

**Chapter 166A.**  
**North Carolina Emergency Management Act.**  
Article 1.

North Carolina Emergency Management Act of 1977.

- §§ **166A-1:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- §§ **166A-2:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- §§ **166A-3:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- §§ **166A-4:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- §§ **166A-5:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- §§ **166A-6:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- §§ **166A-6.01:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- §§ **166A-6.02:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- §§ **166A-6.03:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- § **166A-6.1:** Recodified as G.S. 166A-29 by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- § **166A-7:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- § **166A-8:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- § **166A-9:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- § **166A-10:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- § **166A-11:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- § **166A-12:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- § **166A-13:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- § **166A-14:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- § **166A-15:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- § **166A-15.1:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.
- § **166A-16:** Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.

§ 166A-17: Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.

§ 166A-18: Repealed by Session Laws 2012-12, s. 1(a), effective October 1, 2012.

Article 1A.  
North Carolina Emergency Management Act.  
Part 1. General Provisions.

**§ 166A-19. Short title.**

This Article may be cited as "North Carolina Emergency Management Act." (1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, s. 120; 2012-12, s. 1(b).)

**§ 166A-19.1. Purposes.**

The purposes of this Article are to set forth the authority and responsibility of the Governor, State agencies, and local governments in prevention of, preparation for, response to, and recovery from natural or man-made emergencies or hostile military or paramilitary action and to do the following:

- (1) Reduce vulnerability of people and property of this State to damage, injury, and loss of life and property.
- (2) Prepare for prompt and efficient rescue, care, and treatment of threatened or affected persons.
- (3) Provide for the rapid and orderly rehabilitation of persons and restoration of property.
- (4) Provide for cooperation and coordination of activities relating to emergency mitigation, preparedness, response, and recovery among agencies and officials of this State and with similar agencies and officials of other states, with local and federal governments, with interstate organizations, and with other private and quasi-official organizations. (1959, c. 337, s. 1; 1975, c. 734, s. 1; 1977, c. 848, s. 2; 1995, c. 509, s. 121; 2012-12, s. 1(b).)

**§ 166A-19.2. Limitations.**

Nothing in this Article shall be construed to do any of the following:

- (1) Interfere with dissemination of news or comment on public affairs; but any communications facility or organization, including, but not limited to, radio and television stations, wire services, and newspapers may be requested to transmit or print public service messages furnishing information or instructions in connection with an emergency, disaster, or war.
- (2) Limit, modify, or abridge the authority of the Governor to declare martial law or exercise any other powers vested in the Governor under the North Carolina Constitution, statutes, or common law of this State independent of, or in conjunction with, any provisions of this Article. (1975, c. 734, s. 2; 1977, c. 848, s. 2; 1995, c. 509, s. 122; 2012-12, s. 1(b).)

**§ 166A-19.3. Definitions.**

The following definitions apply in this Article:

- (1) Repealed by Session Laws 2015-241, s. 6.19(c), effective July 1, 2015.
- (2) Chair of the board of county commissioners. – The chair of the board of county commissioners or, in case of the chair's absence or disability, the person authorized to act in the chair's stead. Unless the governing body of the county has specified who is to act in lieu of the chair with respect to a particular power or duty set out in this Article, this term shall mean the person generally authorized to act in lieu of the chair.
- (3) Disaster declaration. – A gubernatorial declaration that the impact or anticipated impact of an emergency constitutes a disaster of one of the types enumerated in G.S. 166A-19.21(b).
- (4) Division. – The Division of Emergency Management established in Subpart A of Part 5 of Article 13 of Chapter 143B of the General Statutes.
- (5) 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.
- (6) Emergency. – 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, paramilitary, terrorism, weather-related, public health, explosion-related, riot-related cause, or technological failure or accident, including, but not limited to, a cyber incident, an explosion, a transportation accident, a radiological accident, or a chemical or other hazardous material incident.
- (7) Emergency area. – The geographical area covered by a state of emergency.
- (8) Emergency management. – Those measures taken by the populace and governments at federal, State, and local levels to minimize the adverse effect of any type emergency, which includes the never-ending preparedness cycle of planning, prevention, mitigation, warning, movement, shelter, emergency assistance, and recovery.
- (9) Emergency management agency. – A State or local governmental agency charged with coordination of all emergency management activities for its jurisdiction.
- (10) Hazard risk management. – The systematic application of policies, practices, and resources to the identification, assessment, and control of risk associated with hazards affecting human health and safety and property. Hazard, risk, and cost-benefit analysis are used to support development of risk reduction options, program objectives, and prioritization of issues and resources.
- (11) Mayor. – The mayor or other chief executive official of a municipality or, in case of that person's absence or disability, the person authorized to act in that person's stead. Unless the governing body of the municipality has specified who is to act in lieu of the mayor with respect to a particular power or duty set out in this Article, the term shall mean the person generally authorized to act in lieu of the mayor.
- (12) Political subdivision. – Counties and incorporated cities, towns, and villages.
- (13) Preliminary damage assessment. – The initial estimate prepared by State, local, or federal emergency management workers used to determine the severity and magnitude of damage caused by an emergency.

- (14) Private nonprofit utility. – A utility that would be eligible for federal public assistance disaster funds pursuant to 44 C.F.R. Part 206.
- (15) Secretary. – The Secretary of the Department of Public Safety.
- (16) 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.
- (17) State Acquisition and Relocation Fund. – State funding for supplemental grants to homeowners participating in a federal 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 federal Hazard Mitigation Grant Program Acquisition and Relocation Program and the cost of a comparable home located outside the 100-year floodplain.
- (17a) State Emergency Response and Disaster Relief Fund. – The fund established in G.S. 166A-19.42.
- (18) 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 Environmental Quality.
  - e. Department of Agriculture and Consumer Services.
  - f. Any other agency identified in the North Carolina Emergency Operations Plan.
- (19) State of emergency. – A finding and declaration by any of the following authorities that an emergency exists:
  - a. The Governor, acting under the authority of G.S. 166A-19.20.
  - b. The General Assembly, acting under the authority of G.S. 166A-19.20.
  - c. The governing body of a municipality or the mayor of a municipality, acting under the authority of G.S. 166A-19.22.
  - d. The governing body of a county or the chair of the board of commissioners of a county, acting under the authority of G.S. 166A-19.22. (1951, c. 1016, s. 2; 1953, c. 1099, s. 1; 1955, c. 387, s. 1; 1975, c. 734, ss. 4-6, 14; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, s. 123; 2001-214, s. 1; 2006-66, ss. 6.5(c), (d); 2009-193, ss. 1, 2; 2009-397, s. 2; 2012-12, s. 1(b); 2012-90, s. 10; 2015-241, ss. 6.19(c), 14.30(u); 2016-87, s. 5.)

**§ 166A-19.4:** Reserved for future codification purposes.

**§ 166A-19.5:** Reserved for future codification purposes.

§ 166A-19.6: Reserved for future codification purposes.

§ 166A-19.7: Reserved for future codification purposes.

§ 166A-19.8: Reserved for future codification purposes.

§ 166A-19.9: Reserved for future codification purposes.

Part 2. State Emergency Management.

§ 166A-19.10. Powers of the Governor.

(a) State Emergency Management Program. – The State Emergency Management Program includes all aspects of preparations for, response to, recovery from, and mitigation against war or peacetime emergencies.

(b) Powers of the Governor. – The Governor is authorized and empowered to do the following:

- (1) To exercise general direction and control of the State Emergency Management Program and to be responsible for carrying out the provisions of this Article, other than those provisions that confer powers and duties exclusively on local governments.
- (2) To make, amend, or rescind the necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor herein, with due consideration of the policies of the federal government.
- (3) To delegate any authority vested in the Governor under this Article and to provide for the subdelegation of any such authority.
- (4) 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.
- (5) To enter into agreements with the American National Red Cross, Salvation Army, Mennonite Disaster Service, and other disaster relief organizations.
- (6) To make, amend, or rescind mutual aid agreements in accordance with G.S. 166A-19.72.
- (7) 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 emergency declared pursuant to G.S. 166A-19.20, to the imminent threat of an emergency that will likely require an emergency to be declared pursuant to G.S. 166A-19.20, or to emergency management planning and training purposes.
- (8) 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 of the debris.

- (9) To sell, lend, lease, give, transfer, or deliver materials or perform services for emergency 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.
- (10) In an emergency, or when requested by the governing body of a political subdivision in the State, to assume operational control over all or any part of the emergency management functions within this State. (1951, c. 1016, ss. 3, 9; 1953, c. 1099, s. 3; 1955, c. 387, ss. 2, 3, 5; 1957, c. 950, s. 5; 1975, c. 734, ss. 9, 10, 14, 16; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, s. 124; 2001-214, s. 2; 2002-179, s. 12; 2009-192, s. 1; 2009-193, s. 3; 2009-196, s. 1; 2009-225, s. 1; 2011-145, s. 19.1(g); 2012-12, s. 1(b).)

**§ 166A-19.11. Powers of the Secretary of Public Safety.**

The Secretary shall be responsible to the Governor for State emergency management activities. The Secretary shall have the following powers and duties as delegated by the Governor:

- (1) To activate the State and local plans applicable to the areas in question and 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.
- (2) To adopt the rules to implement those provisions of this Article that deal with matters other than those that are exclusively local.
- (3) To develop a system to produce a preliminary damage assessment from 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.
- (4) Additional authority, duties, and responsibilities as may be prescribed by the Governor. The Secretary may subdelegate his authority to the appropriate member of the Secretary's department. (1951, c. 1016, ss. 3, 9; 1953, c. 1099, s. 3; 1955, c. 387, ss. 2, 3, 5; 1957, c. 950, s. 5; 1975, c. 734, ss. 9, 10, 14, 16; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, s. 124; 2001-214, s. 2; 2002-179, s. 12; 2009-192, s. 1; 2009-193, s. 3; 2009-196, s. 1; 2009-225, s. 1; 2011-145, s. 19.1(g); 2012-12, s. 1(b).)

**§ 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.
- (2) Preparation and maintenance of State plans for emergencies. The State plans or any parts thereof may be incorporated into department regulations and into executive orders of the Governor.

- (3) 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:
  - a. The epidemiologic investigation of a known or suspected threat caused by nuclear, biological, or chemical agents.
  - b. The examination and testing of persons and animals that may have been exposed to a nuclear, biological, or chemical agent.
  - c. The procurement and allocation of immunizing agents and prophylactic antibiotics.
  - d. The allocation of the Strategic National Stockpile.
  - e. The appropriate conditions for quarantine and isolation in order to prevent further transmission of disease.
  - f. Immunization procedures.
  - g. The issuance of guidelines for prophylaxis and treatment of exposed and affected persons.
- (4) Establishment of a voluntary model registry for use by political subdivisions in identifying functionally and medically fragile persons in need of assistance during an emergency. All records, data, information, correspondence, and communications relating to the registration of persons with special needs or of functionally and medically fragile persons obtained pursuant to this subdivision are confidential and are not a public record pursuant to G.S. 132-1 or any other applicable statute, except that this information shall be available to emergency response agencies, as determined by the local emergency management director. This information shall be used only for the purposes set forth in this subdivision.
- (5) Promulgation of standards and requirements for local plans and programs consistent with federal and State laws and regulations, determination of eligibility for State financial assistance provided for in G.S. 166A-19.15, and provision of technical assistance to local governments. Standards and requirements for local plans and programs promulgated under this subdivision shall be reviewed by the Division at least biennially and updated as necessary.
- (6) Development and presentation of training programs, including the Emergency Management Certification Program established under Article 5 of this Chapter, and public information programs to insure the furnishing of adequately trained personnel and an informed public in time of need.
- (7) 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.
- (8) Coordination of the use of any private facilities, services, and property.
- (9) Preparation for issuance by the Governor of executive orders, declarations, and regulations as necessary or appropriate.
- (10) Cooperation and maintenance of liaison with the other states, the federal government, and any public or private agency or entity in achieving any purpose of this Article and in implementing programs for emergency or war prevention, preparation, response, and recovery.

- (11) 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 an emergency.
- (12) 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.
- (13) Administration of federal and State grant funds provided for emergency management purposes, including those funds provided for planning and preparedness activities by emergency management agencies.
- (14) Serving as the lead State agency for the coordination of information and resources for hazard risk management, which shall include the following responsibilities:
  - a. Coordinating with other State agencies and county governments in conducting hazard risk analysis. To the extent another State agency has primary responsibility for the adoption of hazard mitigation standards, those standards shall be applied in conducting a hazard risk analysis.
  - b. Establishing and maintaining a hazard risk management information system and tools to display natural hazards and vulnerabilities and conducting risk assessment.
  - c. Acquiring and leveraging all natural hazard data generated or maintained by State agencies and county governments.
  - d. Acquiring and leveraging all vulnerability data generated or maintained by State agencies and county governments.
  - e. Maintaining a clearinghouse for methodologies and metrics for calculating and communicating hazard probability and loss estimation.
- (15) Utilizing and maintaining technology that enables efficient and effective communication and management of resources between political subdivisions, State agencies, and other governmental entities involved in emergency management activities.
- (16) Establishing and operating a 24-hour Operations Center to serve as a single point of contact for local governments to report the occurrence of emergency and disaster events and to coordinate local and State response assets. The Division shall record all telephone calls to the 24-hour Operations Center emergency hotline and shall maintain the recording of each telephone call for at least one year.
- (17) Developing, maintaining, and implementing plans for response to any emergency occurring at a fixed nuclear power generating facility located in or near the borders of the State of North Carolina.
- (18) Maintaining the State Emergency Operations Center as the facility to house the State Emergency Response Team whenever it is activated for disaster response.
- (19) Serving as the agency responsible for the management of intrastate and interstate mutual aid planning, implementation, and resource procurement necessary for supporting emergency response and recovery.



- (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.
- (21) Maintenance of an effective statewide urban search and rescue program.
- (22) Serving as the lead State agency for the implementation and maintenance of the statewide School Risk and Response Management System (SRRMS) under G.S. 115C-105.49A.
- (23) Coordination with the State Chief Information Officer and the Adjutant General to manage statewide response to cybersecurity incidents and significant cybersecurity incidents as defined by G.S. 143B-1320. This includes, but is not limited to:
  - a. Development and promulgation of necessary policies, plans, and procedures for cybersecurity and critical infrastructure protection; and
  - b. Annual review, update, and testing of cybersecurity incident response plans and procedures. (1951, c. 1016, ss. 3, 9; 1953, c. 1099, s. 3; 1955, c. 387, ss. 2, 3, 5; 1957, c. 950, s. 5; 1975, c. 734, ss. 9, 10, 14, 16; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, s. 124; 2001-214, s. 2; 2002-179, s. 12; 2009-192, s. 1; 2009-193, s. 3; 2009-196, s. 1; 2009-225, s. 1; 2011-145, s. 19.1(g); 2012-12, s. 1(b); 2012-90, ss. 11, 12; 2014-27, s. 3; 2014-122, s. 6(c); 2015-241, s. 8.26(j); 2019-200, s. 6(b).)

§ 66A-19.13: Reserved for future codification purposes.

§ 66A-19.14: Reserved for future codification purposes.

### Part 3. Local Emergency Management.

#### § 166A-19.15. County and municipal emergency management.

(a) **Governing Body of Counties Responsible for Emergency Management.** – The governing body of each county is responsible for emergency management within the geographical limits of such county. All emergency management efforts within the county will be coordinated by the county, including activities of the municipalities within the county.

(b) **Counties May Establish and Maintain Emergency Management Agencies.** – The governing body of each county is hereby authorized to establish and maintain an emergency management agency for the purposes contained in G.S. 166A-19.1. The governing body of each county which establishes an emergency management agency pursuant to this authorization shall appoint a coordinator who will have a direct responsibility for the organization, administration, and operation of the county program and will be subject to the direction and guidance of such governing body. In the event that any county fails to establish an emergency management agency, and the Governor, in the Governor's discretion, determines that a need exists for such an emergency

management agency, then the Governor is hereby empowered to establish an emergency management agency within that county.

(c) Municipalities May Establish and Maintain Emergency Management Agencies. – All incorporated municipalities are authorized to establish and maintain emergency management agencies subject to coordination by the county.

(d) Joint Agencies Authorized. – Counties and incorporated municipalities are authorized to form joint emergency management agencies composed of a county and one or more municipalities within the county's borders, between two or more counties, or between two or more counties and one or more municipalities within the borders of those counties.

(e) Local Appropriations Authorized. – Each county and incorporated municipality in this State is authorized to make appropriations for the purposes of this Article and to fund them by levy of property taxes pursuant to G.S. 153A-149 and G.S. 160A-209 and by the allocation of other revenues, use of which is not otherwise restricted by law.

(f) Additional Powers. – In carrying out the provisions of this Article each political subdivision is authorized to do the following:

- (1) To appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management purposes and to provide for the health and safety of persons and property, including emergency assistance, consistent with this Article.
- (2) To direct and coordinate the development of emergency management plans and programs in accordance with the policies and standards set by the Division, consistent with federal and State laws and regulations.
- (3) To assign and make available all available resources for emergency management purposes for service within or outside of the physical limits of the subdivision.
- (4) To delegate powers in a local state of emergency declared pursuant to G.S. 166A-19.22.
- (5) To coordinate the voluntary registration of functionally and medically fragile persons in need of assistance during an emergency either through a registry established by this subdivision or by the State. All records, data, information, correspondence, and communications relating to the registration of persons with special needs or of functionally and medically fragile persons obtained pursuant to this subdivision are confidential and are not a public record pursuant to G.S. 132-1 or any other applicable statute, except that this information shall be available to emergency response agencies, as determined by the local emergency management director. This information shall be used only for the purposes set forth in this subdivision.

(g) County Eligibility for State and Federal Financial Assistance. – Each county which establishes an emergency management agency pursuant to State standards and which meets requirements for local plans and programs may be eligible to receive State and federal financial assistance, including State and federal funding appropriated for emergency management planning and preparedness, and for the maintenance and operation of a county emergency management program. Such financial assistance is subject to an appropriation being made for this purpose. Where the appropriation does not allocate appropriated funds among counties, the amount allocated to each county shall be determined annually by the Division. The size of this allocation shall be based in part on the degree to which local plans and programs meet State standards and

requirements promulgated by the Division, including those relating to professional competencies of local emergency management personnel. However, in making an allocation determination, the Division shall, where appropriate, take into account the fact that a particular county may lack sufficient resources to meet the standards and requirements promulgated by the Division. (1951, c. 1016, s. 6; 1953, c. 1099, s. 4; 1957, c. 950, s. 2; 1959, c. 337, s. 5; 1973, c. 620, s. 9; 1975, c. 734, ss. 12, 14, 16; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, ss. 126, 127; 2009-196, s. 2; 2009-225, s. 2; 2012-12, s. 1(b).)

§ 166A-19.16: Reserved for future codification purposes.

§ 166A-19.17: Reserved for future codification purposes.

§ 166A-19.18: Reserved for future codification purposes.

§ 166A-19.19: Reserved for future codification purposes.

#### Part 4. Declarations of State of Emergency.

#### § 166A-19.20. Gubernatorial or legislative declaration of state of emergency.

(a) Declaration. – A state of emergency may be declared by the Governor or by a resolution of the General Assembly, if either of these finds that an emergency exists.

(b) Emergency Area. – An executive order or resolution declaring a state of emergency shall include a definition of the area constituting the emergency area.

(c) Expiration of States of Emergency. – A state of emergency declared pursuant to this section shall expire when it is rescinded by the authority that issued it.

(d) Exercise of Powers Not Contingent on Declaration of Disaster Type. – Once a state of emergency has been declared pursuant to this section, the fact that a declaration of disaster type has not been issued shall not preclude the exercise of powers otherwise conferred during a state of emergency. (1951, c. 1016, s. 4; 1955, c. 387, s. 4; 1959, c. 284, s. 2; c. 337, s. 4; 1975, c. 734, ss. 11, 14; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1993, c. 321, s. 181(a); 1995, c. 509, s. 125; 2001-214, s. 3; 2011-145, s. 19.1(g); 2011-183, s. 127(c); 2012-12, s. 1(b).)

#### § 166A-19.21. Gubernatorial disaster declaration.

(a) Preliminary Damage Assessment. – When a state of emergency is declared pursuant to G.S. 166A-19.20, the Secretary shall provide the Governor and the General Assembly with a preliminary damage assessment as soon as the assessment is available.

(b) Declaration of Disaster. – Upon receipt of a preliminary damage assessment, the Governor is authorized to issue a disaster declaration declaring the impact or anticipated impact of the emergency to constitute a disaster of one of the following types:

- (1) Type I disaster. – A Type I disaster may be declared 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, if all of the following criteria are met:
  - a. A local state of emergency has been declared pursuant to G.S. 166A-19.22 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-19.41(b)(2)a.
    - c. A major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared.
  - (2) Type II disaster. – 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.
  - (3) Type III disaster. – 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 either of the following is true:
    - 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.
    - 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, businesses, or political subdivisions affected by the emergency.
- (c) Expiration of Disaster Declarations. –
  - (1) Expiration of Type I disaster declarations. – A Type I disaster declaration shall expire 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 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. A Type II disaster declaration and any renewals of that declaration shall not exceed a total of 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) Expiration of Type III disaster declarations. – A Type III disaster declaration shall expire 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.

(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. (1951, c. 1016, s. 4; 1955, c. 387, s. 4; 1959, c. 284, s. 2; c. 337, s. 4; 1975, c. 734, ss. 11, 14; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1993, c. 321, s. 181(a); 1995, c. 509, s. 125; 2001-214, s. 3; 2011-145, s. 19.1(g); 2011-183, s. 127(c); 2012-12, s. 1(b); 2012-90, ss. 7, 8.)

**§ 166A-19.22. Municipal or county declaration of state of emergency.**

(a) Declaration. – A state of emergency may be declared by the governing body of a municipality or county, if either of these finds that an emergency exists. Authority to declare a state of emergency under this section may also be delegated by ordinance to the mayor of a municipality or to the chair of the board of county commissioners of a county.

(b) Emergency Area. – The emergency area shall be determined in accordance with the following:

- (1) Unless another subdivision of this subsection is applicable, the emergency area shall not exceed the area over which the municipality or county has jurisdiction to enact general police-power ordinances. The governing body declaring the state of emergency may declare that the emergency area includes part or all of the governing body's jurisdiction. Unless the governing body declaring the state of emergency provides otherwise, the emergency area includes this entire jurisdiction, subject to the limitations contained in the other subdivisions in this subsection.
- (2) The emergency area of a state of emergency declared by a county shall not include any area within the corporate limits of any municipality, or within any area of the county over which a municipality has jurisdiction to enact general police-power ordinances, unless the municipality's governing body or mayor consents to or requests the state of emergency's application. Such an extension may be with respect to one or more of the prohibitions and restrictions imposed in that county pursuant to the authority granted in G.S. 166A-19.31 and need not be with respect to all prohibitions and restrictions authorized by that section.
- (3) The board of commissioners or chair of the board of commissioners of any county who has been requested to do so by a mayor may by declaration extend the emergency area of a state of emergency declared by a municipality to any area within the county in which the board or chair determines it to be necessary to assist in the controlling of the emergency within the municipality. The extension may be with respect to one or more of the prohibitions and restrictions imposed in that mayor's municipality pursuant to the authority granted in G.S. 166A-19.31 and need not be with respect to all prohibitions and restrictions authorized by that section. Extension of the emergency area pursuant to this subdivision shall be subject to the following additional limitations:
  - a. The extension of the emergency area shall not include any area within the corporate limits of a municipality, or within any area of the county over which a municipality has jurisdiction to enact general police-power

ordinances, unless the mayor or governing body of that other municipality consents to its application.

- b. A chair of a board of county commissioners extending the emergency area under the authority of this subdivision shall take reasonable steps to give notice of its terms to those likely to be affected.
- c. The chair of the board of commissioners shall declare the termination of any prohibitions and restrictions extended pursuant to this subdivision upon the earlier of the following:
  - 1. The chair's determination that they are no longer necessary.
  - 2. The determination of the board of county commissioners that they are no longer necessary.
  - 3. The termination of the prohibitions and restrictions within the municipality.
- d. The powers authorized under this subdivision may be exercised whether or not the county has enacted ordinances under the authority of G.S. 166A-19.31. Exercise of this authority shall not preclude the imposition of prohibitions and restrictions under any ordinances enacted by the county under the authority of G.S. 166A-19.31.

(c) Expiration of States of Emergency. – Unless an ordinance adopted pursuant to G.S. 166A-19.31 provides otherwise, a state of emergency declared pursuant to this section shall expire when it is terminated by the official or governing body that declared it.

(d) Effect of Declaration. – The declaration of a state of emergency pursuant to this section shall activate the local ordinances authorized in G.S. 166A-19.31 and any and all applicable local plans, mutual assistance compacts, and agreements and shall also authorize the furnishing of assistance thereunder. (Former G.S. 14-288.13: 1969, c. 869, s. 1; 1993, c. 539, s. 195; 1994, Ex. Sess., c. 24, s. 14(c). Former G.S. 14-288.14: 1969, c. 869, s. 1; 1993, c. 539, s. 196; 1994, Ex. Sess., c. 14, s. 7; c. 24, s. 14(c). Former G.S. 166A-8: 1951, c. 1016, s. 6; 1953, c. 1099, s. 4; 1957, c. 950, s. 2; 1959, c. 337, s. 5; 1973, c. 620, s. 9; 1975, c. 734, ss. 12, 14, 16; 1977, c. 848, s. 2; 2012-12, s. 1(b).)

**§ 166A-19.23. Excessive pricing prohibitions.**

A declaration issued pursuant to this Article shall trigger the prohibitions against excessive pricing during states of disaster, states of emergency, or abnormal market disruptions pursuant to G.S. 75-37 and G.S. 75-38. (2012-12, s. 1(b).)

**§ 166A-19.24:** Reserved for future codification purposes.

**§ 166A-19.25:** Reserved for future codification purposes.

**§ 166A-19.26:** Reserved for future codification purposes.

**§ 166A-19.27:** Reserved for future codification purposes.

**§ 166A-19.28:** Reserved for future codification purposes.

**§ 166A-19.29:** Reserved for future codification purposes.

Part 5. Additional Powers During States of Emergency.

**§ 166A-19.30. Additional powers of the Governor during state of emergency.**

(a) In addition to any other powers conferred upon the Governor by law, during a gubernatorially or legislatively declared state of emergency, the Governor shall have the 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.
- (5) Through issuance of an executive order to waive requirements for an environmental document or permit issued under Articles 1, 4, and 7 of Chapter 113A of the General Statutes for the repair, protection, safety enhancement, or replacement of a component of the State highway system that provides the sole road access to an incorporated municipality or an unincorporated inhabited area bordering the Atlantic Ocean or any coastal sound where bridge or road conditions as a result of the events leading to the declaration of the state of emergency pose a substantial risk to public health, safety, or welfare. The executive order shall list the duration of the waiver and the activities to which the waiver applies. For purposes of this subdivision, "coastal sound" shall have the definition set forth in G.S. 113A-103, and "replacement" shall not be interpreted to exclude a replacement that increases size or capacity or that is located in a different location than the component that is replaced.

(b) During a gubernatorially or legislatively declared state of emergency, 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 an emergency 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 political subdivision which restricts the immediate relief of human suffering.
- (5) 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.
- (6) 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 the following:
    - 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.
    - 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 the Governor acts;
    - 2. Upon the return of the officer in whose stead the Governor 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 the person's qualification.
- (7) 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.

(c) In addition to any other powers conferred upon the Governor by law, during a gubernatorially or legislatively declared state of emergency, if the Governor determines that local control of the emergency is insufficient to assure adequate protection for lives and property because (i) needed control cannot be imposed locally because local authorities responsible for preservation of the public peace have not enacted appropriate ordinances or issued appropriate declarations as authorized by G.S. 166A-19.31; (ii) local authorities have not taken implementing steps under such ordinances or declarations, if enacted or declared, for effectual control of the emergency that has arisen; (iii) the area in which the emergency exists has spread across local jurisdictional boundaries, and the legal control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be,



severely hampered; or (iv) the scale of the emergency is so great that it exceeds the capability of local authorities to cope with it, the Governor has the following powers:

- (1) To impose by declaration prohibitions and restrictions in the emergency area. These prohibitions and restrictions may, in the Governor's discretion, as appropriate to deal with the emergency, impose any of the types of prohibitions and restrictions enumerated in G.S. 166A-19.31(b), and may amend or rescind any prohibitions and restrictions imposed by local authorities. Prohibitions and restrictions imposed pursuant to this subdivision shall take effect in accordance with the provisions of G.S. 166A-19.31(d) and shall expire upon the earliest occurrence of either of the following: (i) the prohibition or restriction is terminated by the Governor or (ii) the state of emergency is terminated.
- (2) Give to all participating State and local agencies and officers such directions as may be necessary to assure coordination among them. These directions may include the designation of the officer or agency responsible for directing and controlling the participation of all public agencies and officers in the emergency. The Governor may make this designation in any manner which, in the Governor's discretion, seems most likely to be effective. Any law enforcement officer participating in the control of a state of emergency in which the Governor is exercising control under this section shall have the same power and authority as a sheriff throughout the territory to which the law enforcement officer is assigned.

(d) Violation. – Any person who violates any provision of a declaration or executive order issued pursuant to this section shall be guilty of a Class 2 misdemeanor in accordance with G.S. 14-288.20A. (Former G.S. 14-288.15: 1969, c. 869, s. 1; 1993, c. 539, s. 197; 1994, Ex. Sess., c. 24, s. 14(c). Former G.S. 166A-6: 1951, c. 1016, s. 4; 1955, c. 387, s. 4; 1959, c. 284, s. 2; c. 337, s. 4; 1975, c. 734, ss. 11, 14; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1993, c. 321, s. 181(a); 1995, c. 509, s. 125; 2001-214, s. 3; 2011-145, s. 19.1(g); 2011-183, s. 127(c); 2012-90, s. 1; 2012-12, s. 1(b); 2014-100, s. 14.7(i).)

### **§ 166A-19.31. Power of municipalities and counties to enact ordinances to deal with states of emergency.**

(a) Authority to Enact Prohibitions and Restrictions. – The governing body of any municipality or county may enact ordinances designed to permit the imposition of prohibitions and restrictions within the emergency area during a state of emergency declared pursuant to G.S. 166A-19.22. Authority to impose by declaration prohibitions and restrictions under this section, and to impose those prohibitions and restrictions at a particular time as appropriate, may be delegated by ordinance to the mayor of a municipality or to the chair of the board of county commissioners of a county.

(b) Type of Prohibitions and Restrictions Authorized. – The ordinances authorized by this section may permit prohibitions and restrictions:

- (1) Of movements of people in public places, including any of the following:
  - a. Imposing a curfew.
  - b. Directing and compelling the voluntary or mandatory evacuation of all or part of the population from any stricken or threatened area within the governing body's jurisdiction.

- c. Prescribing routes, modes of transportation, and destinations in connection with evacuation.
  - d. Controlling ingress and egress of an emergency area, and the movement of persons within that area.
  - e. Providing for the closure, within the emergency area, of streets, roads, highways, bridges, public vehicular areas, or other areas ordinarily used for vehicular travel, except to the movement of emergency responders and other persons necessary for recovery from the emergency. In addition to any other notice or dissemination of information, notification of any closure of a road or public vehicular area under the authority of this sub-subdivision shall be given to the Department of Transportation as soon as practicable. The ordinance may designate the sheriff to exercise the authority granted by this sub-subdivision. G.S. 166A-19.70(c) and (d) shall apply to this sub-subdivision.
- (2) Of the operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate.
  - (3) Upon the possession, transportation, sale, purchase, and consumption of alcoholic beverages.
  - (4) Upon the possession, transportation, sale, purchase, storage, and use of gasoline, and dangerous weapons and substances, except that this subdivision does not authorize prohibitions or restrictions on lawfully possessed firearms or ammunition. As used in this subdivision, the term "dangerous weapons and substances" has the same meaning as it does under G.S. 14-288.1. As used in this subdivision, the term "firearm" has the same meaning as it does under G.S. 14-409.39(2).
  - (5) Upon other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency.

The ordinances authorized by this section need not require or provide for the imposition of all of the types of prohibitions or restrictions, or any particular prohibition or restriction, authorized by this section during an emergency but may instead authorize the official or officials who impose those prohibitions or restrictions to determine and impose the prohibitions or restrictions deemed necessary or suitable to a particular state of emergency.

(c) When Ordinances Take Effect. – Notwithstanding any other provision of law, whether general or special, relating to the promulgation or publication of ordinances by any municipality or county, upon the declaration of a state of emergency by the mayor or chair of the board of county commissioners within the municipality or the county, any ordinance enacted under the authority of this section shall take effect immediately unless the ordinance sets a later time. If the effect of this section is to cause an ordinance to go into effect sooner than it otherwise could under the law applicable to the municipality or county, the mayor or chair of the board of county commissioners, as the case may be, shall take steps to cause reports of the substance of the ordinance to be disseminated in a fashion that its substance will likely be communicated to the public in general, or to those who may be particularly affected by the ordinance if it does not affect the public generally. As soon as practicable thereafter, appropriate distribution or publication of the full text of any such ordinance shall be made.

(d) **When Prohibitions and Restrictions Take Effect.** – All prohibitions and restrictions imposed by declaration pursuant to ordinances adopted under this section shall take effect in the emergency area immediately upon publication of the declaration unless the declaration sets a later time. For the purpose of requiring compliance, publication may consist of reports of the substance of the prohibitions and restrictions in the mass communications media serving the emergency area or other effective methods of disseminating the necessary information quickly. As soon as practicable, however, appropriate distribution of the full text of any declaration shall be made. This subsection shall not be governed by the provisions of G.S. 1-597.

(e) **Expiration of Prohibitions and Restrictions.** – Prohibitions and restrictions imposed pursuant to this section shall expire upon the earliest occurrence of any of the following:

- (1) The prohibition or restriction is terminated by the official or entity that imposed the prohibition or restriction.
- (2) The state of emergency terminates.

(f) **Intent to Supplement Other Authority.** – This section is intended to supplement and confirm the powers conferred by G.S. 153A-121(a), G.S. 160A-174(a), and all other general and local laws authorizing municipalities and counties to enact ordinances for the protection of the public health and safety in times of riot or other grave civil disturbance or emergency.

(g) **Previously Enacted Ordinances Remain in Effect.** – Any ordinance of a type authorized by this section promulgated prior to October 1, 2012, if otherwise valid, continue in full force and effect without reenactment.

(h) **Violation.** – Any person who violates any provision of an ordinance or a declaration enacted or declared pursuant to this section shall be guilty of a Class 2 misdemeanor in accordance with G.S. 14-288.20A. (Former G.S. 14-288.12: 1969, c. 869, s. 1; 1981, c. 412, s. 4(4); c. 747, s. 66; 1989, c. 770, s. 2; 1993, c. 539, s. 194; 1994, Ex. Sess., c. 24, s. 14(c); 2009-146, s. 1. Former G.S. 14-288.13: 1969, c. 869, s. 1; 1993, c. 539, s. 195; 1994, Ex. Sess., c. 24, s. 14(c). Former G.S. 14-288.16: 1969, c. 869, s. 1. Former G.S. 14-288.17: 1969, c. 869, s. 1. 2012-12, s. 1(b); 2019-89, s. 1.)

§ **166A-19.32:** Reserved for future codification purposes.

§ **166A-19.33:** Reserved for future codification purposes.

§ **166A-19.34:** Reserved for future codification purposes.

§ **166A-19.35:** Reserved for future codification purposes.

§ **166A-19.36:** Reserved for future codification purposes.

§ **166A-19.37:** Reserved for future codification purposes.

§ **166A-19.38:** Reserved for future codification purposes.

§ **166A-19.39:** Reserved for future codification purposes.

#### Part 6. Funding of Emergency Preparedness and Response.

§ **166A-19.40. Use of contingency and emergency funds.**

(a) Use of Contingency and Emergency Funds. – The Governor may use contingency and emergency funds:

- (1) As necessary and appropriate to provide relief and assistance from the effects of an emergency.
- (2) As necessary and appropriate for National Guard training in preparation for emergencies with the concurrence of the Council of State.

(b) Repealed by Session Laws 2015-241, s. 6.19(a), effective July 1, 2015.

(c) Use of Other Funds. – The Governor may reallocate such other funds as may reasonably be available within the appropriations of the various departments when all of the following conditions are satisfied:

- (1) The severity and magnitude of the emergency so requires.
- (2) Contingency and emergency funds are insufficient or inappropriate.
- (3) A state of emergency has been declared pursuant to G.S. 166A-19.20(a).
- (4) Funds in the State Emergency Response and Disaster Relief Fund are insufficient. (Former G.S. 166A-5: 1951, c. 1016, ss. 3, 9; 1953, c. 1099, s. 3; 1955, c. 387, ss. 2, 3, 5; 1957, c. 950, s. 5; 1975, c. 734, ss. 9, 10, 14, 16; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, s. 124; 2001-214, s. 2; 2002-179, s. 12; 2009-192, s. 1; 2009-193, s. 3; 2009-196, s. 1; 2009-225, s. 1; 2011-145, s. 19.1(g). Former G.S. 166A-6: 1951, c. 1016, s. 4; 1955, c. 387, s. 4; 1959, c. 284, s. 2; c. 337, s. 4; 1975, c. 734, ss. 11, 14; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1993, c. 321, s. 181(a); 1995, c. 509, s. 125; 2001-214, s. 3; 2011-145, s. 19.1(g); 2011-183, s. 127(c); 2012-12, s. 1(b); 2015-241, s. 6.19(a).)

#### **§ 166A-19.41. State emergency assistance funds.**

(a) Governor May Make Funds Available for Emergency Assistance. – In the event of a gubernatorially or legislatively declared state of emergency, the Governor may make State funds available for emergency assistance as authorized by this section. Any State funds made available by the Governor for emergency assistance may be administered through State emergency assistance programs which may be established by the Governor upon the declaration of a state of emergency. It is the intent of the General Assembly in authorizing the Governor to make State funds available for emergency assistance and in authorizing the Governor to establish State emergency assistance programs to provide State assistance for recovery from those emergencies 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 emergency area.

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

- (1) Individual assistance. – State emergency 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 emergency.
  - 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 emergency assistance in the form of public assistance grants may be made available to eligible entities located within the emergency 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 percent (1%) of the annual operating budget.
    - 3. For a state of emergency declared pursuant to G.S. 166A-19.20(a) after the deadline established by the Federal Emergency Management Agency pursuant to the Disaster Mitigation Act of 2002, P.L. 106-390, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act.
    - 4. For a state of emergency declared pursuant to G.S. 166A-19.20(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) Emergency Assistance in a Type II Disaster. – If a Type II disaster is declared, the Governor may make State funds available for emergency assistance in the emergency 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 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) Emergency Assistance in a Type III Disaster. – If a Type III disaster is declared, the Governor may make State funds available for emergency assistance in the emergency 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 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. (2001-214, s. 4; 2001-487, s. 98; 2002-24, s. 1; 2002-159, s. 57.5; 2006-66, s. 6.5(a); 2012-12, s. 1(b).)

**§ 166A-19.42. State Emergency Response and Disaster Relief Fund.**

(a) Account Established. – There is established a State Emergency Response and Disaster Relief Fund as a reserve in the General Fund. Any funds appropriated to the Fund shall remain available for expenditure as provided by this section, unless directed otherwise by the General Assembly.

(b) Use of Funds. – The Governor may spend funds from the Fund for the following purposes:

- (1) To cover the start-up costs of State Emergency Response Team operations for an emergency that poses an imminent threat of a Type I, Type II, or Type III disaster.
- (2) To cover the cost of first responders to a Type I, Type II, or Type III disaster and any related supplies and equipment needed by first responders that are not provided for under subdivision (1) of this subsection.
- (3) To provide relief and assistance in accordance with G.S. 166A-19.41 from the effects of an emergency.

(c) Reporting Requirement. – The Governor shall report to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Appropriations Committees of the Senate and House of Representatives on any expenditures from the State Emergency Response and Disaster Relief Fund no later than 30 days after making the expenditure. The report shall include a description of the emergency and type of action taken. (2006-66, s. 6.5(b); 2012-12, s. 1(b); 2015-241, s. 6.19(b).)

**§ 166A-19.43:** Reserved for future codification purposes.

**§ 166A-19.44:** Reserved for future codification purposes.

**§ 166A-19.45:** Reserved for future codification purposes.

**§ 166A-19.46:** Reserved for future codification purposes.

**§ 166A-19.47:** Reserved for future codification purposes.

**§ 166A-19.48:** Reserved for future codification purposes.

§ 166A-19.49: Reserved for future codification purposes.

§ 166A-19.50: Reserved for future codification purposes.

§ 166A-19.51: Reserved for future codification purposes.

§ 166A-19.52: Reserved for future codification purposes.

§ 166A-19.53: Reserved for future codification purposes.

§ 166A-19.54: Reserved for future codification purposes.

§ 166A-19.55: Reserved for future codification purposes.

§ 166A-19.56: Reserved for future codification purposes.

§ 166A-19.57: Reserved for future codification purposes.

§ 166A-19.58: Reserved for future codification purposes.

§ 166A-19.59: Reserved for future codification purposes.

#### Part 7. Immunity and Liability.

##### **§ 166A-19.60. Immunity and exemption.**

(a) Generally. – All functions hereunder and all other activities relating to emergency management as provided for in this Chapter or elsewhere in the General Statutes are hereby declared to be governmental functions. Neither the State nor any political subdivision thereof, nor, except in cases of willful misconduct, gross negligence, or bad faith, any emergency management worker, firm, partnership, association, or corporation complying with or reasonably attempting to comply with this Article or any order, rule, or regulation promulgated pursuant to the provisions of this Article or pursuant to any ordinance relating to any emergency management measures enacted by any political subdivision of the State, shall be liable for the death of or injury to persons, or for damage to property as a result of any such activity.

(b) Immunity. – The immunity provided to firms, partnerships, associations, or corporations, under subsection (a) of this section, is subject to all of the following conditions:

(1) The immunity applies only when the firm, partnership, association, or corporation is acting without compensation or with compensation limited to no more than actual expenses and one of the following applies:

a. Emergency management services are provided at any place in this State during a state of emergency declared by the Governor or General Assembly pursuant to this Article, and the services are provided under the direction and control of the Secretary pursuant to G.S. 166A-19.10, 166A-19.11, 166A-19.12, 166A-19.20, 166A-19.30, and 143B-602, or the Governor.

- b. Emergency management services are provided during a state of emergency declared pursuant to G.S. 166A-19.22, and the services are provided under the direction and control of the governing body of a municipality or county under G.S. 166A-19.31, or the chair of a board of county commissioners under G.S. 166A-19.22(b)(3).
- c. The firm, partnership, association, or corporation is engaged in planning, preparation, training, or exercises with the Division, the Division of Public Health, or the governing body of each county or municipality under G.S. 166A-19.15 related to the performance of emergency management services or measures.
  - (2) The immunity shall not apply to any firm, partnership, association, or corporation, or to any employee or agent thereof, whose act or omission caused in whole or in part the actual or imminent emergency or whose act or omission necessitated emergency management measures.
  - (3) To the extent that any firm, partnership, association, or corporation has liability insurance, that firm, partnership, association, or corporation shall be deemed to have waived the immunity to the extent of the indemnification by insurance for its negligence. An insurer shall not under a contract of insurance exclude from liability coverage the acts or omissions of a firm, partnership, association, or corporation for which the firm, partnership, association, or corporation would only be liable to the extent indemnified by insurance as provided by this subdivision.

(c) No Effect on Benefits. – The rights of any person to receive benefits to which the person would otherwise be entitled under this Article or under the Workers' Compensation Law or under any pension law and the right of any such person to receive any benefits or compensation under any act of Congress shall not be affected by performance of emergency management functions.

(d) License Requirements Suspended. – Any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any authorized emergency management worker who shall, in the course of performing the worker's duties as such, practice such professional, mechanical, or other skill during a state of emergency.

(e) Definition of Emergency Management Worker. – As used in this section, the term "emergency management worker" shall include any full or part-time paid, volunteer, or auxiliary employee of this State or other states, territories, possessions, or the District of Columbia, of the federal government or any neighboring country or of any political subdivision thereof, or of any agency or organization performing emergency management services at any place in this State, subject to the order or control of or pursuant to a request of the State government or any political subdivision thereof. The term "emergency management worker" under this section shall also include any health care worker performing health care services as a member of a hospital-based or county-based State Medical Assistance Team designated by the North Carolina Office of Emergency Medical Services and any person performing emergency health care services under G.S. 90-12.2.

(f) Powers of Individuals Operating Pursuant to Mutual Aid Agreements. – Any emergency management worker, as defined in this section, performing emergency management services at any place in this State pursuant to agreements, compacts, or arrangements for mutual aid and assistance to which the State or a political subdivision thereof is a party, shall possess the same powers, duties, immunities, and privileges the person would ordinarily possess if performing



duties in the State, or political subdivision thereof, in which normally employed or rendering services. (1957, c. 950, s. 4; 1975, c. 734, s. 14; 1977, c. 848, s. 2; 1979, c. 714, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, ss. 130, 131; 2002-179, s. 20(b); 2006-81, s. 1; 2008-200, s. 1; 2009-146, s. 2; 2011-145, s. 19.1(g), (hhh); 2012-12, s. 1(b).)

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

Any person, firm, or 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 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. (1957, c. 950, s. 3; 1977, c. 848, s. 2; 2012-12, s. 1(b); 2012-90, s. 9.)

**§ 166A-19.62. Civil liability of persons who willfully ignore a warning in an emergency.**

In an emergency, a person who willfully ignores a warning regarding personal safety issued by a federal, State, or local law enforcement agency, emergency management agency, or other governmental agency responsible for emergency management under this Article is civilly liable for the cost of a rescue effort to any governmental agency or nonprofit agency cooperating with a governmental agency conducting a rescue on the endangered person's behalf if all of the following are true:

- (1) The person ignores the warning and (i) engages in an activity or course of action that a reasonable person would not pursue or (ii) fails to take a course of action that a reasonable person would pursue.
- (2) As a result of ignoring the warning, the person places himself or herself or another in danger.
- (3) A governmental rescue effort is undertaken on the endangered person's behalf. (1997-232, s. 1; 2012-12, s. 1(b).)

**§ 166A-19.63:** Reserved for future codification purposes.

**§ 166A-19.64:** Reserved for future codification purposes.

**§ 166A-19.65:** Reserved for future codification purposes.

**§ 166A-19.66:** Reserved for future codification purposes.

**§ 166A-19.67:** Reserved for future codification purposes.

**§ 166A-19.68:** Reserved for future codification purposes.

**§ 166A-19.69:** Reserved for future codification purposes.

Part 8.

Miscellaneous Provisions.

**§ 166A-19.70. Ensuring availability of emergency supplies and utility services; protection of livestock, poultry, and agricultural crops.**

(a) Executive Order. – In addition to any other powers conferred on the Governor by law, whenever a curfew has been imposed, the Governor may declare by executive order that the health, safety, or economic well-being of persons or property in this State require that persons transporting essentials in commerce to the curfew area, or assisting in ensuring their availability, and persons assisting in restoring utility services, be allowed to enter or remain in areas from which they would otherwise be excluded for the limited purpose of delivering the essentials, assisting in ensuring their availability, or assisting in restoring utility services.

(b) Maximum Hours of Service Waiver. – As part of an executive order issued pursuant to subsection (a) of this section, or independently of such an order, the Governor may declare by executive order that the health, safety, or economic well-being of persons or property in this State require that the maximum hours of service prescribed by the Department of Public Safety pursuant to G.S. 20-381 and similar rules be waived for persons transporting essentials or assisting in the restoration of utility services.

(c) Certification System. – The Secretary shall develop a system pursuant to which a person who transports essentials in commerce, or assists in ensuring their availability, and persons who assist in the restoring of utility services can be certified as such. The certification system shall allow for both pre-emergency declaration and post-emergency declaration certification with renewable precertification. The Secretary shall only allow those who routinely transport or distribute essentials or assist in the restoring of utility services to be certified. A certification of the employer shall constitute a certification of the employer's employees. The Secretary shall create an easily recognizable indicium of certification in order to assist local officials' efforts to determine which persons have received certification by the system established under this subsection.

(d) Presence in Curfew Area Permitted. – Notwithstanding the existence of any curfew, a person who is certified pursuant to the system established under subsection (c) of this section shall be allowed to enter or remain in the curfew area for the limited purpose of delivering or assisting in the distribution of essentials or assisting in the restoration of utility services and shall be allowed to provide service that exceeds otherwise applicable hours of service maximums, to the extent authorized by an executive order executed pursuant to subsection (a) of this section. Nothing in this section prohibits law enforcement or other local officials from specifying the permissible route of ingress or egress for persons with certifications.

(e) Abnormal Market Disruptions with Respect to Petroleum. – If the Governor declares the existence of an abnormal market disruption with respect to petroleum pursuant to G.S. 75-38(f), the Governor shall contemporaneously seek all applicable waivers under the federal Clean Air Act, 42 U.S.C. § 7401, et seq., and any other applicable federal law to facilitate the transportation of fuel within this State in order to address or prevent a fuel supply emergency in this State. Waiver requests shall be directed to the appropriate federal agencies and shall seek waivers of the following:

- (1) The Reformulated Gasoline requirements throughout the State.
- (2) The Federal and State Implementation Plan summertime gasoline requirements (low RVP) throughout the State.

- (3) Any other waiver that will, if obtained, facilitate the transportation of fuel within this State.
- (f) Definitions. – The following definitions apply in this section:
  - (1) Curfew. – Any restriction on ingress and egress to the emergency area of a state of emergency or any restriction on the movement of persons within such an area.
  - (2) Curfew area. – The area that is subject to a curfew.
  - (3) Essentials. – Any goods that are consumed or used as a direct result of an emergency or which are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being of persons or their property. The Secretary shall determine what goods constitute essentials for purposes of this section.

(g) Upon the recommendation of the Commissioner of Agriculture it shall be lawful for the Governor, by an executive order issued pursuant to G.S. 166A-19.20 or independently of such an order, to direct the Department of Public Safety to temporarily suspend weighing, pursuant to G.S. 20-118.1, those vehicles used to transport livestock, poultry, or crops from designated counties in an emergency area as defined in G.S. 166A-19.3(7), or counties designated by the Governor in an executive order issued independently of an order pursuant to G.S. 166A-19.20, if there exists an imminent threat of severe economic loss of livestock or poultry or widespread or severe damage to crops ready to be harvested. The Department of Public Safety shall develop procedures to carry out the provisions of this subsection. This subsection shall not be construed to permit the gross weight of any vehicle or combination in excess of the safe load carrying capacity established by the Department of Transportation on any bridge pursuant to G.S. 136-72, or to permit the operation of a vehicle when a law enforcement officer has probable cause to believe the vehicle is creating an imminent hazard to public safety. A suspension authorized pursuant to the provisions of this subsection shall end when the Governor determines the threat of widespread or severe loss or damage in the designated counties has passed. (2001-214, s. 4; 2001-487, s. 98; 2002-24, s. 1; 2002-159, s. 57.5; 2006-66, s. 6.5(a); 2012-12, s. 1(b); 2013-230, s. 1; 2018-114, s. 7.)

**§ 166A-19.70A. Facilitate critical infrastructure disaster relief.**

(a) Purpose. – The State finds that it is appropriate to exclude nonresident businesses and nonresident employees who temporarily come to this State at the request of a critical infrastructure company solely to perform disaster-related work during a disaster response period from the following tax and regulatory requirements:

- (1) Corporate and individual income tax, as provided under G.S. 105-130.1 and G.S. 105-153.2.
- (2) Franchise tax, as provided under G.S. 105-114.
- (3) Unemployment tax, as provided under G.S. 96-1(b)(12).
- (4) Certificate of Authority from the Secretary of State to transact business in this State, as provided under G.S. 55-15-01(d) and G.S. 57D-1-24(d).

(b) Definitions. – In addition to the definitions in G.S. 166A-19.3, the following definitions apply in this section:

- (1) Corporation. – Defined in G.S. 105-130.2.
- (2) Critical infrastructure. – Property and equipment owned or used by a critical infrastructure company for utility or communications transmission services

- provided to the public in the State. Examples of critical infrastructure include communications networks, electric generation, transmission and distribution systems, natural gas transmission and distribution systems, water pipelines, and related support facilities. Related support facilities may include buildings, offices, lines, poles, pipes, structures, and equipment.
- (3) Critical infrastructure company. – One of the following:
    - a. A registered public communications provider.
    - b. A registered public utility.
  - (4) Disaster-related work. – Repairing, renovating, installing, building, or performing services on critical infrastructure that has been damaged, impaired, or destroyed as a result of a disaster or emergency in an area covered by the disaster declaration.
  - (5) Disaster response period. – A period that begins 10 days prior to the first day of a disaster declaration and expires on the earlier of the following:
    - a. Sixty days following the expiration of the disaster declaration, as provided under G.S. 166A-19.21(c).
    - b. One hundred eighty days following the issuance of the disaster declaration.
  - (6) Employee. – Defined in G.S. 105-163.1.
  - (7) Nonresident business. – An entity that has not been required to file an income or franchise tax return with the State for three years prior to the disaster response period, other than those arising from the performance of disaster-related work during a tax year prior to the enactment of this section, and that meets one or more of the following conditions:
    - a. Is a nonresident entity.
    - b. Is a nonresident individual who owns an unincorporated business as a sole proprietor.
  - (8) Nonresident employee. – A nonresident individual who is one of the following:
    - a. An employee of a nonresident business.
    - b. An employee of a critical infrastructure company who is temporarily in this State to perform disaster-related work during a disaster response period.
  - (9) Nonresident entity. – Defined in G.S. 105-163.1.
  - (10) Nonresident individual. – Defined in G.S. 105-153.3.
  - (11) Registered public communications provider. – A corporation doing business in this State prior to the disaster declaration that provides the transmission to the public of one or more of the following:
    - a. Broadband.
    - b. Mobile telecommunications.
    - c. Telecommunications.
    - d. Wireless Internet access.
  - (12) Registered public utility. – A corporation doing business in this State prior to the disaster declaration that is subject to the control of one or more of the following entities:
    - a. North Carolina Utilities Commission.
    - b. North Carolina Rural Electrification Authority.

- c. Federal Communications Commission.
- d. Federal Energy Regulatory Commission.

(c) Critical Infrastructure Company Notification. – A critical infrastructure company must provide notification to the Department of Revenue within 90 days of the expiration of the disaster response period. The notification must be in the form and manner required by the Department. The notification must include the following:

- (1) A list of all nonresident businesses who performed disaster-related work in this State during a disaster response period at the request of the critical infrastructure company.
- (2) A list of nonresident employees who performed disaster-related work in this State for the critical infrastructure company during a disaster response period. The notification must include the amount of compensation paid to the nonresident employee performing disaster-related work in this State.

(d) Nonresident Business Notification. – A nonresident business must provide notification to the Department of Revenue within 90 days of the date the nonresident business concludes its disaster-related work in the State. The notification must be in the form and manner required by the Department. The notification must include a list of nonresident employees who performed disaster-related work in this State during a disaster response period, along with the amount of compensation paid to the nonresident employee performing disaster-related work in this State. Failure to submit a timely notification forfeits the relief provided by this section for the nonresident business.

(e) Limitation. – The intent of this section is to provide relief to nonresident businesses and nonresident employees who would not otherwise be subject to this State's tax and regulatory requirements if they had not performed disaster-related work during the disaster response period. The relief provided under this section does not apply to any tax year that is part of the disaster response period if the nonresident business or nonresident employee continues to perform disaster-related work following the end of the disaster response period. The relief provided under this section does not apply to a tax year that is part of the disaster response period if the nonresident business or nonresident employee is required to file an income tax return for that tax year with the Department of Revenue for reasons other than the performance of disaster-related work. (2019-187, s. 1(a).)

#### **§ 166A-19.71. Accept services, gifts, grants, and loans.**

Whenever the federal government or any agency or officer thereof or of any person, firm, or corporation shall offer to the State, or through the State to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for emergency management purposes, the State acting through the Governor, or such political subdivision, acting with the consent of the Governor and through its governing body, may accept such offer. Upon such acceptance the Governor of the State or governing body of such political subdivision may authorize any officer of the State or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the State or of such political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. (1951, c. 1016, s. 8; 1973, c. 803, s. 45; 1975, c. 19, s. 72; c. 734, ss. 13, 14; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 2012-12, s. 1(b).)

#### **§ 166A-19.72. Establishment of mutual aid agreements.**

(a) Governor Authorized to Enter Agreements with Other States and Federal Government. – The Governor may establish mutual aid agreements with other states and with the federal government provided that any special agreements so negotiated are within the Governor's authority.

(b) Governor Authorized to Enter Agreements with Political Subdivisions. – The Governor may establish mutual aid agreements with political subdivisions in the State with the concurrence of the subdivision's governing body.

(c) Political Subdivisions Authorized to Enter Agreements with Other Political Subdivisions. – The chief executive of each political subdivision, with the concurrence of the subdivision's governing body, may develop mutual aid agreements for reciprocal emergency management aid and assistance. Such agreements shall be consistent with the State emergency management program and plans.

(d) Political Subdivisions Authorized to Enter Agreements with Political Subdivisions in Other States. – The chief executive officer of each political subdivision, with the concurrence of the governing body and subject to the approval of the Governor, may enter into mutual aid agreements with local chief executive officers in other states for reciprocal emergency management aid and assistance. These agreements shall be consistent with the State emergency management program and plans.

(e) Terms of Agreements. – Mutual aid agreements may include, but are not limited to, the furnishing or exchange of such supplies, equipment, facilities, personnel, and services as may be needed; the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items; and on such terms and conditions as deemed necessary. (1951, c. 1016, s. 7; 1975, c. 734, ss. 14, 16; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 2009-194, s. 1; 2012-12, s. 1(b).)

### **§ 166A-19.73. Compensation.**

(a) Extent of Compensation. – Compensation for services or for the taking or use of property shall be only to the extent that legal obligations of individual citizens are exceeded in a particular case and then only to the extent that the claimant has not been deemed to have volunteered his services or property without compensation.

(b) Limitation; Basis of Compensation. – Compensation for property shall be only if the property was commandeered, seized, taken, condemned, or otherwise used in coping with an emergency and this action was ordered by the Governor. The State shall make compensation for the property so seized, taken, or condemned on the following basis:

(1) In case property is taken for temporary use, the Governor, within 30 days of the taking, shall fix the amount of compensation to be paid for such damage or failure to return. Whenever the Governor shall deem it advisable for the State to take title to property taken under this section, the Governor shall forthwith cause the owner of such property to be notified thereof in writing by registered mail, postage prepaid, or by the best means available, and forthwith cause to be filed a copy of said notice with the Secretary of State.

(2) If the person entitled to receive the amounts so determined by the Governor as just compensation is unwilling to accept the same as full and complete compensation for such property or the use thereof, the person shall be paid seventy-five percent (75%) of such amount and shall be entitled to recover from the State of North Carolina in an action brought in the superior court in the county of residence of claimant, or in Wake County, in the same manner as

other condemnation claims are brought, within three years after the date of the Governor's award. (1977, c. 848, s. 2; 2012-12, s. 1(b).)

**§ 166A-19.74. Nondiscrimination in emergency management.**

State and local governmental bodies and other organizations and personnel who carry out emergency management functions under the provisions of this Article are required to do so in an equitable and impartial manner. Such State and local governmental bodies, organizations, and personnel shall not discriminate on the grounds of race, color, religion, nationality, sex, age, or economic status in the distribution of supplies, the processing of applications, and other relief and assistance activities. (1975, c. 734, s. 3; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, s. 128; 2012-12, s. 1(b).)

**§ 166A-19.75. Emergency management personnel.**

(a) Limitation. – No person shall be employed or associated in any capacity in any emergency management agency established under this Article if that person does or has done any of the following:

- (1) Advocates or has advocated a change by force or violence in the constitutional form of the Government of the United States or in this State.
- (2) Advocates or has advocated the overthrow of any government in the United States by force or violence.
- (3) Has been convicted of any subversive act against the United States.
- (4) Is under indictment or information charging any subversive act against the United States.
- (5) Has ever been a member of the Communist Party.

(b) Oath. – Each person who is appointed to serve in any emergency management agency shall, before entering upon the person's duties, take a written oath before a person authorized to administer oaths in this State, which oath shall be substantially as follows:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of North Carolina, against all enemies, foreign and domestic; and that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I, nor have I ever knowingly been, a member of any political party or organization that advocates the overthrow of the Government of the United States or of this State by force or violence; and that during such time as I am a member of the State Emergency Management Agency I will not advocate nor become a member of any political party or organization that advocates the overthrow of the Government of the United States or of this State by force or violence, so help me God."

(c) No Violation of Dual Office Holding Prohibition. – No position created by or pursuant to this Article shall be deemed an office within the meaning of Section 9 of Article 6 of the North Carolina Constitution. (1951, c. 1016, s. 10; 1975, c. 734, ss. 14, 16; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1995, c. 509, s. 129; 2012-12, s. 1(b).)

**§ 166A-19.76. Leave options for voluntary firefighters, rescue squad workers, and emergency medical service personnel called into service.**

(a) Leave Without Pay. – A member of a volunteer fire department, rescue squad, or emergency medical services agency called into service of the State after a declaration of a state of emergency by the Governor or by the General Assembly, or upon the activation of the State Emergency Response Team in response to an emergency, shall have the right to take leave without pay from his or her civilian employment. No member of a volunteer fire department, rescue squad, or emergency medical services agency shall be forced to use or exhaust his or her vacation or other accrued leave from his or her civilian employment for a period of active service. The choice of leave shall be solely within the discretion of the member.

(b) Request in Writing Required. – For the volunteer member to be entitled to take leave without pay pursuant to this section, his or her services shall be requested in writing by the Director of the Division or by the head of a local emergency management agency. The request shall be directed to the Chief of the member's volunteer fire department, rescue squad, or emergency medical services agency, and a copy shall be provided to the member's employer. This section shall not apply to those members whose services have been certified by their employer to the Director of the Division, or to the head of a local emergency management agency, as essential to the employer's own ongoing emergency relief activities.

(c) Definition of an Emergency Requiring Activation of the State Emergency Response Team. – For purposes of this section, an emergency requiring the activation of the State Emergency Response Team means an emergency at Activation Level 2 or greater according to the North Carolina State Emergency Operations Plan of November 2002. Activation Level 2 requires the State Emergency Operations Center to be fully activated with 24-hour staffing from all State Emergency Response Team members.

(d) Enforcement. – The Commissioner of Labor shall enforce the provisions of this section pursuant to Chapter 95 of the General Statutes. (2003-103, s. 1; 2012-12, s. 1(b).)

**§ 166A-19.77. North Carolina Forest Service designated as emergency response agency.**

The North Carolina Forest Service of the Department of Agriculture and Consumer Services is designated an emergency response agency of the State of North Carolina for purposes of the following:

- (1) Supporting the North Carolina Forest Service in responding to all-risk incidents.
- (2) Receipt of any applicable State or federal funding.
- (3) Training of other State and local agencies in emergency management.
- (4) Any other emergency response roles for which the North Carolina Forest Service has special training or qualifications. (2005-128, s. 1; 2011-145, ss. 13.25(w), 19.1(g); 2012-12, s. 1(b); 2013-155, s. 24.)

**§ 166A-19.77A. Agricultural Emergency Response Teams authorized.**

The Department of Agriculture and Consumer Services is designated as an emergency response agency for purposes of the following:

- (1) Deploying Agricultural Emergency Response Teams, as that term is defined in G.S. 106-1042, to respond to agriculture-related incidents.
- (2) Receipt of any applicable State or federal funding.
- (3) Training of other State and local agencies in agricultural emergency response.
- (4) Any other emergency response roles for which Agricultural Emergency Response Teams have special training or qualifications. (2016-113, s. 2(b).)



**§ 166A-19.78. Governor's power to order evacuation of public building.**

When it is determined by the Governor that a great public crisis, disaster, riot, catastrophe, or any other similar public emergency exists, or the occurrence of any such condition is imminent, and, in the Governor's opinion it is necessary to evacuate any building owned or controlled by any department, agency, institution, school, college, board, division, commission, or subdivision of the State in order to maintain public order and safety or to afford adequate protection for lives or property, the Governor is hereby authorized to issue an order of evacuation directing all persons within the building to leave the building and its premises forthwith. The order shall be delivered to any law enforcement officer or officer of the National Guard, and such officer shall, by a suitable public address system, read the order to the occupants of the building and demand that the occupants forthwith evacuate said building within the time specified in the Governor's order. (1969, c. 1129; 1993, c. 539, s. 198; 1994, Ex. Sess., c. 24, s. 14(c); 2009-281, s. 1; 2012-12, s. 1(b).)

**§ 166A-19.79. Severability.**

If any provision of this Article or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable. (1977, c. 848, s. 2; 1995, c. 509, s. 132; 2012-12, s. 1(b).)

Article 2.

Hazardous Materials Emergency Response.

**§ 166A-20. Title, purpose.**

(a) This Article may be cited as the "North Carolina Hazardous Materials Emergency Response Act."

(b) The purpose of this Article is to establish a system of regional response to hazardous materials emergencies and terrorist incidents in the State to protect the health and safety of its citizens. (1993 (Reg. Sess., 1994), c. 769, s. 22.4(b); 2002-179, s. 21(a).)

**§ 166A-21. Definitions.**

The following definitions apply in this Article:

- (1) Department. – The Department of Public Safety.
- (2) Division. – The Division of Emergency Management.
- (3) Hazardous material. – Any material defined as a hazardous substance under 29 Code of Federal Regulations § 1910.120(a)(3).
- (4) Hazardous materials emergency response team or hazmat team. – An organized group of persons specially trained and equipped to respond to and control actual or potential leaks or spills of hazardous materials.
- (5) Hazardous materials incident or hazardous materials emergency. – An uncontrolled release or threatened release of a hazardous substance requiring outside assistance by a local fire department or hazmat team to contain and control.
- (6) Regional response team. – A hazmat team under contract with the State to provide response to hazardous materials emergencies occurring outside the

- hazmat team's local jurisdiction at the direction of the Department of Public Safety, Division of Emergency Management.
- (7) Secretary. – The Secretary of the Department of Public Safety.
  - (8) Technician-level entry capability. – The capacity of a hazmat team, in terms of training and equipment as specified in 29 Code of Federal Regulations § 1910.120, to respond to a hazardous materials incident requiring affirmative measures, such as patching, plugging, or other action necessary to stop and contain the release of a hazardous substance at its source.
  - (9) Terrorist incident. – Activities that occur within the territorial jurisdiction of the United States, involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any state, and are intended to do one of the following:
    - a. Intimidate or coerce a civilian population.
    - b. Influence the policy of a government by intimidation or coercion.
    - c. Affect the conduct of a government by mass destruction, assassination, or kidnapping. (1993 (Reg. Sess., 1994), c. 769, s. 22.4(b); 1997-456, s. 27; 2002-179, s. 21(b); 2011-145, s. 19.1(g); 2014-100, s. 16B.3(a).)

**§ 166A-22. Hazardous materials emergency response program.**

(a) The Secretary shall adopt rules establishing a regional response program for hazardous materials emergencies and terrorist incidents, to be administered by the Division of Emergency Management. To the extent possible, the regional response program shall be coordinated with other emergency planning activities of the State. The regional response program shall include at least seven hazmat teams located strategically across the State that are available to provide regional response to hazardous materials or terrorist incidents requiring technician-level entry capability and 24-hour dispatch and communications capability at the Division of Emergency Management Operations Center. The rules for the program shall include:

- (1) Standards, including training, equipment, and personnel standards required to operate a regional response team with technician-level entry capability.
- (2) Guidelines for the dispatch of a regional response team to a hazardous materials or terrorist incident.
- (3) Guidelines for the on-site operations of a regional response team.
- (4) Standards for administration of a regional response team, including procedures for reimbursement of response costs.
- (5) Refresher and specialist training for members of regional response teams.
- (6) Procedures for recovering the costs of a response to a hazardous materials or terrorist incident from persons determined to be responsible for the emergency.
- (7) Procedures for bidding and contracting for the provision of a hazmat team for the regional response program.
- (8) Criteria for evaluating bids for the provision of a hazmat team for regional response.
- (9) Delineation of the roles of the regional response team, local fire department and local public safety personnel, the Division of Emergency Management's area coordinator, and other State agency personnel responding to the scene of a hazardous materials or terrorist incident.

(b) In developing the program and adopting rules, the Secretary shall consult with the Regional Response Team Advisory Committee established pursuant to G.S. 166A-24. (1993 (Reg. Sess., 1994), c. 769, s. 22.4(b); 2002-179, s. 21(c); 2014-100, s. 16B.3(d).)

### **§ 166A-23. Contracts; equipment loans.**

(a) The Secretary may contract with any unit or units of local government for the provision of a regional response team to implement the regional response program. Contracts are to be let consistent with the bidding and contract standards and procedures adopted pursuant to G.S. 166A-22(a)(7) and (8). In entering into contracts with units of local government, the Secretary may agree to provide:

- (1) A loan of equipment, including a hazmat vehicle, necessary for the provision technician-level entry capability;
- (2) Reimbursement of personnel costs when a regional response team is authorized by the Department to respond to a hazmat or terrorist incident, including the cost of call-back personnel;
- (3) Reimbursement for use of equipment and vehicles owned by the regional response team;
- (4) Replacement of disposable materials and damaged equipment;
- (5) Costs of medical surveillance for members of the regional response team, including baseline, maintenance, and exit physicals;
- (6) Training expenses; and
- (7) Other provisions agreed to by the Secretary and the regional response team.

(b) The Secretary shall not agree to provide reimbursement for:

- (1) Costs of clean-up activities, after a spill or leak has been contained;
- (2) Local response not requiring technician-level entry capability; or
- (3) Standby time.

(c) Any contract entered into between the Secretary and a unit of local government for the provision of a regional response team shall specify that the members of the regional response team, when performing their duties under the contract, shall not be employees of the State and shall not be entitled to benefits under the Teachers' and State Employees' Retirement System or for the payment by the State of federal social security, employment insurance, or workers' compensation.

(d) Regional response teams that have the use of a State hazmat vehicle may use the vehicle for local purposes. Where a State vehicle is used for purposes other than authorized regional response to a hazardous materials or terrorist incident, the regional response team shall be liable for repairs or replacements directly attributable to the nonauthorized response. (1993 (Reg. Sess., 1994), c. 769, s. 22.4(b); 2002-179, s. 21(d).)

### **§ 166A-24. Immunity of Regional Response Team Personnel.**

Members of a regional response team shall be protected from liability under the provisions of G.S. 166A-19.60(a) while responding to a hazardous materials or terrorist incident pursuant to authorization from the Division of Emergency Management. (1993 (Reg. Sess., 1994), c. 769, s. 22.4(b); 2002-179, s. 21(e); 2012-12, s. 2(y).)

### **§ 166A-25. Right of entry.**

A regional response team, when authorized to respond to a release or threatened release of hazardous materials or when authorized to respond to a terrorist or threatened or imminent terrorist

incident, may enter onto any private or public property on which the release or terrorist incident has occurred or on which there is an imminent threat of such release or terrorist incident. A regional response team may also enter, under such circumstances, any adjacent or surrounding property in order to respond to the release or threatened release of hazardous material or to monitor, control, and contain the release or perform any other action in mitigation of a hazardous materials or terrorist incident. (1993 (Reg. Sess., 1994), c. 769, s. 22.4(b); 2002-179, s. 21(f).)

**§ 166A-26. Regional Response Team Advisory Committee.**

(a) The Regional Response Team Advisory Committee is created. The Secretary shall appoint the members of the Committee and shall designate the chair. In making appointments, the Secretary shall take into consideration the expertise of the appointees in the management of hazardous materials emergencies. The Secretary shall appoint one representative from:

- (1) The Division of Emergency Management;
- (2) The North Carolina Highway Patrol;
- (3) The State Fire and Rescue Commission of the Department of Insurance;
- (4) The Department of Environmental Quality;
- (5) The Department of Transportation;
- (6) The Department of Agriculture and Consumer Services;
- (7) The Chemical Industry Council of North Carolina;
- (8) The N.C. Association of Hazardous Materials Responders;
- (9) Each regional response team;
- (10) The State Bureau of Investigation.

In addition to the persons listed above, the Secretary shall appoint to the Advisory Committee three persons designated jointly by the North Carolina Fire Chiefs Association and the North Carolina State Firefighters' Association.

(b) The Advisory Committee shall meet on the call of the chair, or at the request of the Secretary; provided that the Committee shall meet no less than once every three months. The Department of Public Safety shall provide space for the Advisory Committee to meet. The Department also shall provide the Advisory Committee with necessary support staff and supplies to enable the Committee to carry out its duties in an effective manner.

(c) Members of the Advisory Committee shall serve without pay, but shall receive travel allowance, lodging, subsistence, and per diem as provided by G.S. 138-5.

(d) The Regional Response Team Advisory Committee shall advise the Secretary on the establishment of the program for regional response to hazardous materials emergencies in the State. The Committee shall also evaluate and advise the Secretary of the need for additional regional response teams to serve the State. (1993 (Reg. Sess., 1994), c. 769, s. 22.4(b); 1997-261, s. 108; 1997-443, s. 11A.123; 2002-179, s. 21(g); 2011-145, s. 19.1(g); 2015-241, s. 14.30(u); 2016-51, s. 6.)

**§ 166A-27. Action for the recovery of costs of hazardous materials emergency response.**

(a) A person who causes the release of a hazardous material requiring the activation of a regional response team shall be liable for all reasonable costs incurred by the regional response team in responding to and mitigating the incident. The Secretary shall invoice the person liable for the hazardous materials release, and, in the event of nonpayment, may institute an action to recover those costs in the superior court of the county in which the release occurred.

(b) A person who causes the release of a hazardous material that results in the activation of one or more State Medical Assistance Teams (SMATs) or the Epidemiology Section of the Division of Public Health of the Department of Health and Human Services shall be liable for all reasonable costs incurred by each team or the Epidemiology Section that responds to or mitigates the incident. The Secretary of Health and Human Services shall invoice the person liable for the hazardous materials release and, in the event of nonpayment, may institute an action to recover those costs in the superior court of the county in which the release occurred. (1993 (Reg. Sess., 1994), c. 769, s. 22.4(b); 2007-107, s. 3.1(a).)

#### **§ 166A-28. Hazardous Materials Emergency Response Fund.**

There is established in the Department of Public Safety a fund for those monies collected pursuant to G.S. 166A-27. The Fund is also authorized to accept any gift, grant, or donation of money or property to facilitate the establishment and operation of the regional response system. (1993 (Reg. Sess., 1994), c. 769, s. 22.4(b); 2011-145, s. 19.1(g).)

#### **§ 166A-29. Emergency planning; charge.**

(a) Every person, firm, corporation or municipality who is licensed to construct or who is operating a fixed nuclear facility for the production of electricity shall pay to the Department of Public Safety an annual fee of at least thirty thousand dollars (\$30,000) for each fixed nuclear facility which is located within this State or has a Plume Exposure Pathway Emergency Planning Zone of which any part is located within this State. This fee is to be applied to the costs of planning and implementing emergency response activities as are required by the Federal Emergency Management Agency for the operation of nuclear facilities. Said fee is to be paid no later than July 31 of each year. This minimum fee may be increased from time to time as the costs of such planning and implementation increase. Such increases shall be by agreement between the State and the licensees or operators of the fixed nuclear facilities.

(b) Every person, firm, corporation or municipality who is licensed to construct or who is operating a fixed nuclear facility for the production of electricity shall pay to the Department of Public Safety, for the use of the Radiation Protection Section of the Division of Public Health of the Department of Health and Human Services, an annual fee of thirty-six thousand dollars (\$36,000) for each fixed nuclear facility that is located within this State or that has a Plume Exposure Pathway Emergency Planning Zone any part of which is located within this State. This fee shall be applied only to the costs of planning and implementing emergency response activities as required by the Federal Emergency Management Agency for the operation of nuclear facilities. This fee is to be paid no later than July 31 of each year.

(c) The fees imposed by this section do not revert at the end of a fiscal year. The amount of fees carried forward from one fiscal year to the next shall be taken into consideration in determining the fee to be assessed each fixed nuclear facility under subsection (a) in that fiscal year. (1981, c. 1128, ss. 1, 2; 1983, c. 622, ss. 1-3; 1989, c. 727, s. 219(42); 1989 (Reg. Sess., 1990), c. 964, s. 1; 1991 (Reg. Sess., 1992), c. 1039, s. 18; 1997-443, s. 11A.123; 2000-109, s. 6; 2002-70, s. 5; 2011-145, ss. 13.3(ooo), 19.1(g); 2012-12, s. 1(a).)

#### **§ 166A-29.1. Hazardous materials facility fee.**

(a) Definitions. – The following definitions apply in this section:

- (1) EPCRA. – The federal Emergency Planning and Community Right-to-Know Act, P.L. No. 99-499 et. seq.

- (2) Extremely hazardous substance. – Any substance, regardless of its state, set forth in 40 C.F.R. Part 355, Appendix A or B.
- (3) Hazardous chemical. – As defined in 29 C.F.R. 1910.1200(c), except that the term does not include any of the following:
  - a. Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.
  - b. Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use.
  - c. Any substance to the extent that it is used for personal, family, or household purposes or is present in the same form and concentration as a product packaged for distribution and use by the public.
  - d. Any substance to the extent that it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.
  - e. Any substance to the extent that it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate consumer.

(b) Annual Fee Shall Be Charged. – A person or business required under Section 302 or 312 of EPCRA to submit a notification or an annual inventory form to the Division shall be required to pay to the Department an annual fee in the amount set forth in subsection (c) of this section.

(c) Amount of Fee. – The amount of the annual fee charged pursuant to subsection (b) of this section shall be calculated in accordance with the following, up to a maximum annual amount of five thousand dollars (\$5,000) per reporting site:

- (1) A fee of fifty dollars (\$50.00) shall be assessed for each substance at each site reported by a person or business that is classified as a hazardous chemical.
- (2) A fee of ninety dollars (\$90.00) shall be assessed for each substance at each site reported by a person or business that is classified as an extremely hazardous substance.

(d) Late Fees. – The Division may impose a late fee against a person or business for failure to submit a report or filing that substantially complies with the requirements of EPCRA by the federal filing deadline or for failure to pay any fee, including a late fee. This fee shall be in addition to the fee imposed pursuant to subsection (c) of this section. Prior to imposing a late fee, the Division shall provide the person or business who will be assessed the late fee with written notice that identifies the specific requirements that have not been met and informs the person or business of its intent to assess a late fee. The assessment of a late fee shall be subject to the following limitations:

- (1) If the report filing or fee is submitted within 30 days after receipt of the Division's notice that it intends to assess a late fee, no late fee shall be assessed.
- (2) If the report filing or fee has not been submitted by the end of the period set forth in subdivision (1) of this subsection, the Division may impose a late fee in an amount equal to the amount of the fee charged pursuant to subsection (c) of this section.

(e) Exemptions. – No fee shall be charged under this section to any of the following:

- (1) An owner or operator of a family farm enterprise, a facility owned by a State or local government, or a nonprofit corporation.
  - (2) An owner or operator of a facility where motor vehicle fuels are stored and from which such fuels are offered for retail sale. However, hazardous chemicals or extremely hazardous substances at such a facility, other than motor vehicle fuels for retail sale, shall not be subject to this exemption.
  - (3) A motor vehicle dealer, as that term is defined in G.S. 20-286(11).
- (f) Use of Fee Proceeds. – The proceeds of fees assessed pursuant to this section shall be used for the following:
- (1) To offset costs associated with the establishment and maintenance of a hazardous materials database and a hazardous materials response application.
  - (2) To offset costs associated with the operations of the regional response program for hazardous materials emergencies and terrorist incidents.
  - (3) To provide grants to counties for hazardous materials emergency response planning, training, and related exercises.
  - (4) To offset Division costs that directly support hazardous materials emergency preparedness and response. (2014-100, s. 16B.3(b); 2015-241, s. 16B.8(a).)

### Article 3.

#### Disaster Service Volunteer Leave Act.

**§ 166A-30. Short title.**

This act may be cited as the Disaster Service Volunteer Leave Act. (1993, c. 13, s. 1.)

**§ 166A-31. Definitions.**

As used in this Article:

- (1) "Certified disaster service volunteer" means a person who has completed the necessary training for and been certified as a disaster service specialist by the American National Red Cross.
- (2) "Disaster" means a disaster designated at Level III or higher in the American National Red Cross Regulations and Procedures.
- (3) "State agency" means and includes all departments, institutions, commissions, committees, boards, divisions, bureaus, officers, and officials of the State, including those within the legislative and judicial branches of State government. (1993, c. 13, s. 1.)

**§ 166A-32. Disaster service volunteer leave.**

An employee of a State agency who is a disaster service volunteer of the American Red Cross may be granted leave from his work with pay for a time not to exceed 15 work days in any 12-month period to participate in specialized disaster relief services for the American Red Cross. To be granted leave, the request for the services of that employee must come from the American Red Cross. The decision to grant the employee leave rests in the sole discretion of the employing State agency based on the work needs of that agency. Employees granted leave pursuant to this Article shall not lose seniority, pay, vacation time, sick time, or earned overtime accumulation. The State agency shall compensate an employee granted leave under this Article at the regular rate of pay for those regular work hours during which the employee is absent from his work. Leave under this Article shall be granted only for services related to a disaster occurring within the United States.

The State of North Carolina shall not be liable for workers compensation claims arising from accident or injury while the State employee is on assignment as a disaster service volunteer for the American Red Cross. Duties performed while on disaster leave shall not be considered to be a work assignment by a state agency. The employee is granted leave based on the need for the employee's area of expertise. Job functions although similar or related are performed on behalf of and for the benefit of the American Red Cross. (1993, c. 13, s. 1; 2001-508, s. 6.)

§ 166A-33: Reserved for future codification purposes.

§ 166A-34: Reserved for future codification purposes.

§ 166A-35: Reserved for future codification purposes.

§ 166A-36: Reserved for future codification purposes.

§ 166A-37: Reserved for future codification purposes.

§ 166A-38: Reserved for future codification purposes.

§ 166A-39: Reserved for future codification purposes.

#### Article 4.

##### Emergency Management Assistance Compact.

**§ 166A-40. Title of Article; entering into Compact.**

(a) This Article may be cited as the Emergency Management Assistance Compact.

(b) The Emergency Management Assistance Compact, hereinafter "Compact", is hereby enacted into law and entered into by this State with all other states legally joining therein, in the form substantially as set forth in this Article. This Compact is made and entered into by and between the party states which enact this Compact. For the purposes of this Article, the term "states" means the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all United States territorial possessions and the term "party states" means the participating member states which enact and enter into this Compact. (1997-152, s. 1.)

**§ 166A-41. Purposes and authorities.**

(a) The purpose of this Compact is to provide for mutual assistance between the party states in managing any emergency or disaster that is duly declared by the governor of the affected state or states, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

(b) This Compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this Compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states. (1997-152, s. 1; 2009-281, s. 1.)



**§ 166A-42. General implementation.**

(a) Each party state recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this Compact. Each party state further recognizes that there will be emergencies that require immediate access and present procedures to apply outside resources to respond to emergencies effectively and promptly. This is because few, if any, individual states have all the resources that they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

(b) The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this Compact shall be understood.

(c) On behalf of the governor of each party state, the legally designated state official who is assigned responsibility for emergency management shall be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this Compact. (1997-152, s. 1.)

**§ 166A-43. Party state responsibilities.**

(a) It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this Article. In formulating the plans, and in carrying them out, the party states, insofar as practicable, shall:

- (1) Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party state might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resource shortages, civil disorders, insurgency, or enemy attack.
- (2) Review the party states' individual emergency plans and develop a plan that will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency.
- (3) Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans.
- (4) Assist in warning communities adjacent to or crossing the state boundaries.
- (5) Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment services, and resources, both human and material.
- (6) Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness.
- (7) Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

(b) The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this Compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be

verbal or in writing. If verbal, the request shall be confirmed in writing within 30 days of the verbal request. Requests shall provide the following information:

- (1) A description of the emergency service function for which assistance is needed, including fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.
- (2) The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed.
- (3) The specific place and time for staging of the assisting party's response and a point of contact at that location.

(c) There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the federal government, with free exchange of information, plans, and resource records relating to emergency capabilities. (1997-152, s. 1.)

#### **§ 166A-44. Limitations.**

(a) Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this Compact in accordance with the terms hereof; provided that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

(b) Each party state shall afford to the emergency forces of any party state while operating within its state limits under the terms and conditions of this Compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state or states, whichever is longer. (1997-152, s. 1.)

#### **§ 166A-45. Licenses and permits.**

Whenever any person holds a license, certificate, or other permit issued by any party state evidencing the meeting of qualifications for professional, mechanical, or other skills, and when assistance is requested by the receiving party state, the person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving skill to meet a declared emergency or disaster, subject to any limitations and conditions the governor of the requesting state may prescribe by executive order or otherwise. (1997-152, s. 1.)

#### **§ 166A-46. Liability.**

Officers or employees of a party state rendering aid in another state pursuant to this Compact shall be considered agents of the requesting state for tort liability and immunity purposes; and no party state or its officers or employees rendering aid in another state pursuant to this Compact shall

be liable for any act or omission occurring as a result of a good faith attempt to render aid or as a result of the use of any equipment or supplies used in connection with an attempt to render aid. For the purposes of this Article, "good faith" does not include willful misconduct, gross negligence, or recklessness. (1997-152, s. 1; 2007-484, s. 24.)

**§ 166A-47. Supplementary agreements.**

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this instrument contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies. (1997-152, s. 1.)

**§ 166A-48. Compensation.**

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of the forces in case the members sustain injuries or are killed while rendering aid pursuant to this Compact, in the same manner and on the same terms as if the injury or death were sustained within their own state. (1997-152, s. 1.)

**§ 166A-49. Reimbursement.**

Any party state rendering aid in another state pursuant to this Compact shall be reimbursed by the party state receiving the aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with the requests; provided, that any aiding party state may assume in whole or in part the loss, damage, expense, or other cost, or may loan the equipment or donate the services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. (1997-152, s. 1.)

**§ 166A-50. Evacuation.**

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant shall be worked out and maintained between the party states and the emergency management or services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting the evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of the evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. The plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. The expenditures shall be reimbursed as agreed by the

party state from which the evacuees come and that party state shall assume the responsibility for the ultimate support of repatriation of the evacuees. (1997-152, s. 1.)

**§ 166A-51. Effective date.**

(a) This Compact shall become operative immediately upon its enactment into law by any two states; thereafter, this Compact shall become effective as to any other state upon its enactment by the state.

(b) Any party state may withdraw from this Compact by enacting a statute repealing the same, but no withdrawal shall take effect until 30 days after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. The action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

(c) Duly authenticated copies of this Compact and of any supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the federal government. (1997-152, s. 1.)

**§ 166A-52. Validity.**

If any provision of this Compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this act and the applicability thereof to other persons and circumstances shall not be affected thereby. (1997-152, s. 1.)

**§ 166A-53. Additional provisions.**

Nothing in this Compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under section 1385 of Title 18, United States Code. (1997-152, s. 1; 2009-281, s. 1.)

**§ 166A-54. Reserved for future codification purposes.**

**§ 166A-55. Reserved for future codification purposes.**

**§ 166A-56. Reserved for future codification purposes.**

**§ 166A-57. Reserved for future codification purposes.**

**§ 166A-58. Reserved for future codification purposes.**

**§ 166A-59. Reserved for future codification purposes.**

Article 5.

Emergency Management Certification Program.

**§ 166A-60. Emergency Management Certification Program authority; purpose.**

The Division of Emergency Management in the Department of Public Safety shall establish, as a voluntary program, an Emergency Management Certification Program as provided for in this Article. The purpose of the Program is to strengthen and enhance the professional competencies of emergency management personnel in State and local emergency management agencies. (2009-192, s. 2; 2011-145, s. 19.1(g).)

**§ 166A-61. Program standards and guidelines.**

(a) The Division shall establish standards and guidelines for administration of the Program, including:

- (1) Minimum educational and training standards that must be met in order to qualify for Type IV (entry), Type III (basic), Type II (intermediate), and Type I (advanced) emergency management certification.
- (2) Levels of education or equivalent experience that may be met in order to qualify for the certifications provided for in subdivision (1) of this subsection.
- (3) Levels of education or equivalent experience for instructors who participate in programs or courses of instruction.
- (4) Curricula, syllabi, and other educational materials.
- (5) Mode(s) of delivery of educational and training programs.

(b) In developing the Program, the Division may consult and cooperate with political subdivisions, agencies of the State, other governmental agencies, universities, colleges, community colleges, and other institutions, public or private, concerning the development of the Program and a systematic career development plan, including conducting and stimulating research by public and private agencies designed to improve education and training in the administration of emergency management.

(c) The Division shall study and make reports and recommendations to the Secretary of Public Safety and other appropriate agencies and officials concerning compliance with federal guidance, training, educational, technical assistance needs, and equipment needs of State and local emergency management agencies. (2009-192, s. 2; 2011-145, s. 19.1(g).)

**§ 166A-62. Emergency Management Training and Standards Advisory Board.**

(a) The Secretary of Public Safety shall establish and appoint the Emergency Management Training and Standards Advisory Board to provide oversight of training and certification programs established pursuant to this Article.

(b) The composition of the Board shall include emergency management subject matter experts representative of the State, its political subdivisions, and private industry.

(c) The duties of the Board shall include:

- (1) Oversight of the Emergency Management Certification Program.
- (2) Review of applications for certification.
- (3) Issuance of certifications at least semiannually.

(d) The Board shall meet at least semiannually and at other times at the discretion of the Secretary. (2009-192, s. 2; 2011-145, s. 19.1(g).)

**§ 166A-63. Issuance of certification; reciprocity; renewal.**

(a) The Emergency Management Training and Standards Advisory Board shall issue documentation of certification, in a form and manner prescribed by the Division, to each applicant

within North Carolina demonstrating successful completion of the requirements for the level of certification sought by the applicant.

(b) The Board may issue documentation of certification to any person in another state or territory if the person's qualifications were, at the date of registration or certification, substantially equivalent to the requirements established pursuant to this Article.

(c) Every person certified pursuant to this Article who desires to maintain certification shall apply for renewal of certification within five years of the date of original certification or certification renewal.

(d) Renewal of Type I (advanced) certification is subject to completion of at least 24 hours of continuing education requirements as established by the Board.

(e) A certification that is not renewed in accordance with this section automatically expires. The Board may approve reinstatement of an expired certification upon good cause shown by the applicant.

(f) Certifications that have been expired for more than five years shall not be reinstated. (2009-192, s. 2.)

**§ 166A-64:** Reserved for future codification purposes.

#### Article 6.

#### North Carolina Search and Rescue.

**§ 166A-65. Definitions.**

The following definitions apply in this Article:

- (1) Contract response team. – A search and rescue team, specialty rescue team, or incident support team.
- (2) Incident support team. – A team of trained emergency response personnel, organized to provide coordination between governmental agencies and nongovernmental organizations as well as technical and logistical support to search and rescue teams and specialty rescue teams.
- (2a) Search and rescue team. – A specialized team or group of teams, organized with capabilities equivalent to search and rescue teams established under the Federal Emergency Management Agency in order to assist in the removal of trapped victims during emergencies, including, but not limited to, collapsed structures, trench excavations, elevated locations, and other technical rescue situations.
- (3) Secretary. – The Secretary of the Department of Public Safety.
- (4) Specialty rescue team. – A specialized response team, organized to provide technical rescue assistance to first responders. The term includes, but is not limited to, a canine search and rescue or disaster response team, a cave search and rescue team, a collapse search and rescue team, a mine and tunnel search and rescue team, and a swift water or flood search and rescue team. A specialty rescue team shall be aligned with one or more of the search and rescue categories within the Federal Emergency Management Agency's national resource typing system.
- (5) Repealed by Session Laws 2017-57, s. 16E.2, effective July 1, 2017. (2014-27, s. 4; 2017-57, s. 16E.2; 2017-170, s. 1.)

**§ 166A-66. North Carolina Search and Rescue Program.**

(a) The Secretary shall adopt rules establishing a program for search and rescue that relies on contracts, memorandums of understanding, and memorandums of agreement with contract response teams. The program shall be administered by the Division of Emergency Management. To the extent possible, the program shall be coordinated with other emergency planning activities of the State. The program shall include contract response teams located strategically across the State that are available to provide 24-hour dispatch from the Division of Emergency Management Operations Center. The rules for the program shall include:

- (1) Standards, including training, equipment, and personnel standards required to operate a contract response team.
- (2) Guidelines for the dispatch of a contract response team to a search and rescue team or specialty rescue team mission.
- (3) Guidelines for the on-site operations of a contract response team.
- (4) Standards for administration of a contract response team, including procedures for reimbursement of response costs.
- (5) Refresher and specialist training for members of contract response teams.
- (6) Procedures for recovering the costs of a search and rescue team or specialty rescue team mission.
- (7) Procedures for bidding and contracting for search and rescue team and specialty rescue team missions.
- (8) Criteria for evaluating bids for search and rescue team and specialty rescue team missions.
- (9) Delineation of the roles of the contract response team, local public safety personnel, the Division of Emergency Management's area coordinator, and other State agency personnel participating in a search and rescue team or specialty rescue team mission.
- (10) Procedures for the Division of Emergency Management to audit the contract response teams to ensure compliance with State and federal guidelines.

(b) Within available appropriations, the Division of Emergency Management shall spend the necessary funds for training, equipment, and other items necessary to support the operations of contract response teams. The Division of Emergency Management may also administer any grants of other funds made available for contract response teams, in accordance with applicable rules and regulations approved by the Director of the State Budget.

(c) In developing the North Carolina Search and Rescue Program and adopting the rules required by this section, the Secretary shall consult with the North Carolina Search and Rescue Team Advisory Committee established pursuant to G.S. 166A-69. (2014-27, s. 4; 2017-57, s. 16E.2; 2017-170, s. 1.)

**§ 166A-67. Contracts; equipment loans.**

(a) The Secretary may contract with any unit or units of local government for the provision of a contract response team to implement the North Carolina Search and Rescue Program. Contracts are to be let consistent with the bidding and contract standards and procedures adopted pursuant to G.S. 166A-66(a)(7) and G.S. 166A-66(a)(8). In entering into contracts with units of local government, the Secretary may agree to provide any of the following:

- (1) A loan of equipment.

- (2) Reimbursement of personnel costs, including the cost of callback personnel, when a contract response team is authorized by the Department to respond to search and rescue team and specialty rescue team missions.
- (3) Reimbursement for use of equipment and vehicles owned by the contract response team.
- (4) Replacement of disposable materials and damaged equipment.
- (5) Training expenses.
- (6) Anything else agreed to by the Secretary and the contract response team.
- (b) The Secretary shall not agree to provide reimbursement for standby time.
- (c) Any contract entered into between the Secretary and a unit of local government for the provision of a contract response team shall specify that the members of the contract response team, when performing under the contract, shall not be employees of the State and shall not be entitled to benefits under the Teachers' and State Employees' Retirement System or for the payment by the State of federal Social Security, employment insurance, or workers' compensation.
- (d) Contract response teams that have the use of a State vehicle may use the vehicle for local purposes. Where a State vehicle is used for purposes other than authorized contract response to a search and rescue team and specialty rescue team mission, the contract response team shall be liable for repairs or replacements directly attributable to that use. (2014-27, s. 4; 2017-57, s. 16E.2; 2017-170, s. 1.)

**§ 166A-68. Immunity of contract response team personnel.**

Members of a contract response team shall be protected from liability under the provisions of G.S. 166A-19.60(a) while on a search and rescue team or specialty rescue team mission pursuant to authorization from the Division of Emergency Management. (2014-27, s. 4; 2017-57, s. 16E.2; 2017-170, s. 1.)

**§ 166A-69. North Carolina Search and Rescue Team Advisory Committee.**

(a) The North Carolina Search and Rescue Team Advisory Committee is created. The Secretary shall appoint the members of the Committee and shall designate the Director or Deputy Director of the North Carolina Division of Emergency Management as the chair. In making appointments, the Secretary shall take into consideration the expertise of the appointees in the management of search and rescue or specialty response team missions. The Secretary shall appoint one representative from each of the following:

- (1) The Division of North Carolina Emergency Management, who shall be the Director or Deputy Director of the North Carolina Division of Emergency Management and who shall serve as the chair.
- (2) Each state regional contract response team's Chief or Deputy Chief.
- (3) The North Carolina Office of State Fire Marshal.
- (4) The North Carolina Highway Patrol.
- (5) The North Carolina National Guard.
- (6) The North Carolina Association of Rescue and E.M.S., Inc.
- (7) The North Carolina Association of Fire Chiefs.
- (8) The North Carolina State Firefighters' Association.
- (9) The North Carolina Emergency Management Association.
- (b) The Advisory Committee shall meet on the call of the chair, or at the request of the Secretary, provided that the Committee shall meet no less than once every year. The Department



of Public Safety shall provide space for the Advisory Committee to meet. The Department shall also provide the Advisory Committee with necessary support staff and supplies to enable the Committee to carry out its duties in an effective manner.

(c) Members of the Advisory Committee shall serve without pay, but shall receive travel allowance, lodging, subsistence, and per diem as provided by G.S. 138-5.

(d) The Contract Response Team Advisory Committee shall advise the Secretary on the establishment of the North Carolina Search and Rescue Program. The Committee shall also evaluate and advise the Secretary of the need for additional contract response teams to serve the State. (2014-27, s. 4; 2016-51, s. 6; 2017-57, s. 16E.2; 2017-170, s. 1.)