

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

SENATE BILL 798  
RATIFIED BILL

AN ACT TO MAKE VARIOUS CHANGES TO THE EMERGENCY MANAGEMENT STATUTES; AND TO ESTABLISH THE JOINT LEGISLATIVE EMERGENCY MANAGEMENT OVERSIGHT COMMITTEE, AS RECOMMENDED BY THE SENATE SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND RESPONSE.

The General Assembly of North Carolina enacts:

**SECTION 1.** 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-6.01(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~~ 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) 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~~ 12 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 each.~~ A Type II disaster declaration and any renewals of that declaration shall not exceed a total of 12 months from the date of first issuance. 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) 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~~ 24 months after its issuance unless renewed by the General Assembly.

(a2) 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 Public Safety, the Secretary of State and the clerks of superior court in the area to which it applies.

(a3) 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.

...."

**SECTION 2.** G.S. 166A-15 reads as rewritten:

"§ 166A-15. **No private liability.**

Any person, firm or ~~corporation~~ 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 ~~sheltering, protecting, safeguarding or aiding in any way~~ persons shall, together with his successors in interest, if any, 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~~ 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."

**SECTION 3.** G.S. 166A-4 is amended by adding a new subdivision to read:

"(11) State Emergency Response Team. – The representative group of State agency personnel designated to carry out the emergency management support functions identified in the 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-5(3)a., 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 Environment and Natural Resources.
- e. Department of Agriculture and Consumer Services.
- f. Any other agency identified in the North Carolina Emergency Operations Plan."

**SECTION 4.** G.S. 166A-5(3)a. reads as rewritten:

"(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~~ and management of the State Emergency Response Team and emergency management programs."

**SECTION 5.** G.S. 166A-5(3) is amended by adding a new sub-subdivision to read:

"(3) Functions of State Emergency Management. – The functions of the State emergency management program include:

...  
b1. 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:

1. The epidemiologic investigation of a known or suspected threat caused by nuclear, biological, or chemical agents.

...  
b3. 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:

1. The examination and testing of animals that may have been exposed to a nuclear, biological, or chemical agent.  
2. The appropriate conditions for quarantine and isolation of animals in order to prevent further transmission of disease.

..."  
SECTION 6. Chapter 120 of the General Statutes is amended by adding a new Article to read:

"Article 12Q.

"Joint Legislative Emergency Management Oversight Committee.

**"§ 120-70.150. Creation and membership of Joint Legislative Emergency Management Oversight Committee.**

The Joint Legislative Emergency Management Oversight Committee is established. The Committee consists of 12 members as follows:

- (1) Six members of the Senate appointed by the President Pro Tempore of the Senate; and
- (2) Six members of the House of Representatives appointed by the Speaker of the House of Representatives.

Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year, except the terms of the initial members, which begin on appointment and end on the day of the convening of the 2013 General Assembly. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until a successor is appointed. A vacancy shall be filled by the officer who made the original appointment.

**"§ 120-70.151. Purpose and powers of Committee.**

(a) The Joint Legislative Emergency Management Oversight Committee shall examine, on a continuing basis, issues related to emergency management in North Carolina in order to make ongoing recommendations to the General Assembly on ways to promote effective emergency preparedness, management, response, and recovery. The Committee may examine:

- (1) Whether the State building code sufficiently addresses issues related to commercial and residential construction in hurricane and flood prone areas.
- (2) The public health infrastructure in place to respond to natural and nonnatural disasters.
- (3) Hurricane preparedness, evacuation, and response.
- (4) Energy security issues.
- (5) Terrorism preparedness and response, including bioterrorism.
- (6) Flood and natural disaster preparation and response.
- (7) Any other topic the Committee believes is related to its purpose.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee.

**"§ 120-70.152. Organization of Committee.**

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Emergency Management Oversight Committee. The Committee shall meet upon the joint call of the cochairs.

(b) A quorum of the Committee is seven members. Only recommendations, including proposed legislation, receiving at least six affirmative votes may be included in a Committee report to the General Assembly. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) The cochairs of the Committee may call upon other knowledgeable persons or experts to assist the Committee in its work.

(d) Members of the Committee shall receive subsistence and travel expenses as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee.

(e) In appointing members to the Committee, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall take into consideration the goal of having members appointed to the Committee who have knowledge and experience relating to areas that are most impacted by disasters and emergencies."

**SECTION 7.** G.S. 166A-19.21(c), as enacted by S.L. 2012-12, reads as rewritten:

"(c) Expiration of Disaster Declarations. –

(1) Expiration of Type I disaster declarations. – A Type I disaster declaration shall expire ~~30 days~~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 ~~six months~~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, not to exceed~~. A Type II disaster declaration and any renewals of that declaration shall not exceed a total of ~~12 months~~ 24 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) Expiration of Type III disaster declarations. – A Type III disaster declaration shall expire ~~12 months~~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."

**SECTION 8.** G.S. 166A-19.21, as enacted by S.L. 2012-12, is amended by adding a new subsection to read:

"(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."

**SECTION 9.** G.S. 166A-19.61, as enacted by S.L. 2012-12, reads as rewritten:

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

Any person, firm, or ~~corporation~~ 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 ~~sheltering, protecting, safeguarding, or aiding in any way persons shall, together with his successors in interest, if any, 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."

**SECTION 10.** G.S. 166A-19.3, as enacted by S.L. 2012-12, is amended by adding a new subdivision to read:

"(19) 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 Environment and Natural Resources.
- e. Department of Agriculture and Consumer Services.
- f. Any other agency identified in the North Carolina Emergency Operations Plan."

**SECTION 11.** G.S. 166A-19.12(1), as enacted by S.L. 2012-12, reads as rewritten:

**"§ 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."

**SECTION 12.** G.S. 166A-19.12, as enacted by S.L. 2012-12, is amended by adding a new subdivision to read:

"(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."

**SECTION 13.** Sections 7 through 12 of this act are effective October 1, 2012. The remaining sections of this act are effective when they become law.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of June, 2012.

s/ Walter H. Dalton  
President of the Senate

s/ Thom Tillis  
Speaker of the House of Representatives

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Beverly E. Perdue  
Governor

Approved \_\_\_\_\_ .m. this \_\_\_\_\_ day of \_\_\_\_\_, 2012