

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: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;
 - 36 3. For a state of disaster proclaimed pursuant to G.S. 166A-
37 6(a) after August 1, 2002, the eligible entity shall have a
38 hazard mitigation plan approved pursuant to the Stafford
39 Act; and
 - 40 4. For a state of disaster proclaimed pursuant to G.S. 166A-
41 6(a) after August 1, 2002, the eligible entity shall be
42 participating in the National Flood Insurance Program in
43 order to receive public assistance for flooding damage.

1 b. Eligible entities shall be required to provide non-State matching
2 funds equal to twenty-five percent (25%) of the eligible costs of
3 the public assistance grant.

4 c. An eligible entity that receives a public assistance grant
5 pursuant to this subsection may use the grant for the following
6 purposes only:

7 1. Debris clearance.

8 2. Emergency protective measures.

9 3. Roads and bridges.

10 4. Crisis counseling.

11 5. Assistance with public transportation needs.

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

15 (1) State Acquisition and Relocation Funds.

16 (2) Supplemental repair and replacement housing grants available to the
17 individuals or families in an amount necessary to locate the individual
18 or family in safe, decent, and sanitary housing not to exceed twenty-
19 five thousand dollars (\$25,000) per family.

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

23 (1) State Acquisition and Relocation Funds.

24 (2) Supplemental repair and replacement housing grants available to the
25 individuals or families in an amount necessary to locate the individual
26 or family in safe, decent, and sanitary housing not to exceed twenty-
27 five thousand dollars (\$25,000) per family.

28 (3) Any programs authorized by the General Assembly."

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