

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 300\*  
State and Local Government Committee Substitute Adopted 4/19/01  
House Committee Substitute Favorable 5/16/01

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 (3)(1) "Disaster." – An occurrence or imminent threat of widespread or  
18 severe damage, injury, or loss of life or property resulting from any  
19 natural or man-made accidental, military or paramilitary cause.  
20 (2) "Disaster Area." – The geographical area covered by a proclamation  
21 made by the Governor pursuant to G.S. 166A-6(a1).  
22 (3) "Eligible Entity." – Any political subdivision. The term also includes  
23 an owner or operator of a private nonprofit utility that meets the  
24 eligibility criteria set out in this Article.  
25 (4) "Emergency Management." – Those measures taken by the populace  
26 and governments at federal, State, and local levels to minimize the  
27 adverse effect of any type disaster, which includes the never-ending

1 preparedness cycle of prevention, mitigation, warning, movement,  
2 shelter, emergency assistance, and recovery.

3 (5) "Emergency Management Agency." – A State or local governmental  
4 agency charged with coordination of all emergency management  
5 activities for its jurisdiction.

6 (4)(6) "Political Subdivision." – Counties and incorporated cities, towns and  
7 villages.

8 (7) "Preliminary Damage Assessment." – The (initial estimate prepared)  
9 process used by State, local, or federal emergency management  
10 workers to determine the severity and magnitude of damage caused by  
11 a disaster event.

12 (8) "Private Nonprofit Utilities." – A utility that would be eligible for  
13 federal public assistance disaster funds pursuant to 44 C.F.R. Part 206.

14 (9) "Stafford Act." – The Robert T. Stafford Disaster Relief and  
15 Emergency Assistance Act, Pub. L. No. 93-288, 88 Stat. 143, codified  
16 generally at 42 U.S.C. § 5121, et seq., as amended.

17 (10) "State Acquisition and Relocation Fund." – State funding for  
18 supplemental grants to homeowners participating in a Hazard  
19 Mitigation Grant Program Acquisition and Relocation Program. These  
20 grants are used to acquire safe, decent, and sanitary housing by paying  
21 the difference between the cost of the home acquired under the Hazard  
22 Mitigation Grant Program Acquisition and Relocation Program and the  
23 cost of a comparable home 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 to implement this Article.
- 9 c. To develop a system of damage assessment through which the  
10 Secretary will recommend the appropriate level of disaster  
11 declaration to the Governor. The system shall, at a minimum,  
12 consider whether the damage involved and its effects are of  
13 such a severity and magnitude as to be beyond the response  
14 capabilities of the local government or political subdivision.
- 15 ~~b.d.~~ Additional authority, duties, and responsibilities as may be  
16 prescribed by the ~~Governor, and he may~~ Governor. The  
17 Secretary may subdelegate his authority to the appropriate  
18 member of his department.
- 19 (3) Functions of State Emergency Management. – The functions of the  
20 State emergency management program include:
- 21 a. Coordination of the activities of all agencies for emergency  
22 management within the State, including planning, organizing,  
23 staffing, equipping, training, testing, and the activation of  
24 emergency management programs.
- 25 b. Preparation and maintenance of State plans for man-made or  
26 natural disasters. The State plans or any parts thereof may be  
27 incorporated into department regulations and into executive  
28 orders of the Governor.
- 29 c. Promulgation of standards and requirements for local plans and  
30 programs, determination of eligibility for State financial  
31 assistance provided for in G.S. 166A-7 and provision of  
32 technical assistance to local governments.
- 33 d. Development and presentation of training programs and public  
34 information programs to insure the furnishing of adequately  
35 trained personnel and an informed public in time of need.
- 36 e. Making of such studies and surveys of the resources in this  
37 State as may be necessary to ascertain the capabilities of the  
38 State for emergency management, maintaining data on these  
39 resources, and planning for the most efficient use thereof.
- 40 f. Coordination of the use of any private facilities, services, and  
41 property.
- 42 g. Preparation for issuance by the Governor of executive orders,  
43 proclamations, and regulations as necessary or appropriate.

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

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

16 **"§ 166A-6. State of disaster.**

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

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

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

29 a. A local state of emergency has been declared pursuant to G.S.  
30 166A-8, and a written copy of the declaration has been  
31 forwarded to the Governor;

32 b. The preliminary damage assessment meets or exceeds the  
33 criteria established for the Small Business Administration  
34 Disaster Loan Program pursuant to 13 C.F.R. Part 123 or meets  
35 or exceeds the State infrastructure criteria set out in G.S. 166A-  
36 6A(b)(2)a.; and

37 c. A major disaster declaration by the President of the United  
38 States pursuant to the Stafford Act has not been declared.

39 A Type I disaster declaration may be made by the Governor prior to,  
40 and independently of, any action taken by the Small Business  
41 Administration, the Federal Emergency Management Agency, or any  
42 other federal agency. A Type I disaster declaration shall expire 30 days  
43 after its issuance unless renewed by the Governor or the General

1 Assembly. Such renewals may be made in increments of 30 days each,  
2 not to exceed a total of 120 days from the date of first issuance. The  
3 Joint Legislative Commission on Governmental Operations shall be  
4 notified prior to the issuance of any renewal of a Type I disaster  
5 declaration.

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

16 (3) A Type III disaster may be declared if the President of the United  
17 States has issued a major disaster declaration under the Stafford Act  
18 and:

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

23 b. The preliminary damage assessment prompts the Governor to  
24 call a special session of the General Assembly to establish  
25 programs to meet the unmet needs of individuals or political  
26 subdivisions affected by the disaster.

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

29 (b) Any state of disaster declared before July 1, 2001, shall terminate by a  
30 proclamation of the Governor or resolution of the General Assembly. A proclamation or  
31 resolution declaring or terminating a state of disaster shall be disseminated promptly by  
32 means calculated to bring its contents to the attention of the general public and, unless  
33 the circumstances attendant upon the disaster prevent or impede, promptly filed with the  
34 Secretary of Crime Control and Public Safety, the Secretary of State and the clerks of  
35 superior court in the area to which it applies.

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

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

- 1 (2) To take such action and give such directions to State and local  
2 law-enforcement officers and agencies as may be reasonable and  
3 necessary for the purpose of securing compliance with the provisions  
4 of this Article and with the orders, rules and regulations made pursuant  
5 thereto;
- 6 (3) To take steps to assure that measures, including the installation of  
7 public utilities, are taken when necessary to qualify for temporary  
8 housing assistance from the federal government when that assistance is  
9 required to protect the public health, welfare, and safety;
- 10 (4) Subject to the provisions of the State Constitution to relieve any public  
11 official having administrative responsibilities under this Article of  
12 such responsibilities for willful failure to obey an order, rule or  
13 regulation adopted pursuant to this Article.
- 14 ~~(e)~~(d) In addition, during a state of disaster, with the concurrence of the Council of  
15 State, the Governor has the following powers:
- 16 (1) To direct and compel the evacuation of all or part of the population  
17 from any stricken or threatened area within the State, to prescribe  
18 routes, modes of transportation, and destinations in connection with  
19 evacuation; and to control ingress and egress of a disaster area, the  
20 movement of persons within the area, and the occupancy of premises  
21 therein;
- 22 (2) To establish a system of economic controls over all resources,  
23 materials and services to include food, clothing, shelter, fuel, rents and  
24 wages, including the administration and enforcement of any rationing,  
25 price freezing or similar federal order or regulation;
- 26 (3) To regulate and control the flow of vehicular and pedestrian traffic, the  
27 congregation of persons in public places or buildings, lights and noises  
28 of all kinds and the maintenance, extension and operation of public  
29 utility and transportation services and facilities;
- 30 (4) To waive a provision of any regulation or ordinance of a State agency  
31 or a ~~local governmental unit~~ political subdivision which restricts the  
32 immediate relief of human suffering;
- 33 ~~(5) To use contingency and emergency funds as necessary and appropriate  
34 to provide relief and assistance from the effects of a disaster, and to  
35 reallocate such other funds as may reasonably be available within the  
36 appropriations of the various departments when the severity and  
37 magnitude of such disaster so requires and the contingency and  
38 emergency funds are insufficient or inappropriate;~~
- 39 (6) To perform and exercise such other functions, powers and duties as are  
40 necessary to promote and secure the safety and protection of the  
41 civilian population;

- 1 (7) To appoint or remove an executive head of any State agency or  
2 institution the executive head of which is regularly selected by a State  
3 board or commission.
- 4 a. Such an acting executive head will serve during:
- 5 1. The physical or mental incapacity of the regular office  
6 holder, as determined by the Governor after such inquiry  
7 as the Governor deems appropriate;
- 8 2. The continued absence of the regular holder of the  
9 office; or
- 10 3. A vacancy in the office pending selection of a new  
11 executive head.
- 12 b. An acting executive head of a State agency or institution  
13 appointed in accordance with this subdivision may perform any  
14 act and exercise any power which a regularly selected holder of  
15 such office could lawfully perform and exercise.
- 16 c. All powers granted to an acting executive head of a State  
17 agency or institution under this section shall expire  
18 immediately:
- 19 1. Upon the termination of the incapacity as determined by  
20 the Governor of the officer in whose stead he acts;
- 21 2. Upon the return of the officer in whose stead he acts; or
- 22 3. Upon the selection and qualification of a person to serve  
23 for the unexpired term, or the selection of an acting  
24 executive head of the agency or institution by the board  
25 or commission authorized to make such selection, and  
26 his qualification.
- 27 (8) To procure, by purchase, condemnation, seizure or by other means to  
28 construct, lease, transport, store, maintain, renovate or distribute  
29 materials and facilities for emergency management without regard to  
30 the limitation of any existing law.

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

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

36 "**§ 166A-6A. State disaster assistance funds; programs.**

37 (a) If a state of disaster is proclaimed, the Governor may make State funds  
38 available for disaster assistance as authorized by this section. Any State funds made  
39 available by the Governor for disaster assistance may be administered through State  
40 disaster assistance programs which may be established by the Governor upon the  
41 proclamation of a state of disaster. It is the intent of the General Assembly in  
42 authorizing the Governor to make State funds available for disaster assistance and in  
43 authorizing the Governor to establish State disaster assistance programs to provide State

1 assistance for recovery from those disasters for which federal assistance under the  
2 Stafford Act is either not available or does not adequately meet the needs of the citizens  
3 of the State in the disaster area.

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

8 (1) Individual assistance. – State disaster assistance in the form of grants  
9 to individuals and families may be made available when damage meets  
10 or exceeds the criteria set out in 13 C.F.R. Part 123 for the Small  
11 Business Administration Disaster Loan Program. Individual assistance  
12 grants shall include benefits comparable to those provided by the  
13 Stafford Act and may be provided for the following:

- 14 a. Provision of temporary housing and rental assistance.  
15 b. Repair or replacement of dwellings. Grants for repair or  
16 replacement of housing may include amounts necessary to  
17 locate the individual or family in safe, decent, and sanitary  
18 housing.  
19 c. Replacement of personal property (including clothing, tools,  
20 and equipment).  
21 d. Repair or replacement of privately owned vehicles.  
22 e. Medical or dental expenses.  
23 f. Funeral or burial expenses resulting from the disaster.  
24 g. Funding for the cost of the first year's flood insurance premium  
25 to meet the requirements of the National Flood Insurance Act of  
26 1968, as amended, 42 U.S.C. § 4001, et seq.

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

- 30 a. Eligible entities shall meet the following qualifications:  
31 1. The eligible entity suffers a minimum of ten thousand  
32 dollars (\$10,000) in uninsurable losses;  
33 2. The eligible entity suffers uninsurable losses in an  
34 amount equal to or exceeding one-half percent (0.5%) of  
35 the annual operating budget; and  
36 3. For a state of disaster proclaimed pursuant to G.S. 166A-  
37 6(a) after August 1, 2002, the eligible entity shall be  
38 participating in the National Flood Insurance Program  
39 and shall have an approved hazard mitigation plan;  
40 b. Eligible entities shall be required to provide non-State matching  
41 funds equal to twenty-five percent (25%) of the eligible costs of  
42 the public assistance grant.

1           c.    An eligible entity that receives a public assistance grant  
2           pursuant to this subsection may use the grant for the following  
3           purposes only:

- 4               1.    Debris clearance.
- 5               2.    Emergency protective measures.
- 6               3.    Roads and bridges.
- 7               4.    Crisis counseling.
- 8               5.    Assistance with public transportation needs.

9       (c)   If a Type II disaster is proclaimed, the Governor may make State funds  
10   available for disaster assistance in the disaster area in the form of the following types of  
11   grants:

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

17       (d)   If a Type III disaster is proclaimed, the Governor may make State funds  
18   available for disaster assistance in the disaster area in the form of the following types of  
19   grants:

- 20           (1)   State Acquisition and Relocation Funds.
- 21           (2)   Supplemental repair and replacement housing grants available to the  
22           individuals or families in an amount necessary to locate the individual  
23           or family in safe, decent, and sanitary housing not to exceed twenty-  
24           five thousand dollars (\$25,000) per family.
- 25           (3)   Any programs authorized by the General Assembly."

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