

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is a darker shade of blue. The hourglass is centered on the page.

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*South Carolina Emergency Management and Homeland  
Security Statutory Authorities Summarized*

Keith Bea, Government and Finance Division

June 18, 2004

**Abstract.** This report is one of a series that profiles the emergency management and homeland security statutory authorities of the 50 states, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, American Samoa, Guam, and the U.S. Virgin Islands. Each profile identifies the more significant elements of state statutes, generally as codified.

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## **South Carolina Emergency Management and Homeland Security Statutory Authorities Summarized**

**June 18, 2004**

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# South Carolina Emergency Management and Homeland Security Statutory Authorities Summarized

## Summary

South Carolina's primary emergency management statute, Title 25 of the South Carolina Code, sets out the roles of the governor and the state Emergency Management Agency. The statute also creates a public health emergency plan committee and provides for the negotiation of mutual aid agreements. State emergency management activities are funded by federal allocations, state matching grants, and a state disaster trust fund. The Emergency Interim Legislative Succession Act provides for the succession of powers in emergencies. Other provisions allow the state and local seats of government to be relocated in an emergency. The Homeland Security Act of 2002 modified many portions of state statutes concerning emergency management, emergency health powers, and freedom of information.

This report is one of a series that profiles emergency management and homeland security statutory authorities of the 50 states, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, American Samoa, Guam, and the U.S. Virgin Islands. Each profile identifies the more significant elements of state statutes, generally as codified. Congressional readers may wish to conduct further searches for related provisions using the Internet link presented in the last section of this report. The National Conference of State Legislatures provided primary research assistance in the development of these profiles under contract to the Congressional Research Service (CRS). Summary information on all of the profiles is presented in CRS Report RL32287. This report will be updated as developments warrant.

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# South Carolina Emergency Management and Homeland Security Statutory Authorities Summarized

## Entities with Key Responsibilities

*Governor:* The governor is authorized to issue emergency proclamations and regulations (which remain in force through the duration of an emergency) and to amend or rescind them. The governor may also: suspend provisions of existing regulations if compliance would prevent, hinder, or delay necessary action; use all available state resources; transfer authority for the direction, personnel, or functions of state departments or agencies; compel performance by elected and appointed state and local officials and employees; compel the evacuation of population; and control ingress and egress to an emergency area (S.C. Code Ann. §25-1-440 (a)(1),(3-7)).

*Emergency Management Division:* The Emergency Management Division (EMD) is established within the Office of the Adjutant General. The Adjutant General appoints the director of EMD, who is responsible for: coordinating all state, county, and municipal efforts in developing state emergency plans; conducting a statewide preparedness program; establishing and maintaining the state emergency operations center; and establishing a system for reporting, analyzing, displaying, and disseminating emergency information (S.C. Code Ann. §25-1-420).

*State Forester and Forestry Commission:* The statute outlines the duties of state officials with respect to forest disasters and requires the development of a forest disaster plan (S.C. Code Ann. §48-23-86).

*County and municipal governments:* Units of local government must develop and implement a shelter and relocation plan to help citizens respond to a nuclear emergency and to provide for the housing and care of persons displaced or rendered homeless due to a natural or man-made emergency (S.C. Code Ann. §25-1-450(2)).

## Preparedness

The office of the state Chief Information Officer develops a critical infrastructure protection plan to provide for confidentiality, integrity, and availability of critical data and information systems, and to allow for alternative and immediate on-line access to such systems in the event a major disaster occurs, whether natural or otherwise (S.C. Code Ann. §1-11-435).

Special purpose districts are authorized to establish public safety departments to safeguard and protect facilities (such as water treatment plants, water storage tanks, wastewater treatment plants, pumping stations, and natural gas storage facilities) from attack by terrorists or others seeking to disrupt their proper operation (S.C. Code Ann. §6-11-340).

See also “Entities with Key Responsibilities”

## Declaration Procedures

The governor is authorized to declare a state of emergency for all or any part of the state due to the occurrence of a disaster or the threat of an imminent disaster, as well as for a public health emergency. The declaration remains in force for a maximum of 15 days; after that period the consent of the General Assembly is required to continue the state of emergency (S.C. Code Ann. §25-1-440(a) (2)).

The governor may declare a state of emergency due to unlawful assemblage, violence or threats of violence, or a public health emergency. The declaration remains in full force until it is revoked by the governor (S.C. Code Ann. §1-3-420).

The governor is authorized to appoint a Public Health Emergency Plan Committee consisting of members who are skilled in public health emergency preparedness and infectious diseases, who serve as a member of the judiciary, and others with relevant expertise. The governor consults with the committee prior to declaring a public health emergency. The statute authorizes the deployment and use of any resources and personnel, first responders, as well as the use or distribution of necessary supplies, equipment, material, and facilities (S.C. Code Ann. §25-1-440(d)(e)).

## Types of Assistance

State and local law enforcement authorities with police jurisdiction shall be notified when any fire authority orders an evacuation of a local area. The state or local emergency preparedness director shall be notified of the evacuation, and the fire authority must yield control of the evacuated area upon the arrival of law enforcement assistance (S.C. Code Ann. §6-11-1440).

The Department of Revenue may extend the deadline for filing tax returns, paying and collecting taxes, and conducting audits. The department may also waive interest and penalties due for damages caused by war, terrorist acts, or natural disasters (S.C. Code Ann. §12-4-320).

The governor is authorized to make financial grants to meet disaster related needs of individuals or families. The statute limits the amount of each grant to \$10,000 (S.C. Code Ann. §25-1-440 (a)(8)(iii)).

## Mutual Aid

The *Interstate Civil Defense Disaster Compact* authorizes the governor to enter into an interstate emergency or disaster compact (S.C. Code Ann., Title 25, Chapter 9, Article 1).

The *Southern Regional Emergency Management Compact* (the original version of what became the Emergency Management Assistance Compact, or EMAC) is codified (S.C. Code Ann., Title 25, Chapter 9, Article 5).

The state government, as well as county and municipal governments, cooperate in developing and maintaining a plan for mutual assistance in emergencies. The state develops a plan and procedures to ensure the maximum use of all state resources during emergencies resulting from enemy attack, natural, or man-made emergencies. The state is also required to: provide state forces and resources to support local governmental emergency operations; coordinate support with the federal government and unaffected counties; and implement mutual assistance agreements with adjoining states. The state government may assume the direction and control of area or local government emergency operations when requested or necessary (S.C. Code Ann. §25-1-450(1)).

Any municipality, fire district, fire protection agency, or other emergency service entity may provide mutual aid assistance to other political subdivisions for fire, earthquake, hurricane, flood, tornado, hazardous material events, or other disasters. The Incident Command System must be used and agency personnel must be properly trained and equipped (S.C. Code Ann. §6-11-1810 to 1840).

The *Southeastern Interstate Forest Fire Protection Compact* authorizes the governor to execute a compact with Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, Virginia and West Virginia to promote the effective prevention and control of forest fires in the southeastern region of the United States (S.C. Code Ann. §48-37-10 to 60).

## Funding

Tax revenues may be used for the operation and maintenance of police, fire protection, emergency medical services, and emergency preparedness operations in a county that collects at least \$900,000 in accommodations taxes annually (S.C. Code Ann. §6-1-530(B)).

Hospitality tax revenues may be used for the operation and maintenance of police, fire protection, emergency medical services, and emergency-preparedness operations in a county that collects at least \$900,000 in accommodations taxes (S.C. Code Ann. §6-1-730).

The statute establishes a continuing account for matching federal disaster assistance funds when required by a federal agency. The account is established and maintained with annual appropriations. The treasurer holds the funds in a separate account, which retains all interest and other income on the funds. The funds may be disbursed only by authorization of the governor. In a presidentially declared disaster, the governor has

recourse to funds deposited by the General Assembly into the disaster trust fund. If the governor finds that insufficient funds exist to meet immediate disaster needs, and if the General Assembly is not in session, the governor may request monies appropriated for other purposes be transferred into the fund, but not to exceed \$5 million in any fiscal year (S.C. Code Ann. §11-5-230).

During a presidentially declared disaster, the governor is authorized to accept federal funds for individual or family expenses or for serious needs that cannot be met by other means of assistance. The governor may pledge state participation with the federal government in funding financial assistance (S.C. Code Ann. §25-1-440 (a)(8)(i-ii)).

When the General Assembly is not in session and emergency funds are required, the state Budget and Control Board may authorize loans (not to exceed \$1.5 million) to be provided from the reserve fund to any single county or municipality for emergency and recovery operations. Monies drawn on warrants of the board are repayable by the borrowing county or municipality, and must be secured by the full faith and credit of the unit of local government. Loans are to be made only when damage or destruction results from a declared disaster, or for unbudgeted expenditures or emergency expenditures that would be otherwise unreimbursed by the federal government (S.C. Code Ann. §25-1-460).

The statute requires that the initial capitalization of a trust fund include an emergency reserve fund to be used to rebuild beach and dune systems in qualifying public beach areas damaged by storm events (S.C. Code Ann. §48-40-60).

Some of the proceeds obtained from the sale of “God Bless America” license plates are to be used by the state national guard for homeland security expenses (S.C. Code Ann. §56-3-9500).

## **Hazard Mitigation**

The governor is responsible for the development and coordination of a system of comprehensive emergency management that must include provisions for mitigation and other activities (S.C. Code Ann. §25-1-440 (b)).

## **Continuity of Government Operations**

The Emergency Interim Legislative Succession Act provides for emergency interim succession to the General Assembly and authorizes officers to designate three to seven emergency interim successors and specify their order of succession. The presiding officer of the chamber may designate emergency interim successors when necessary. Emergency interim successors must keep generally informed as to the duties, procedures, practices and current business of the General Assembly (S.C. Code Ann. §2-5-30 to §2-5-80).

In the event of an attack, or when an attack may be imminent, the governor may change the place of session for the General Assembly to any place deemed safer and convenient within or without the state (S.C. Code Ann. § 2-5-90). If an attack occurs, the governor is to call the General Assembly into session within 90 days. If the governor fails to issue a call, the General Assembly automatically convenes and suspends limitations on the length of session and on the subjects that may be acted upon (S.C. Code Ann. § 2-5-



100). In addition, quorum requirements will be suspended and proportional voting requirements will be amended (S.C. Code Ann. § 2-5-130). Such special provisions expire two years following the inception of an attack; however, the governor, by proclamation, or the General Assembly, by concurrent resolution, may extend or restore authority or the operation of any provisions when necessary, for up to one year (S.C. Code Ann. § 2-5-140).

When, due to an enemy attack or an anticipated attack, it becomes imprudent or impossible to conduct local government at its regular location, the governing body of any unit of local government may establish an emergency temporary location, which may be within or without the state (S.C. Code Ann. § 6-3-10 to 30).

The governor is to reside in the capital city except in case of epidemics, natural disaster, or the emergencies of war. When the General Assembly is in session, the governor is to reside where its sessions are held (S.C. Constitution Article IV, § 20).

The General Assembly is to provide for prompt and temporary succession to the powers and duties of public offices, whether filled by election or appointment, and to adopt other measures necessary for insuring the continuity of governmental operations in the event of an enemy attack (Constitution Article XVII, § 12).

## Other

State employees who are certified in disaster relief service may be granted paid leave of not more than 10 work days in each calendar year to participate in disaster relief services for the American Red Cross (S.C. Code Ann. § 8-11-180).

The statute grants immunity from civil liability to persons who voluntarily and without compensation permit their property to be used as a public shelter for civil defense purposes (S.C. Code Ann. § 25-9-120).

If the release of information could increase the risk of acts of terrorism, the statute exempts from disclosure requirements information concerning: safeguards and off-site consequence analyses; regulation of access; and the vulnerable zone of a facility possessing hazardous, toxic, flammable, radioactive, or infectious materials. The director of each agency holding such information may provide notification on the holdings to the Attorney General and must issue regulations concerning access to the information (S.C. Code Ann. § 30-4-45).

In order to facilitate the early detection of a public health emergency (including those caused by chemical terrorism, radiological terrorism, bioterrorism, and epidemics), the Emergency Health Powers Act authorizes the collection of data and records, the control of property, the management of persons, and access to communications and allow for immediate investigation. The statute grants state officials authority to use and appropriate property as necessary for the care, treatment, and housing of patients, and to destroy or decontaminate contaminated material. The statute outlines the powers and duties regarding the safe disposal of human remains during a public health emergency. The Department of Health and Environmental Control may purchase and distribute antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical or medical

supplies to prepare for or control a public health emergency (S.C. Code Ann. §44-4 et seq).

The South Carolina Hazardous Waste Management Act (S.C. Code Ann. §44-56 et seq.) requires that the Hazardous Waste Contingency Fund be established by the Department of Health and Environmental Control to ensure an appropriate response to hazardous waste accidents at landfills, as well as during the transportation of hazardous material (S.C. Code Ann. §44-56-160).

Any person having care of animals must report to the state veterinarian any instance of animal disease caused by chemical, biological, radiological terrorism or other infectious disease agents (S.C. Code Ann. §46-7-100).

Any person responsible for agricultural production must report agricultural diseases caused by chemical, biological, radiological terrorism or other infectious disease agents to the Director for Regulatory and Public Service Programs of Clemson University (S.C. Code Ann. §46-9-120).

The state Freedom of Information Act (FOIA) exempts from release information relating to security plans and devices proposed, adopted, installed, or utilized by a public body, other than the amount of the expenditure (S.C. Code Ann. §30-4-20(c)). The statute also exempts information relating to structural bridge plans or designs (S.C. Code Ann. §30-4-40(a) (17)).

The statute created the First Responders Advisory Committee which is to research, study, analyze, determine, and report to legislative leadership on the needs of first responders, including personnel involved with fire, law enforcement, emergency medical, emergency planning and coordinating, and the 911 system and other emergency communications (S.C. Code Ann. §23-1-230).

The statute specifies prohibited acts (curfew violations, public gatherings of three or more and refusal to disperse) in areas included in a proclamation of a state of emergency. During a declared disaster, a person cannot charge unconscionable prices for any commodity in the area that is the subject of the disaster declaration (S.C. Code Ann. §16-7-10). In addition, price gouging and false solicitation during an emergency are prohibited (S.C. Code Ann. §39-5-145).

## Key Terms

**Table 1. Key Emergency Management and Homeland Security Terms Defined in South Carolina Statutes, with Citations**

<b>Terms</b>	<b>Citations</b>
Attack	S.C. Code Ann.§2-5-20
Bioterrorism	S.C. Code Ann.§44-4-130 (b)
Chemical terrorism	S.C. Code Ann.§44-4-130 (d)
Public health emergency	S.C. Code Ann.§44-4-130 (p)
Radiological terrorism	S.C. Code Ann.§44-4-130 (t)
Emergency Preparedness	S.C. Code Ann.§25-1-430
Emergency	S.C. Code Ann.§25-1-430
South Carolina Emergency Management (Civil Defense) Organization	S.C. Code Ann.§25-1-430

## For Further Research

The citations noted above and other elements of the state code for South Carolina may be searched at: [<http://www.scstatehouse.net/code/statmast.htm>].