A BILL TO BE ENTITLED
AN ACT TO CLARIFY THE EXPIRATION OF A STATE OF EMERGENCY AND THE
EXERCISE OF CERTAIN POWERS UNDER A STATE OF EMERGENCY AND TO
CLARIFY THE ABATEMENT OF STATEWIDE IMMINENT HAZARDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-19.3 is amended by adding two new subdivisions to read:
"(2d) Concurrence of the Council of State. – The Governor making contact with
each member of the Council of State and seeking the concurrence or
nonconcurrence of that member with the respect to exercise of a stated
authority under this Article. The Governor shall document the contact and
response of each member and shall release the concurrence, nonconcurrence,
or no response provided by each member by name and position prior to, or
simultaneously with, exercising the stated authority under this Article.

... Statewide emergency area. – Any emergency area applicable to two-thirds or
more of the counties in this State."

SECTION 2. G.S. 166A-19.20 reads as rewritten:
"§ 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 as follows:
(1) If the emergency area is not statewide, when it is rescinded by the authority
that issued it.
(2) If the emergency area is a statewide emergency area, upon the earlier of the
following:
a. The date it is rescinded by the authority that issued it.
b. Thirty days after the declaration pursuant to this section.
(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.
Extension of Statewide State of Emergency. – If a state of emergency exists beyond 130 days after the declaration of a state emergency pursuant to this section and it is applicable to a statewide emergency area, the declaration may be extended beyond 30 days only upon a concurrence of the Council of State."

SECTION 3. G.S. 166A-19.30(c) reads as rewritten:

"(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, with the concurrence of the Council of State, 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."
operator, or any other person against whose property the lien has been filed may defeat the lien
by showing that that person was not culpable in the creation of the imminent hazard.

(b) The Secretary of Environmental Quality and a local health director shall have the
same rights enumerated in subsection (a) of this section to enforce the provisions of Articles 9
and 10 of this Chapter.

(c) The Secretary shall have the authority to determine that a class or category of property
uses presents an imminent hazard. The Secretary may order owners, operators, or other persons
in control of that type of class or category of property uses to abate the imminent hazard if the
Secretary has notified the Governor and the Governor has the concurrence of the Council of State.
No action may be taken to close of category or class of properties without a concurrence of the
Council of State. The Secretary may, after notice to or reasonable attempt to notify the owners,
operators, or other persons in control of a specific property not complying with the order of
abatement, enter upon the property and take any action necessary to abate the imminent hazard.

(d) The Secretary of Environmental Quality shall have the same rights enumerated in
subsection (c) of this section to enforce the provisions of Articles 9 and 10 of this Chapter.

(e) For purposes of this section, the following definitions shall apply:
(1) "Concurrence of the Council of State." – As defined in G.S. 166A-19.3(2d).
(2) "Statewide." – Two-thirds or more of the counties in this State."

SECTION 5. This act is effective when it becomes law and applies to the exercise
of power under a state of emergency or declaration of emergency existing on or after that date or
any order of abatement issued on or after that date. Any power exercised under a state of
emergency or declaration of emergency existing on that date that would require a concurrence of
the Council of State under G.S. 166A-19.20 or G.S. 166A-19.30, as amended by this act, shall
expire two days after this act becomes law unless a concurrence of the Council of State is sought
and received in accordance with G.S. 166A-19.20 or G.S. 166A-19.30, as amended by this act.