

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 300\*  
State and Local Government Committee Substitute Adopted 4/19/01

Short Title: Amend NC Emergency Management Laws.

(Public)

Sponsors:

Referred to:

March 5, 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) ~~"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 (2) ~~"Emergency Management Agency."—A State or local governmental~~  
15 ~~agency charged with coordination of all emergency management~~  
16 ~~activities for its jurisdiction.~~  
17 (1) "Contiguous Counties or Other Political Subdivisions." – Counties,  
18 and incorporated cities, towns, and villages whose corporate  
19 boundaries abut without geographic separation other than a minor  
20 body of water not exceeding one mile in width.  
21 (3) ~~(2)~~ "Disaster." – An occurrence or imminent threat of widespread or  
22 severe damage, injury, or loss of life or property resulting from any  
23 natural or man-made accidental, military or paramilitary cause.  
24 (3) "Disaster Area." – The geographical areas affected by a disaster,  
25 including contiguous counties or other political subdivisions.  
26 (4) "Eligible Entity." – Any political subdivision. The term also includes  
27 an owner or operator of a private nonprofit utility that meets the  
28 eligibility criteria set out in this Chapter of the General Statutes.

- 1           (5)    "Emergency Management." – Those measures taken by the populace  
2                   and governments at federal, State, and local levels to minimize the  
3                   adverse effect of any type disaster, which include the never-ending  
4                   preparedness cycle of prevention, mitigation, warning, movement,  
5                   shelter, emergency assistance, and recovery.
- 6           (6)    "Emergency Management Agency." – A State or local governmental  
7                   agency charged with coordination of all emergency management  
8                   activities for its jurisdiction.
- 9           ~~(4)~~(7)    "Political Subdivision." – Counties and incorporated cities, towns and  
10                   villages.
- 11           (8)    "Preliminary Damage Assessment." – The (initial estimate prepared)  
12                   process used by State, local, or federal emergency management  
13                   workers to determine the severity and magnitude of damage caused by  
14                   a disaster event.
- 15           (9)    "Private Nonprofit Utilities." – A utility that would be eligible for  
16                   federal public assistance disaster funds pursuant to 44 C.F.R. Part 206.
- 17           (10)   "State Acquisition and Relocation Fund." – State funding for  
18                   supplemental grants to homeowners participating in a Hazard  
19                   Mitigation Grant Program (HMGP) Acquisition and Relocation  
20                   program. These grants are used to acquire safe, decent, and sanitary  
21                   housing by paying the difference between the cost of the home  
22                   acquired under the HMGP Program and the cost of a comparable home  
23                   located outside the 100-year floodplain."

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

25   **"§ 166A-5. State emergency management.**

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

- 28           (1)    Governor. – The Governor shall have general direction and control of  
29                   the State emergency management program and shall be responsible for  
30                   carrying out the provisions of this Article.
- 31           a.     The Governor is authorized and empowered:
- 32                   1.     To make, amend or rescind the necessary orders, rules  
33                           and regulations within the limits of the authority  
34                           conferred upon him herein, with due consideration of the  
35                           policies of the federal government.
- 36                   2.     To delegate any authority vested in him under this  
37                           Article and to provide for the subdelegation of any such  
38                           authority.
- 39                   3.     To cooperate and coordinate with the President and the  
40                           heads of the departments and agencies of the federal  
41                           government, and with other appropriate federal officers  
42                           and agencies, and with the officers and agencies of other

- 1 states and local units of government in matters pertaining  
2 to the emergency management of the State and nation.
- 3 4. To enter into agreements with the American National  
4 Red Cross, Salvation Army, Mennonite Disaster Service  
5 and other disaster relief organizations.
- 6 5. To make, amend, or rescind mutual aid agreements in  
7 accordance with G.S. 166A-10.
- 8 6. To utilize the services, equipment, supplies and facilities  
9 of existing departments, offices and agencies of the State  
10 and of the political subdivisions thereof. The officers and  
11 personnel of all such departments, offices and agencies  
12 are required to cooperate with and extend such services  
13 and facilities to the Governor upon request. This  
14 authority shall extend to a state of disaster, imminent  
15 threat of disaster or emergency management planning  
16 and training purposes.
- 17 7. To agree, when required to obtain federal assistance in  
18 debris removal, that the State will indemnify the federal  
19 government against any claim arising from the ~~removal-~~  
20 removal of the debris.
- 21 8. To sell, lend, lease, give, transfer or deliver materials or  
22 perform services for disaster purposes on such terms and  
23 conditions as may be prescribed by any existing law, and  
24 to account to the State Treasurer for any funds received  
25 for such property.
- 26 9. To use contingency and emergency funds as necessary  
27 and appropriate to provide relief and assistance from the  
28 effects of a disaster, and to reallocate such other funds as  
29 may reasonably be available within the appropriations of  
30 the various departments when the severity and  
31 magnitude of such disaster so requires and the  
32 contingency and emergency funds are insufficient or  
33 inappropriate.
- 34 b. In the threat of or event of a disaster, or when requested by the  
35 governing body of any political subdivision in the State, the  
36 Governor may assume operational control over all or any part  
37 of the emergency management functions within this State.
- 38 (2) Secretary of Crime Control and Public Safety. – The Secretary of  
39 Crime Control and Public Safety shall be responsible to the Governor  
40 for State emergency management ~~activities and shall have:~~ activities.  
41 The Secretary shall have the following powers and duties as delegated  
42 by the Governor:

- 1 a. ~~The power, as delegated by the Governor, to~~ To activate the  
2 State and local plans applicable to the areas in question and ~~he~~  
3 ~~shall be empowered~~ to authorize and direct the deployment and  
4 use of any personnel and forces to which the plan or plans  
5 apply, and the use or distribution of any supplies, equipment,  
6 materials and facilities available pursuant to this Article or any  
7 other provision of law.
- 8 b. To adopt the rules and procedures needed to implement this  
9 Chapter.
- 10 c. To develop a system of damage assessment through which the  
11 Secretary will recommend the appropriate level of disaster  
12 declaration to the Governor. The system shall, at a minimum,  
13 consider whether the damage involved and its effects are of  
14 such a severity and magnitude as to be beyond the response  
15 capabilities of the local government or political subdivision.
- 16 ~~b.d.~~ Additional authority, duties, and responsibilities as may be  
17 prescribed by the ~~Governor, and he may~~ Governor. The  
18 Secretary may subdelegate his authority to the appropriate  
19 member of his department.
- 20 (3) Functions of State Emergency Management. – The functions of the  
21 State emergency management program include:
- 22 a. Coordination of the activities of all agencies for emergency  
23 management within the State, including planning, organizing,  
24 staffing, equipping, training, testing, and the activation of  
25 emergency management programs.
- 26 b. Preparation and maintenance of State plans for man-made or  
27 natural disasters. The State plans or any parts thereof may be  
28 incorporated into department regulations and into executive  
29 orders of the Governor.
- 30 c. Promulgation of standards and requirements for local plans and  
31 programs, determination of eligibility for State financial  
32 assistance provided for in G.S. 166A-7 and provision of  
33 technical assistance to local governments.
- 34 d. Development and presentation of training programs and public  
35 information programs to insure the furnishing of adequately  
36 trained personnel and an informed public in time of need.
- 37 e. Making of such studies and surveys of the resources in this  
38 State as may be necessary to ascertain the capabilities of the  
39 State for emergency management, maintaining data on these  
40 resources, and planning for the most efficient use thereof.
- 41 f. Coordination of the use of any private facilities, services, and  
42 property.

- 1 g. Preparation for issuance by the Governor of executive orders,  
2 proclamations, and regulations as necessary or appropriate.
- 3 h. Cooperation and maintenance of liaison with the other states,  
4 federal government and any public or private agency or entity  
5 in achieving any purpose of this Article and in implementing  
6 programs for emergency, disaster or war prevention,  
7 preparation, response, and recovery.
- 8 i. Making recommendations, as appropriate, for zoning, building  
9 and other land-use controls, and safety measures for securing  
10 mobile homes or other nonpermanent or semipermanent works  
11 designed to protect against or mitigate the effects of a disaster.
- 12 j. Coordination of the use of existing means of communications  
13 and supplementing communications resources and integrating  
14 them into a comprehensive State or State-federal  
15 telecommunications or other communications system or  
16 network."

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

18 **"§ 166A-6. State of disaster.**

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

22 (a1) If a state of disaster is proclaimed, the Secretary shall provide the Governor  
23 and the General Assembly with a preliminary damage assessment as soon as the  
24 assessment is available. Upon receipt of the preliminary damage assessment, either the  
25 Governor, by proclamation, or the General Assembly, by resolution, may choose to  
26 proclaim the disaster a Type I, Type II, or Type III disaster. The proclamation shall be  
27 based upon the severity of damage caused by the disaster, as shown in the preliminary  
28 damage assessment, and other factors as set forth below.

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

- 31 a. A local state of emergency has been declared pursuant to G.S.  
32 166A-8.
- 33 b. The governing body of any municipality or county seeking  
34 disaster assistance sends a written request for a Type I disaster  
35 declaration to the Governor or the General Assembly within  
36 five days of the declaration of the local state of emergency.
- 37 c. The preliminary damage assessment meets or exceeds the  
38 criteria established for the Small Business Administration  
39 Disaster Loan Program pursuant to 13 C.F.R. Part 123 or meets  
40 or exceeds the State infrastructure criteria as provided in this  
41 Chapter.

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

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

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

25       (3)     A Type III disaster may be declared if the President of the United  
26           States issues a major disaster declaration under the Stafford Act and:

27           a.     The preliminary damage assessment indicates that the extent of  
28           damage is reasonably expected to meet the threshold  
29           established for an increased federal share of disaster assistance  
30           under applicable federal law and regulations; or

31           b.     The preliminary damage assessment prompts the Governor to  
32           call a special session of the General Assembly to establish  
33           programs to meet the unmet needs of individuals or political  
34           subdivisions affected by the disaster.

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

37       (b)     Any state of disaster declared before January 1, 2002, shall terminate by a  
38       proclamation of the Governor or resolution of the General Assembly. A proclamation or  
39       resolution declaring or terminating a state of disaster shall be disseminated promptly by  
40       means calculated to bring its contents to the attention of the general public and, unless  
41       the circumstances attendant upon the disaster prevent or impede, promptly filed with the  
42       Secretary of Crime Control and Public Safety, the Secretary of State and the clerks of  
43       superior court in the area to which it applies.

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

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

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

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

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

41 "**§ 166A-6A. State disaster assistance funds; programs.**

42 In the event that a state of disaster is proclaimed, the Governor may make State  
43 funds available for disaster assistance as authorized by this section. State disaster

1 assistance funds shall be used to provide grants to individuals who are unable to meet  
2 disaster-related necessary expenses or other serious needs resulting from a disaster and  
3 to eligible entities that have suffered serious financial losses due to a disaster. State  
4 disaster assistance funds shall be administered through State disaster assistance  
5 programs which may be established by the Governor upon the proclamation of a state of  
6 disaster.

7 It is the intent of the General Assembly in authorizing the provision of State disaster  
8 assistance funds and State disaster assistance programs to provide State assistance for  
9 recovery from those disasters for which federal assistance under the Stafford Act is  
10 either not available or does not adequately meet the needs of the citizens of the State in  
11 the disaster area.

12 (a) Disaster Assistance Programs – Type I Disaster. – In the event that a Type I  
13 disaster is proclaimed, the Governor may authorize State programs to provide funding  
14 in the disaster area for Individual Assistance and for Public Assistance as set forth  
15 below.

16 (1) Individual Assistance. – State disaster assistance in the form of grants  
17 to individuals and families shall include benefits comparable to those  
18 provided under the Stafford Act. Individual assistance grants may  
19 include funding for the following:

20 a. Provision of temporary housing and rental assistance.

21 b. Repair or replacement of dwellings. Grants for repair or  
22 replacement of housing may include amounts necessary to  
23 relocate the individual or family to safe, decent, and sanitary  
24 housing.

25 c. Replacement of personal property (including clothing, tools,  
26 and equipment).

27 d. Repair or replacement of privately owned vehicles.

28 e. Medical or dental expenses.

29 f. Funeral or burial expenses resulting from the disaster.

30 g. Funding for the cost of the first year's flood insurance premium  
31 to meet the requirements of the National Flood Insurance Act of  
32 1968, as amended, 42 U.S.C. § 4001, et seq.

33 (2) Public Assistance. – State disaster assistance in the form of public  
34 assistance grants may be made available to eligible entities located  
35 within the disaster area on the following terms and conditions:

36 a. Eligible entities shall meet the following qualifications:

37 1. The eligible entity shall participate in the National Flood  
38 Insurance Program and shall have an approved hazard  
39 mitigation plan within one year after the enactment of  
40 this statute; and

41 2. There is a minimum of ten thousand dollars (\$10,000) in  
42 uninsurable losses; or

