

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-214
SENATE BILL 300**

AN ACT TO AMEND THE LAWS REGARDING EMERGENCY MANAGEMENT
AS RECOMMENDED BY THE LEGISLATIVE DISASTER RESPONSE AND
RECOVERY COMMISSION.

The General Assembly of North Carolina enacts:

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

"§ 166A-4. Definitions.

The following definitions apply in this Article:

- (1) ~~"Emergency Management." — Those measures taken by the populace and governments at federal, State, and local levels to minimize the adverse effect of any type disaster, which include the never ending preparedness cycle of prevention, mitigation, warning, movement, shelter, emergency assistance and recovery.~~
- (2) ~~"Emergency Management Agency." — A State or local governmental agency charged with coordination of all emergency management activities for its jurisdiction.~~
- (3)(1) "Disaster." — 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 or paramilitary cause.
- (2) "Disaster Area." — The geographical area covered by a proclamation made by the Governor pursuant to G.S. 166A-6(a1).
- (3) "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.
- (4) "Emergency Management." — Those measures taken by the populace and governments at federal, State, and local levels to minimize the adverse effect of any type disaster, which includes the never-ending preparedness cycle of prevention, mitigation, warning, movement, shelter, emergency assistance, and recovery.
- (5) "Emergency Management Agency." — A State or local governmental agency charged with coordination of all emergency management activities for its jurisdiction.
- (4)(6) "Political Subdivision." — Counties and incorporated cities, towns and villages.
- (7) "Preliminary Damage Assessment." — The (initial estimate prepared) process used by State, local, or federal emergency management workers to determine the severity and magnitude of damage caused by a disaster event.
- (8) "Private Nonprofit Utilities." — A utility that would be eligible for federal public assistance disaster funds pursuant to 44 C.F.R. Part 206.
- (9) "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.
- (10) "State Acquisition and Relocation Fund." — State funding for supplemental grants to homeowners participating in a 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 Hazard Mitigation Grant Program Acquisition and Relocation Program and the cost of a comparable home located outside the 100-year floodplain."

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

"§ 166A-5. State emergency management.

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

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

a. The Governor is authorized and empowered:

1. To make, amend or rescind the necessary orders, rules and regulations within the limits of the authority conferred upon him herein, with due consideration of the policies of the federal government.
2. To delegate any authority vested in him under this Article and to provide for the subdelegation of any such authority.
3. 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.
4. To enter into agreements with the American National Red Cross, Salvation Army, Mennonite Disaster Service and other disaster relief organizations.
5. To make, amend, or rescind mutual aid agreements in accordance with G.S. 166A-10.
6. 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 disaster, imminent threat of disaster or emergency management planning and training purposes.
7. 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~~ removal of the debris.
8. To sell, lend, lease, give, transfer or deliver materials or perform services for disaster 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.
9. To use contingency and emergency funds as necessary and appropriate to provide relief and assistance from the effects of a disaster, and to reallocate such other funds as may reasonably be available within the appropriations of the various departments when the severity and magnitude of such disaster so requires and the

- contingency and emergency funds are insufficient or inappropriate.
- b. In the threat of or event of a disaster, or when requested by the governing body of any political subdivision in the State, the Governor may assume operational control over all or any part of the emergency management functions within this State.
- (2) Secretary of Crime Control and Public Safety. – The Secretary of Crime Control and Public Safety shall be responsible to the Governor for State emergency management ~~activities and shall have:~~ activities. The Secretary shall have the following powers and duties as delegated by the Governor:
- a. ~~The power, as delegated by the Governor, to~~ To activate the State and local plans applicable to the areas in question and he shall be empowered 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.
 - b. To adopt the rules to implement this Article.
 - c. To develop a system of damage assessment through 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.
 - ~~b.d.~~ Additional authority, duties, and responsibilities as may be prescribed by the Governor, and he may Governor. The Secretary may subdelegate his authority to the appropriate member of his department.
- (3) Functions of State Emergency Management. – The functions of the State emergency management program include:
- a. Coordination of the activities of all agencies for emergency management within the State, including planning, organizing, staffing, equipping, training, testing, and the activation of emergency management programs.
 - b. Preparation and maintenance of State plans for man-made or natural disasters. The State plans or any parts thereof may be incorporated into department regulations and into executive orders of the Governor.
 - c. Promulgation of standards and requirements for local plans and programs, determination of eligibility for State financial assistance provided for in G.S. 166A-7 and provision of technical assistance to local governments.
 - d. Development and presentation of training programs and public information programs to insure the furnishing of adequately trained personnel and an informed public in time of need.
 - e. 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.
 - f. Coordination of the use of any private facilities, services, and property.
 - g. Preparation for issuance by the Governor of executive orders, proclamations, and regulations as necessary or appropriate.

- h. Cooperation and maintenance of liaison with the other states, federal government and any public or private agency or entity in achieving any purpose of this Article and in implementing programs for emergency, disaster or war prevention, preparation, response, and recovery.
- i. 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 a disaster.
- j. 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."

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

"§ 166A-6. State of disaster.

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

(a1) If a state of disaster is proclaimed, the Secretary shall provide the Governor and the General Assembly with a preliminary damage assessment as soon as the assessment is available. Upon receipt of the preliminary damage assessment, the Governor shall issue a proclamation defining the area subject to the state of disaster and proclaiming the disaster as a Type I, Type II, or Type III disaster. In determining whether the disaster shall be proclaimed as a Type I, Type II, or Type III disaster, the Governor shall follow the standards set forth below.

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

- a. A local state of emergency has been declared pursuant to G.S. 166A-8, 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-6A(b)(2)a.; and
- c. A major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared.

A Type I disaster declaration may be made 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. A Type I disaster declaration shall expire 30 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) 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. A Type II disaster declaration shall expire six months after its issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of three months each, not to exceed a total

of 12 months 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 II disaster declaration.

(3) 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:

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; or

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 or political subdivisions affected by the disaster.

A Type III disaster declaration shall expire 12 months after its issuance unless renewed by the General Assembly.

(b) Any state of disaster declared before July 1, 2001, shall terminate by a proclamation of the Governor or resolution of the General Assembly. A proclamation 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 of Crime Control and Public Safety, the Secretary of State and the clerks of superior court in the area to which it applies.

~~(b)(c)~~ In addition to any other powers conferred upon the Governor by law, during the state of disaster, he a state of disaster, the Governor shall have the following: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.

~~(e)(d)~~ In addition, during a state of disaster, 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 a disaster 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 ~~local governmental unit political subdivision~~ which restricts the immediate relief of human suffering;
- ~~(5) To use contingency and emergency funds as necessary and appropriate to provide relief and assistance from the effects of a disaster, and to reallocate such other funds as may reasonably be available within the appropriations of the various departments when the severity and magnitude of such disaster so requires and the contingency and emergency funds are insufficient or inappropriate;~~
- (6) 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;
- (7) 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:
 - 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; or
 - 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 he acts;
 - 2. Upon the return of the officer in whose stead he 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 his qualification.
- (8) 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.

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

SECTION 4. Article 1 of Chapter 166A of the General Statutes is amended by adding a new section to read:

"§ 166A-6A. State disaster assistance funds; programs.

(a) If a state of disaster is proclaimed, the Governor may make State funds available for disaster assistance as authorized by this section. Any State funds made available by the Governor for disaster assistance may be administered through State

disaster assistance programs which may be established by the Governor upon the proclamation of a state of disaster. It is the intent of the General Assembly in authorizing the Governor to make State funds available for disaster assistance and in authorizing the Governor to establish State disaster assistance programs to provide State assistance for recovery from those disasters 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 disaster area.

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

(1) Individual assistance. – State disaster 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 disaster.
- 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 disaster assistance in the form of public assistance grants may be made available to eligible entities located within the disaster 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-half percent (0.5%) of the annual operating budget;
 3. For a state of disaster proclaimed pursuant to G.S. 166A-6(a) after August 1, 2002, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act; and
 4. For a state of disaster proclaimed pursuant to G.S. 166A-6(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) If a Type II disaster is proclaimed, the Governor may make State funds available for disaster assistance in the disaster 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 the 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) If a Type III disaster is proclaimed, the Governor may make State funds available for disaster assistance in the disaster 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 the 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."

SECTION 5. This act becomes effective July 1, 2001, and applies to any state of disaster proclaimed on or after that date.

In the General Assembly read three times and ratified this the 4th day of June, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 1:58 p.m. this 15th day of June, 2001