or the General Assembly. Such renewals may be made
9 in increments of 30 days each, not to exceed a total of 120 days from the date of first
10 issuance. The Joint Legislative Commission on Governmental Operations shall be
11 notified prior to the issuance of any renewal of a Type I disaster declaration.

12 (a8) A Type II disaster may be declared if a major disaster declaration by the
13 President of the United States pursuant to the Stafford Act has been issued. The
14 Governor may request federal disaster assistance under the Stafford Act without making
15 a Type I disaster declaration. A Type II disaster declaration shall expire six months
16 after its issuance unless renewed by the Governor or the General Assembly. Such
17 renewals may be made in increments of three months each, not to exceed a total of 12
18 months from the date of first issuance. The Joint Legislative Commission on
19 Governmental Operations shall be notified prior to the issuance of any renewal of a
20 Type II disaster declaration.

21 (a9) A Type III disaster may be declared if the President of the United States
22 issues a major disaster declaration under the Stafford Act. A Type III disaster
23 declaration shall expire 12 months after its issuance unless renewed by the General
24 Assembly.

25 (a10) Any state of disaster declared before January 1, 2002, shall terminate by a
26 proclamation of the Governor or resolution of the General Assembly. A proclamation or
27 resolution declaring or terminating a state of disaster shall be disseminated promptly by
28 means calculated to bring its contents to the attention of the general public and, unless
29 the circumstances attendant upon the disaster prevent or impede, promptly filed with the
30 Secretary of Crime Control and Public Safety, the Secretary of State and the clerks of
31 superior court in the area to which it applies.

32 (a11) When it is determined by the Governor that a great public crisis, disaster, riot,
33 catastrophe, or any other similar public emergency exists, or the occurrence of any such
34 condition is imminent, and, in the Governor's opinion, it is necessary to evacuate any
35 building owned or controlled by any department, agency, institution, school, college,
36 board, division, commission, or subdivision of the State in order to maintain public
37 order and safety or to afford adequate protection for lives or property, the Governor may
38 issue an order of evacuation directing all persons within the building to leave the
39 building and its premises. The order shall be delivered to any law enforcement officer or
40 officer of the national guard, and the officer shall, by a suitable public address system,
41 read the order to the occupants of the building and demand that the occupants evacuate
42 the building within the time specified in the Governor's order.

43 Any person who willfully refuses to leave the building as directed in the Governor's
44 order shall be guilty of a Class 2 misdemeanor.

1 (b) In addition to any other powers conferred upon the Governor by law, during
2 ~~the state of disaster, he~~ a state of emergency or disaster, the Governor shall have the
3 following:

- 4 (1) To utilize all available State resources as reasonably necessary to cope
5 with an ~~emergency, emergency or disaster~~, including the transfer and
6 direction of personnel or functions of State agencies or units thereof
7 for the purpose of performing or facilitating emergency services;
- 8 (2) To take such action and give such directions to State and local
9 law-enforcement officers and agencies as may be reasonable and
10 necessary for the purpose of securing compliance with the provisions
11 of this Article and with the orders, rules and regulations made pursuant
12 thereto;
- 13 (3) To take steps to assure that measures, including the installation of
14 public utilities, are taken when necessary to qualify for temporary
15 housing assistance from the federal government when that assistance is
16 required to protect the public health, welfare, and safety;
- 17 (4) Subject to the provisions of the State Constitution to relieve any public
18 official having administrative responsibilities under this Article of
19 such responsibilities for willful failure to obey an order, rule or
20 regulation adopted pursuant to this Article.

21 (c) In addition, during a state of emergency or disaster, with the concurrence of
22 the Council of State, the Governor has the following powers:

- 23 (1) To direct and compel the evacuation of all or part of the population
24 from any stricken or threatened area within the State, to prescribe
25 routes, modes of transportation, and destinations in connection with
26 evacuation; and to control ingress and egress of a disaster area, the
27 movement of persons within the area, and the occupancy of premises
28 therein;
- 29 (2) To establish a system of economic controls over all resources,
30 materials and services to include food, clothing, shelter, fuel, rents and
31 wages, including the administration and enforcement of any rationing,
32 price freezing or similar federal order or regulation;
- 33 (3) To regulate and control the flow of vehicular and pedestrian traffic, the
34 congregation of persons in public places or buildings, lights and noises
35 of all kinds and the maintenance, extension and operation of public
36 utility and transportation services and facilities;
- 37 (4) To waive a provision of any regulation or ordinance of a State agency
38 or a local governmental unit which restricts the immediate relief of
39 human suffering;
- 40 (5) To use contingency and emergency funds as necessary and appropriate
41 to provide relief and assistance from the effects of a disaster, and to
42 reallocate such other funds as may reasonably be available within the
43 appropriations of the various departments when the severity and

1 magnitude of such disaster so requires and the contingency and
2 emergency funds are insufficient or inappropriate;

3 (6) To perform and exercise such other functions, powers and duties as are
4 necessary to promote and secure the safety and protection of the
5 civilian population;

6 (7) To appoint or remove an executive head of any State agency or
7 institution the executive head of which is regularly selected by a State
8 board or commission.

9 a. Such an acting executive head will serve during:

10 1. The physical or mental incapacity of the regular office
11 holder, as determined by the Governor after such inquiry
12 as the Governor deems appropriate;

13 2. The continued absence of the regular holder of the
14 office; or

15 3. A vacancy in the office pending selection of a new
16 executive head.

17 b. An acting executive head of a State agency or institution
18 appointed in accordance with this subdivision may perform any
19 act and exercise any power which a regularly selected holder of
20 such office could lawfully perform and exercise.

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

24 1. Upon the termination of the incapacity as determined by
25 the Governor of the officer in whose stead he acts;

26 2. Upon the return of the officer in whose stead he acts; or

27 3. Upon the selection and qualification of a person to serve
28 for the unexpired term, or the selection of an acting
29 executive head of the agency or institution by the board
30 or commission authorized to make such selection, and
31 his qualification.

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

36 (d) In preparation for a state of emergency or disaster, with the concurrence of
37 the Council of State, the Governor may use contingency and emergency funds as
38 necessary and appropriate for National Guard training in preparation for disasters."

39 **SECTION 4.** Article I of Chapter 166A of the General Statutes is amended
40 by adding a new section to read:

41 "**§ 166A-6A. State-sponsored disaster and emergency assistance programs.**

42 (a) Pursuant to G.S. 166A-6, the Governor or the General Assembly may declare
43 a state of emergency and state of disaster. The Governor or the General Assembly may
44 declare a Type I, Type II, or Type III disaster under the provisions of this Chapter.

1 (b) The Governor may make grants to political subdivisions for disaster
2 assistance programs authorized by this Chapter of the General Statutes or other disaster
3 programs that are enacted by the General Assembly. Political subdivisions and
4 individuals shall apply for disaster assistance programs within the prescribed application
5 period. Benefits under the disaster assistance programs authorized by this Chapter may
6 continue to be disbursed after the termination of the disaster or emergency declaration.

7 (c) The State and eligible entities may be compensated for associated expenses.

8 (d) Pursuant to the declaration of a Type I disaster, the following programs may
9 be implemented:

10 (1) Individual Assistance. – The Governor may make a grant to a local
11 governmental unit in an area adversely affected by a declared disaster.
12 The local governmental unit shall use the funds to make grants to
13 individuals or families who are unable to meet disaster-related
14 necessary expenses or other serious needs resulting from a disaster. In
15 disaster areas, the Governor may make grants to meet the needs of
16 individuals and families regardless of whether the President has made
17 a major disaster declaration. Individual Assistance programs may
18 include all of the following:

19 a. Funding to provide temporary housing and rental assistance.

20 b. Funding to repair or replace real property and thereby meet the
21 unmet real property needs of individuals or families with
22 disaster-related real property losses. These funds shall be used
23 to make repair and replacement housing grants available to the
24 individuals or families in an amount necessary to relocate the
25 individual or family to safe, decent, and sanitary housing, but
26 shall not exceed seventy-five thousand dollars (\$75,000) per
27 family.

28 c. Funding to replace personal property (including clothing, tools,
29 and equipment).

30 d. Funding to repair, replace, or provide privately owned vehicles
31 or to provide public transportation.

32 e. Funding for medical or dental expenses.

33 f. Funding for funeral or burial expenses resulting from the
34 disaster.

35 g. Funding for the cost of the first year's flood insurance premium
36 to meet the requirements of the National Flood Insurance Act of
37 1968, as amended, 42 U.S.C. § 4001, et seq.

38 h. Funding for legal counseling.

39 (2) Public Assistance. – The Governor may make grants for public
40 assistance programs. To receive public assistance grants, eligible
41 entities must participate in the National Flood Insurance Program and
42 must have an approved hazard mitigation plan within one year after the
43 enactment of this statute.

- 1 a. The Governor may make public assistance grants to a political
2 subdivision for a public utility or to a person or entity that owns
3 or operates an eligible private nonprofit utility. The public
4 assistance grants may include associated expenses incurred by
5 the political subdivision, person, or entity.
- 6 b. Public Assistance programs include all of the following:
7 1. Debris clearance.
8 2. Emergency protective measures.
9 3. Roads and bridges.
10 4. Crisis counseling.
- 11 c. Pursuant to G.S. 166A-6, for any Type I disaster, the State of
12 North Carolina, through the Governor, may provide disaster or
13 emergency assistance to any political subdivision or eligible
14 private nonprofit utility for public assistance programs only
15 when both of the following occur:
16 1. There is a minimum of ten thousand dollars (\$10,000) in
17 uninsurable losses.
18 2. The losses equal or exceed five percent (5%) of the
19 annual operating budget.
- 20 d. Each political subdivision or eligible private nonprofit utility
21 receiving a State public assistance grant may be required to
22 provide matching funds to meet eligible costs and expenses.
- 23 e. Pursuant to G.S. 166A-6A, for Type I disasters, political
24 subdivisions, and owner or operator of an eligible private
25 nonprofit utility may be required to provide non-State matching
26 funds not to exceed twenty-five percent (25%) of the eligible
27 costs of the public assistance grant.
- 28 (e) For Type II or Type III disaster declarations, the Governor may make disaster
29 assistance grants when the federal assistance authorized by the Stafford Act does not
30 fully meet the needs of the individual or family. Associated expenses may be available
31 to the State and to eligible entities.
- 32 (1) Programs offered under Type II disasters include all of the following:
33 a. State Acquisition and Relocation Funds (SARF).
34 b. Repair and replacement housing grants available to the
35 individuals or families in an amount necessary to relocate the
36 individual and family to safe, decent, and sanitary housing not
37 to exceed seventy-five thousand dollars (\$75,000) per family.
- 38 (2) Programs offered under Type III disasters include all of the following:
39 a. State Acquisition and Relocation Funds (SARF).
40 b. Repair and replacement housing grants available to the
41 individuals or families in an amount necessary to relocate the
42 individual and family to safe, decent, and sanitary housing not
43 to exceed seventy-five thousand dollars (\$75,000) per family.
44 c. Any programs authorized by the General Assembly."

1 **SECTION 5.** G.S. 166A-8 reads as rewritten:

2 "**§ 166A-8. Local emergency authorizations.**

- 3 (1) A local state of emergency may be declared for any disaster, as defined
4 in ~~G.S. 166A-4~~ under the provisions of Article 36A of G.S. Chapter
5 ~~14~~.G.S. 166A-4.
6 (2) ~~Such a~~The declaration shall activate the local ordinances authorized in
7 ~~G.S. 14-288.12 through 14-288.14~~ G.S. 166A-8A through G.S. 166A-
8 8C and any and all applicable local plans, mutual assistance compacts
9 and agreements and shall also authorize the furnishing of assistance
10 there under.
11 (3) The timing, publication, amendment and rescision of local "state of
12 emergency" declarations shall be in accordance with the local
13 ordinance."

14 **SECTION 6.** Article 1 of Chapter 166A of the General Statutes is amended
15 by adding the following new sections:

16 "**§ 166A-8A. Powers of municipalities to enact ordinances to deal with states of**
17 **emergency.**

18 (a) The governing body of any municipality may enact ordinances designed to
19 permit the imposition of prohibitions and restrictions during a state of emergency. The
20 ordinances may delegate to the mayor of the municipality the authority to determine and
21 proclaim the existence of a state of emergency and to impose those authorized
22 prohibitions and restrictions appropriate at a particular time. The ordinances authorized
23 by this section may prohibit and restrict any of the following:

- 24 (1) The movements of people in public places.
25 (2) The operation of offices, business establishments, and other places to
26 or from which people may travel or at which they may congregate.
27 (3) The possession, transportation, sale, purchase, and consumption of
28 alcoholic beverages.
29 (4) The possession, transportation, sale, purchase, storage, and use of
30 dangerous weapons and substances, and gasoline.
31 (5) Any other activities or conditions the control of which may be
32 reasonably necessary to maintain order and protect lives or property
33 during the state of emergency.

34 (b) This section is intended to supplement and confirm the powers conferred by
35 G.S. 160A-174(a) and all other general and local laws authorizing municipalities to
36 enact ordinances for the protection of the public health and safety in times of riot or
37 other grave civil disturbance or emergency.

38 (c) Any ordinance of a type authorized by this section promulgated prior to June
39 19, 1969, shall, if otherwise valid, continue in full force and effect without reenactment.

40 (d) Any person who violates any provision of an ordinance or a proclamation
41 enacted or proclaimed under the authority of this section is guilty of a Class 3
42 misdemeanor.

43 "**§ 166A-8B. Powers of counties to enact ordinances to deal with states of**
44 **emergency.**

1 (a) The governing body of any county may enact ordinances designed to permit
2 the imposition of prohibitions and restrictions during a state of emergency.

3 (b) The ordinances authorized by this section may permit the same prohibitions
4 and restrictions to be imposed as enumerated in G.S. 166A-8(A). The ordinances may
5 delegate to the chair of the board of county commissioners the authority to determine
6 and proclaim the existence of a state of emergency and to impose those authorized
7 prohibitions and restrictions appropriate at a particular time.

8 (c) No ordinance enacted by a county under the authority of this section shall
9 apply within the corporate limits of any municipality or within any area of the county
10 over which the municipality has jurisdiction to enact general police-power ordinances
11 unless the municipality by resolution consents to its application.

12 (d) Any person who violates any provision of an ordinance or a proclamation
13 enacted or proclaimed under the authority of this section is guilty of a Class 3
14 misdemeanor.

15 **§ 166A-8C. Power of chair of board of county commissioners to extend**
16 **emergency restrictions imposed in municipality.**

17 (a) The chair of the board of commissioners of any county who has been
18 requested to do so by a mayor may by proclamation extend the effect of any one or
19 more of the prohibitions and restrictions imposed in that mayor's municipality pursuant
20 to the authority granted in G.S. 166A-8(A). The chair may extend the prohibitions and
21 restrictions to any area within the county in which the chair determines it to be
22 necessary to assist in controlling the state of emergency within the municipality. No
23 prohibition or restriction extended by proclamation by the chair under the authority of
24 this section shall apply within the limits of any other municipality or within any area of
25 the county over which the municipality has jurisdiction to enact general police-power
26 ordinances unless that other municipality by resolution consents to its application.

27 (b) Whenever any chair of the board of county commissioners extends the effect
28 of municipal prohibitions and restrictions under the authority of this section to any area
29 of the county, it shall be deemed that a state of emergency has been validly found and
30 declared with respect to such area of the county.

31 (c) Any chair of a board of county commissioners extending prohibitions and
32 restrictions under the authority of this section must take reasonable steps to give notice
33 of its terms to those likely to be affected. The chair of the board of commissioners shall
34 proclaim the termination of any prohibitions and restrictions extended under the
35 authority of this section upon any of the following:

36 (1) The chair's determination that they are no longer necessary.

37 (2) The determination of the board of county commissioners that they are
38 no longer necessary.

39 (3) The termination of the prohibitions and restrictions within the
40 municipality.

41 (d) The powers authorized under this section may be exercised whether or not the
42 county has enacted ordinances under the authority of G.S. 166A-8(B). Exercise of this
43 authority shall not preclude the imposition of prohibitions and restrictions under any
44 ordinances enacted by the county under the authority of G.S. 166A-8(B).

1 (e) Any person who violates any provision of any prohibition or restriction
2 extended by proclamation under the authority of this section is guilty of a Class 3
3 misdemeanor.

4 **"§ 166A-8D. Effective time, publication, amendment, and rescision of**
5 **proclamations.**

6 (a) This section applies to proclamations issued under the authority of G.S.
7 166A-8A, 166A-8B, 166A-8C, and any other applicable statutes and provisions of the
8 common law.

9 (b) All prohibitions and restrictions imposed by proclamation shall take effect
10 immediately upon publication of the proclamation in the area affected unless the
11 proclamation sets a later time. For the purpose of requiring compliance, publication may
12 consist of reports of the substance of the prohibitions and restrictions in the mass
13 communications media serving the affected area or other effective methods of
14 disseminating the necessary information quickly. As soon as practicable, however,
15 appropriate distribution of the full text of any proclamation shall be made. This
16 subsection shall not be governed by the provisions of G.S. 1-597.

17 (c) Prohibitions and restrictions may be extended as to time or area, amended, or
18 rescinded by proclamation. Prohibitions and restrictions imposed by proclamation under
19 the authority of G.S. 166A-8 shall expire five days after their last imposition unless
20 sooner terminated under G.S. 166A-8, by proclamation, or by the governing body of the
21 county or municipality in question. Prohibitions and restrictions imposed by
22 proclamation of the Governor shall expire five days after their last imposition unless
23 sooner terminated by proclamation of the Governor.

24 **"§ 166A-8E. Municipal and county ordinances may be made immediately effective**
25 **if state of emergency exists or is imminent.**

26 (a) Notwithstanding any other provision of law, whether general or special,
27 relating to the promulgation or publication of ordinances by any municipality or county,
28 this section shall control with respect to any ordinances authorized by G.S. 166A-8.

29 (b) Upon proclamation by the mayor or chair of the board of county
30 commissioners that a state of emergency exists within the municipality or the county, or
31 is imminent, any ordinance enacted under the authority of this Article shall take effect
32 immediately unless the ordinance sets a later time. If the effect of this section is to cause
33 an ordinance to go into effect sooner than it otherwise could under the law applicable to
34 the municipality or county, the mayor or chair of the board of county commissioners, as
35 the case may be, shall take steps to cause reports of the substance of any such ordinance
36 to be disseminated in a fashion that such substance will likely be communicated to the
37 public in general, or to those who may be particularly affected by the ordinance if it
38 does not affect the public generally. As soon as practicable thereafter, appropriate
39 distribution or publication of the full text of any such ordinance shall be made."

40 **SECTION 7.** G.S. 166A-14(c) reads as rewritten:

41 "(c) Any requirement for a license to practice any professional, mechanical or
42 other skill shall not apply to any authorized emergency management worker who shall,
43 in the course of performing his duties as such, practice such professional, mechanical or
44 other skill during a state of emergency or disaster."

1 **SECTION 8.** G.S. 14-288.12 through G.S. 14-288.17 and G.S. 14-288.19
2 are repealed.

3 **SECTION 9.** This act becomes effective December 1, 2001. Prosecutions
4 for offenses committed before the effective date of this act are not abated or affected by
5 this act, and the statutes that would be applicable but for this act remain applicable to
6 those prosecutions.