

CRS Report for Congress

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Florida Emergency Management and Homeland Security Statutory Authorities Summarized

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Summary

The *State Emergency Management Act* sets out emergency powers and provides for mutual aid agreements. Seven entities are vested with specific statutory responsibilities in relation to emergency management. One notable agency is the Florida Domestic Security and Counter-Terrorism Intelligence Center, the role of which is to gather terrorism related data. The governor may assume full control of emergency management functions in an emergency. State financial assistance for the administration of state and local emergency management activities is derived from an emergency management fund. Continuity of government laws cover elected officials and the judiciary, and are geared toward effectively filling vacant positions, following lines of succession and relocating government during an emergency. Emergency management plans and emergency medical capabilities are exempt from standard public information provisions.

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. 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.

Entities with Key Responsibilities

Governor: The governor is authorized to assume direct operational control over all or part of the emergency management functions in an emergency that is beyond local control. The governor is authorized to: suspend provisions of any regulatory statute that would prevent or hinder emergency management; transfer functions and personnel of state agencies; direct or compel the evacuation of threatened areas; limit or suspend utility services; commandeer or utilize private property; and take other action (Fla. Stat. §252.36).

Division of Emergency Management: The Division of Emergency Management (DEM) was created by statute and must prepare and maintain a state comprehensive emergency management plan that includes evacuation, shelter, response and recovery components (Fla. Stat. §252.35(a)). DEM must provide, within or without the state, necessary support from available personnel, equipment, and other resources to reinforce emergency management agencies in areas stricken by emergency (Fla. Stat. §252.41).

State agencies: Each agency head must identify an “emergency coordination officer” for the agency responsible for planning and response activities with DEM (Fla. Stat. §252.365).

Office of Financial Regulation: The director is authorized to make temporary modifications to, or suspensions of, the financial institutions codes to expedite the recovery of communities affected by a disaster or other emergency. An order issued by the Comptroller continues for 120 days unless terminated, and may be extended one additional period of 120 days (Fla. Stat. §252.62).

Department of Law Enforcement/Chief of Domestic Security Initiatives: The executive director of the Department of Law Enforcement, or the designee, serves as chief of domestic security initiatives and coordinates the ongoing assessment of the state’s vulnerability to, and ability to detect and respond to, acts of terrorism. The chief prepares recommendations for the governor and legislative leadership, and may use regional task forces and public or private resources to support these activities (Fla. Stat. §943.0311). Also, the legislature requires coordination of counter-terrorism efforts by and through the Department of Law Enforcement, working closely with the Division of Emergency Management (Fla. Stat. §943.03101).

Florida Domestic Security and Counter-Terrorism Intelligence Center: The Center gathers documents and analyzes active criminal intelligence and criminal investigative information related to terrorism (Fla. Stat. §943.0321).

Political Subdivisions: The statute gives specified emergency management powers to political subdivisions, including the maintenance of emergency management agencies, with functions and leadership qualifications specified (Fla. Stat. §252.38) and the issuance of emergency management rules (Fla. Stat. §252.46).

State Hazardous Materials Emergency Response Commission: The statute established the Emergency Response Commission charged with implementing provisions of the federal Emergency Planning and Community Right-to-Know Act (Fla. Stat. §252.81 to 90).

Preparedness

See “Entities with Key Responsibilities”—*Division of Emergency Management*

Declaration Procedures

The governor is authorized to declare a state of emergency by executive order or proclamation, which may not continue for longer than 60 days, unless renewed. The legislature may terminate the state of emergency at any time. The declaration must identify whether the emergency is to be classified as a “minor, major or catastrophic disaster” (Fla. Stat. §252.36(b)(2), (3)(c)).

Types of Assistance

The executive order or proclamation declaring a state of emergency activates the response, recovery, and mitigation aspects of the state and local emergency management plans (Fla. Stat. §252.36(b)(3)). If a major or catastrophic disaster is declared, licensed health care practitioners from other states may assist in providing such care in the disaster area (Fla. Stat. §252.36(c)(1)). If a catastrophic disaster is declared, a formal request for mobilization of the military is authorized, with communication required to the President (Fla. Stat. §252.36(c)(2)).

Families “totally without shelter” or that face the loss of shelter due to household disasters such as fire, flood, earthquake, or other accident, are eligible for one month’s payment (rent, mortgage, or emergency housing cost) in any 12-month period (Fla. Stat. §414.16).

Mutual Aid

The statute authorizes governing bodies of political subdivisions to develop and enter into mutual aid agreements within the state for reciprocal emergency aid and assistance. The governor may enter into a compact with any state (Fla. Stat. §252.40).

The *Emergency Management Assistance Compact* is codified (Fla. Stat. §252.921-252.933).

Florida Mutual Aid Act: The statute provides for voluntary or requested mutual aid agreements between two or more law enforcement agencies or a law enforcement agency and school board or state university that employs school or university police officers. The state law enforcement mutual aid plan must prepare for the distribution and allocation of state resources, including the national guard. The statute outlines the duties of the executive director of the Department of Law Enforcement regarding the mutual aid plan, and extends the same powers, duties, rights, privileges, and immunities to agency employees providing aid to those accorded to employees of agency requesting aid (Fla. Stat. §23.12 to 23.127).

The statute creates a mutual aid plan to coordinate national guard efforts to cope with emergencies (Fla. Stat. §250.540 to .549).

Funding

The statute established the Emergency Management, Preparedness, and Assistance Trust Fund, which is funded by an annual surcharge of \$2.00 on residences of every homeowner, mobile homeowner, tenant homeowner, and condominium unit owner, and a \$4.00 surcharge on commercial fire, commercial multiple peril, and business owner property insurance policies. Money in the fund may not be used to supplant existing funding. The rules for the allocation of funds are: 60% to implement and administer state and local emergency management programs (training, specified percentages of which go to counties and local agencies), 20% for state relief assistance for non-federally declared disasters, and 20% for grants and loans to state or regional agencies, local governments, and private organizations to implement projects that will further state and local emergency management objectives (Fla. Stat. §252.371 to .372).

Hazard Mitigation

The governor must, on a continuing basis, consider actions to mitigate the harmful consequences of emergencies relating to severe land shifting, subsidence, flood, or other catastrophic occurrences, whether manmade or natural. State agencies, in conjunction with DEM, are to study land use and building construction practices and recommend changes in zoning regulations, other land use regulations, or building requirements to mitigate the impact of emergencies (Fla. Stat. §252.44).

Continuity of Government Operations

The legislature has the power to provide for prompt and temporary succession to all public offices, and to adopt measures as may be necessary and appropriate to insure the continuity of governmental operations during an emergency (Fla. Const. Art. II, Sec. 6).

Emergency Interim Executive and Judicial Succession Act: The statute enables local governing bodies of cities, towns, villages, townships and counties to enact resolutions or ordinances for filling vacancies and to provide for emergency interim successors to offices. It also authorizes officers of political subdivisions and of school, fire, power and drainage districts to designate emergency interim successors and specify their order of succession. In addition, it authorizes emergency interim successors, the acting governor, and special emergency judges provided for in the act to exercise their duties only after an attack upon the United States. Emergency interim successors or special emergency judges may be removed or replaced by the “designating authority” at any time, with or without cause (Fla. Stat. §22.05 to 09).

When, due to an enemy attack or an anticipated attack, it becomes imprudent or impossible to conduct the affairs of state government at its regular location, the governor may declare an emergency temporary location for the seat of government within or without the state. The emergency temporary location remains the seat of government until the legislature, by law, establishes a new location or until the emergency is terminated by the governor (Fla. Stat. §22.15).

When, due to an enemy attack or an anticipated attack, it becomes imprudent or impossible to conduct the government of a political subdivision at its regular location, the

governing body may establish an emergency temporary location of government, which may be within or without the state. The emergency temporary location remains as the seat of such government until a new seat is established, or until the emergency is terminated (Fla. Stat. §22.20).

Other

Information that identifies or describes the name, location, pharmaceutical cache, contents, capacity, equipment, physical features, or capabilities of individual medical facilities, storage facilities, or laboratories is exempt from public information requirements as part of the state’s plan to defend against an act of terrorism (Fla. Stat. §381.95).

Portions of a comprehensive emergency management plan that address the response of a public or private hospital to an act of terrorism are exempt from public information requirements (Fla. Stat. §395.1056).

State agencies that contract with providers for the care of persons with disabilities or limitations must include emergency and disaster planning provisions in those contracts (Fla. Stat. §252.356).

The state must have sufficient hurricane evacuation space identified by 1998 and thereafter (Fla. Stat. 252.385).

Key Terms

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

Terms	Citations
Attack	Fla. Stat. §22.03(4)
Catastrophic disaster	Fla. Stat. §252.34.1
Disaster	Fla. Stat. §252.34.1
Emergency	Fla. Stat. §252.34.3
Emergency interim successor	Fla. Stat. §22.03(2)
Emergency Management	Fla. Stat. §252.34.4
Family in an emergency situation	Fla. Stat. §414.16
Local emergency management agency	Fla. Stat. §252.34.5
Manmade emergency	Fla. Stat. §252.34.6
Natural emergency	Fla. Stat. §252.34.7

Terms	Citations
Technological emergency	Fla. Stat. §252.34.9
Terrorism	Fla. Stat. §775.30

For Further Research

The citations noted above and other elements of the state code for Florida may be searched at:

[[http://www.flsenate.gov/statutes/index.cfm?Mode=ViewStatutes & Submenu=-1](http://www.flsenate.gov/statutes/index.cfm?Mode=ViewStatutes&Submenu=-1)].