

## Chapter 166A.

### North Carolina Emergency Management Act.

#### Article 1.

North Carolina Emergency Management Act of 1977.

#### § 166A-1. Short title.

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

#### § 166A-2. 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 disasters or hostile military or paramilitary action and to:

- (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; and
- (4) Provide for cooperation and coordination of activities relating to emergency and disaster 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.)

#### § 166A-3. Limitations.

Nothing in this Article shall be construed to:

- (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; or
- (2) Limit, modify or abridge the authority of the Governor to proclaim martial law or exercise any other powers vested in him under the 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.)

#### **§ 166A-4. Definitions.**

The following definitions apply in this Article:

- (1) Account. – The State Emergency Response Account established in G.S. 166A-6.02.
- (1a) Disaster. – 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 or paramilitary cause.
- (2) Disaster Area. – The geographical area covered by a proclamation made by the Governor pursuant to G.S. 166A-6(a1).
- (3) 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.
- (4) Emergency Management. – Those measures taken by the populace and governments at federal, State, and local levels to minimize the adverse effect of any type disaster, which includes the never-ending preparedness cycle of prevention, mitigation, warning, movement, shelter, emergency assistance, and recovery.
- (5) Emergency Management Agency. – A State or local governmental agency charged with coordination of all emergency management activities for its jurisdiction.
- (6) Political Subdivision. – Counties and incorporated cities, towns and villages.
- (7) Preliminary Damage Assessment. – The (initial estimate prepared) process used by State, local, or federal emergency management workers to determine the severity and magnitude of damage caused by a disaster event.
- (8) Private Nonprofit Utilities. – A utility that would be eligible for federal public assistance disaster funds pursuant to 44 C.F.R. Part 206.
- (9) 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.
- (10) State Acquisition and Relocation Fund. – State funding for supplemental grants to homeowners participating in a 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 Hazard Mitigation Grant Program Acquisition and Relocation Program and the cost of a comparable home located outside the 100-year floodplain. (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).)

#### **§ 166A-5. State emergency management.**

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

(1) Governor. – The Governor shall have general direction and control of the State emergency management program and shall be responsible for carrying out the provisions of this Article.

a. The Governor is authorized and empowered:

1. To make, amend or rescind the necessary orders, rules and regulations within the limits of the authority conferred upon him herein, with due consideration of the policies of the federal government.
2. To delegate any authority vested in him under this Article and to provide for the subdelegation of any such authority.
3. 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.
4. To enter into agreements with the American National Red Cross, Salvation Army, Mennonite Disaster Service and other disaster relief organizations.
5. To make, amend, or rescind mutual aid agreements in accordance with G.S. 166A-10.
6. 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 disaster, imminent threat of disaster or emergency management planning and training purposes.
7. 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.
8. To sell, lend, lease, give, transfer or deliver materials or perform services for disaster 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.
9. To use contingency and emergency funds as necessary and appropriate to provide relief and assistance from the

effects of a disaster, and to reallocate such other funds as may reasonably be available within the appropriations of the various departments when the severity and magnitude of such disaster so requires and the contingency and emergency funds are insufficient or inappropriate.

- b. In the threat of or event of a disaster, or when requested by the governing body of any political subdivision in the State, the Governor may assume operational control over all or any part of the emergency management functions within this State.
- (2) Secretary of Crime Control and Public Safety. – The Secretary of Crime Control and Public Safety 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:
- a. 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.
  - b. To adopt the rules to implement this Article.
  - c. To develop a system of damage assessment through 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.
  - d. Additional authority, duties, and responsibilities as may be prescribed by the Governor. The Secretary may subdelegate his authority to the appropriate member of his department.
- (3) Functions of State Emergency Management. – The functions of the State emergency management program include:
- a. Coordination of the activities of all agencies for emergency management within the State, including planning, organizing, staffing, equipping, training, testing, and the activation of emergency management programs.
  - b. Preparation and maintenance of State plans for man-made or natural disasters. The State plans or any parts thereof may be incorporated into department regulations and into executive orders of the Governor.
  - b1. 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:

1. The epidemiologic investigation of a known or suspected threat caused by nuclear, biological, or chemical agents.
  2. The examination and testing of persons and animals that may have been exposed to a nuclear, biological, or chemical agent.
  3. The procurement and allocation of immunizing agents and prophylactic antibiotics.
  4. The allocation of the National Pharmaceutical Stockpile.
  5. The appropriate conditions for quarantine and isolation in order to prevent further transmission of disease.
  6. Immunization procedures.
  7. The issuance of guidelines for prophylaxis and treatment of exposed and affected persons.
- c. Promulgation of standards and requirements for local plans and programs, determination of eligibility for State financial assistance provided for in G.S. 166A-7 and provision of technical assistance to local governments.
  - d. Development and presentation of training programs and public information programs to insure the furnishing of adequately trained personnel and an informed public in time of need.
  - e. 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.
  - f. Coordination of the use of any private facilities, services, and property.
  - g. Preparation for issuance by the Governor of executive orders, proclamations, and regulations as necessary or appropriate.
  - h. Cooperation and maintenance of liaison with the other states, federal government and any public or private agency or entity in achieving any purpose of this Article and in implementing programs for emergency, disaster or war prevention, preparation, response, and recovery.
  - i. 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 a disaster.
  - j. 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. (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.)

**§ 166A-6. State of disaster.**

(a) The existence of a state of disaster may be proclaimed by the Governor, or by a resolution of the General Assembly if either of these finds that a disaster threatens or exists. **What is the state of disaster? No more people have died than usual.**

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

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

- a. A local state of emergency has been declared pursuant to G.S. 166A-8, 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-6.01(b)(2)a.; and
- c. A major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared.

A Type I disaster declaration may be made 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. A Type I disaster declaration shall expire 30 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) 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. A Type II disaster declaration shall expire six months after its issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of three months each, not to exceed a total of 12 months 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 II disaster declaration.

(3) 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:

- 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; or
- 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 or political subdivisions affected by the disaster.

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

(a2) Any state of disaster declared before July 1, 2001, shall terminate by a proclamation of the Governor or resolution of the General Assembly. A proclamation 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 of Crime Control and Public Safety, the Secretary of State and the clerks of superior court in the area to which it applies.

(b) In addition to any other powers conferred upon the Governor by law, during a state of disaster, 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.

(c) In addition, during a state of disaster, 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 a disaster 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) Repealed by Session Laws 2001-214, s. 3, effective July 1, 2001.
- (6) 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;
- (7) 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:
    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;  
or
    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 he acts;
    2. Upon the return of the officer in whose stead he 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 his qualification.

- (8) 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.

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

### **§ 166A-6.01. State disaster assistance funds; programs.**

(a) If a state of disaster is proclaimed, the Governor may make State funds available for disaster assistance as authorized by this section. Any State funds made available by the Governor for disaster assistance may be administered through State disaster assistance programs which may be established by the Governor upon the proclamation of a state of disaster. It is the intent of the General Assembly in authorizing the Governor to make State funds available for disaster assistance and in authorizing the Governor to establish State disaster assistance programs to provide State assistance for recovery from those disasters 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 disaster area.

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

- (1) Individual assistance. – State disaster 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 disaster.

- 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 disaster assistance in the form of public assistance grants may be made available to eligible entities located within the disaster 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 disaster proclaimed pursuant to G.S. 166A-6(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; and
    - 4. For a state of disaster proclaimed pursuant to G.S. 166A-6(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) If a Type II disaster is proclaimed, the Governor may make State funds available for disaster assistance in the disaster 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 the 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) If a Type III disaster is proclaimed, the Governor may make State funds available for disaster assistance in the disaster 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 the 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).)

**§ 166A-6.02. State Emergency Response Account.**

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

(b) Purpose of Funds. – The Governor may spend funds from the Account 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 as defined by G.S. 166A-6.
- (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.

All other types of disaster assistance authorized by G.S. 166A-6 shall continue to be financed by the funds made available under G.S. 166A-6.01.

(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 Account 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).)

**§ 166A-6.1. 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 Crime Control and 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 Crime Control and Public Safety, for the use of the Division of Environmental Health of the Department of Environment and Natural Resources, 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.)

#### **§ 166A-7. County and municipal emergency management.**

(a) The governing body of each county is responsible for emergency management, as defined in G.S. 166A-4, 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.

- (1) 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-2.
- (2) The governing body of each county which establishes an emergency management agency pursuant to this authorization will 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.
- (3) In the event any county fails to establish an emergency management agency, and the Governor, in his 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 said county.

(b) All incorporated municipalities are authorized to establish and maintain emergency management agencies subject to coordination by the county. Joint agencies composed of a county and one or more municipalities within its borders may be formed.

(c) 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, whose use is not otherwise restricted by law.

(d) In carrying out the provisions of this Article each political subdivision is authorized:

- (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 State;
- (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; and
- (4) To delegate powers in a local state of emergency under G.S. 166A-8 to an appropriate official.

(e) 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 financial assistance. Such financial assistance for the maintenance and operation of a county emergency management program will not exceed one thousand dollars (\$1,000) for any fiscal year and is subject to an appropriation being made for this purpose. Eligibility of each county will be determined annually by the State. (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.)

#### **§ 166A-8. Local emergency authorizations.**

Procedures governing the declaration of a local state of emergency:

- (1) A local state of emergency may be declared for any disaster, as defined in G.S. 166A-4 under the provisions of Article 36A of G.S. Chapter 14.
- (2) Such a declaration shall activate the local ordinances authorized in G.S. 14-288.12 through 14-288.14 and any and all applicable local plans, mutual assistance compacts and agreements and shall also authorize the furnishing of assistance thereunder.
- (3) The timing, publication, amendment and rescission of local "state of emergency" declarations shall be in accordance with the local ordinance. (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.)

#### **§ 166A-9. 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 the purposes of emergency management, 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.)

#### **§ 166A-10. Establishment of mutual aid agreements.**

(a) 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) 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.

(c) 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.

(d) 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.)

#### **§ 166A-11. Compensation.**

(a) 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) Compensation for property shall be only if the property was commandeered, seized, taken, condemned, or otherwise used in coping with a disaster 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, he 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, he shall be paid seventy-five per centum (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.)

**§ 166A-12. 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.)

**§ 166A-13. Emergency management personnel.**

(a) No person shall be employed or associated in any capacity in any emergency management agency established under this Article if that person:

- (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; or
- (5) Has ever been a member of the Communist Party.

Each person who is appointed to serve in any emergency management agency shall, before entering upon his 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."

(b) No position created by or pursuant to this Article shall be deemed an office within the meaning of Article 6, Section 9 of the Constitution of North Carolina. (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.)

#### **§ 166A-14. Immunity and exemption.**

(a) All functions hereunder and all other activities relating to emergency management 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 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) 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.

(c) 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 disaster.

(d) 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.

(e) 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.)

#### **§ 166A-15. No private liability.**

Any person, firm or corporation 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 sheltering, protecting, safeguarding or aiding in any way persons shall, together with his successors in interest, if any, 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. (1957, c. 950, s. 3; 1977, c. 848, s. 2.)

#### **§ 166A-15.1. Civil liability of persons who willfully ignore a warning in a disaster.**

(a) In a disaster as defined by G.S. 166A-4, 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:

- (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; and
- (3) A governmental rescue effort is undertaken on the endangered person's behalf. (1997-232, s. 1.)

#### **§ 166A-16. 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.)

#### **§ 166A-17. Leave options for voluntary firefighters, rescue squad workers, and emergency medical service personnel called into service.**

(a) A member of a volunteer fire department, rescue squad, or emergency medical services agency called into service of the State after a proclamation of a state of disaster by the Governor or by the General Assembly, or upon the activation of the State Emergency Response Team in response to a disaster or 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) 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 of Emergency Management 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 of Emergency Management, or to the head of a local Emergency Management Agency, as essential to the employer's own on-going emergency or disaster relief activities.

(c) For purposes of this section, a disaster or emergency requiring the activation of the State Emergency Response Team means a disaster or 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) The Commissioner of Labor shall enforce the provisions of this section pursuant to Chapter 95 of the General Statutes. (2003-103, s. 1.)

**§ 166A-18. Division of Forest Resources designated as emergency response agency.**

The Division of Forest Resources of the Department of Environment and Natural Resources is designated an emergency response agency of the State of North Carolina for purposes of:

- (1) Supporting the Division of Emergency Management of the Department of Crime Control and Public Safety in responding to all-risk incidents.
- (2) Receipt of any applicable State or federal funding.
- (3) Training of other State and local agencies in disaster and emergency management.
- (4) Any other disaster and emergency response roles for which the Division has special training or qualifications. (2005-128, s. 1.)

**§ 166A-19. Reserved for future codification purposes.**

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.**

As used in this Article:

- (1) "Hazardous materials emergency response team" or "hazmat team" means an organized group of persons specially trained and equipped to respond to and control actual or potential leaks or spills of hazardous materials.
- (2) "Hazardous material" means any material defined as a hazardous substance under 29 Code of Federal Regulations § 1910.120(a)(3).
- (3) "Hazardous materials incident" or "hazardous materials emergency" means 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.
- (4) "Regional response team" means 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 Crime Control and Public Safety, Division of Emergency Management.
- (5) "Secretary" means the Secretary of the Department of Crime Control and Public Safety.
- (6) "Technician-level entry capability" means 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.
- (7) "Terrorist incident" means 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).)

**§ 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 six 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).)

### **§ 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-14(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).)

**§ 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 Environment and Natural Resources;
- (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 Firemen's 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 Crime Control and 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).)

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

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. (1993 (Reg. Sess., 1994), c. 769, s. 22.4(b).)

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

There is established in the Department of Crime Control and 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).)

**§ 166A-29. Reserved for future codification purposes.**

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 through 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.)

**§ 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.)

**§ 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.)