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Puerto Rico Emergency Management and Homeland Security Statutory Authorities Summarized

Keith Bea
Specialist in American National Government
Government and Finance Division
L. Cheryl Runyon and Kae M. Warnock
Consultants
Government and Finance Division

Summary

The Emergency Management Act delegates powers to the emergency management agency for the commonwealth, authorizes hazard mitigation activities, and provides for the establishment of the emergency fund. The Emergency Succession Act provides for lines of succession for all levels of government. Emergency management financial assistance and funding primarily derive from appropriations, federal aid, and certain tax exemptions. Constitutional provisions give the governor certain emergency powers and allow the seat of government to be moved in emergencies.

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.

Entities with Key Responsibilities

Governor: The governor is authorized to call out the militia in response to a serious disturbance of the public peace and may proclaim martial law in case of rebellion, invasion, or imminent danger. The legislative assembly is to meet on its own initiative

to ratify or revoke such a proclamation (Constitution of the Commonwealth of Puerto Rico, Article IV, Section 4).

The governor may acquire, through eminent domain, any real or personal property deemed useful or necessary during a disaster, including land, buildings, vehicles, communications equipment, food, clothing, equipment, medicines and other basic commodities (Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172(o)).

Emergency Management and Disaster Administration (EMDA): The statute created EMDA as part of the Puerto Rico Public Safety and Protection Commission (PSPC) (Laws of Puerto Rico, Title 25, Subtitle 1., Part I., Chap. 9B, § 172b).

Emergency Management Director: The director is appointed by the commissioner of the PSPC, in consultation with the governor (Laws of Puerto Rico, Title 25, Subtitle 1., Part I., Chap. 9B, §172d). The director develops the commonwealth response plan and coordinates related action; prepares the budget; establishes working or reciprocity agreements with other commonwealth jurisdictions; establishes an educational program; executes contracts; and adopts regulations and procedures. The director is to charge fees for seminars, training sessions, conferences, workshops, or courses on emergency and disaster management; establish regional offices throughout the commonwealth; and organize and train groups and individuals for emergency management. The director is to acquire by purchase, real and personal property, equipment, materials, services and supplies and solicit and accept funds and donations from any commonwealth or federal entity or others in or outside of the commonwealth. The director plans for the mitigation of natural as well as technological risks and presides over the Interagency Risk Mitigation Committee. The director acts as mitigation officer for the commonwealth and appoints an alternate mitigation officer and deputy director (Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172e-f). The director determines which agencies are part of the commonwealth response plan and establishes the Emergency Management and Disaster Administration office to develop and implement internal plans (Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172h).

Interagency coordinators: The director is to appoint an interagency coordinator to act as liaison and to coordinate actions and exercise decision-making authority over funds and resources. Coordinators must prepare an updated recovery plan that includes actions, measures and priorities to return the commonwealth to normal conditions as soon as possible, in coordination with the commonwealth response plan (Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172h).

Interagency Natural and Technological Risk Management Committee: See “Hazard Mitigation.”

Municipal emergency management and disaster administration offices: Municipalities are authorized to establish municipal offices responsible for developing and implementing the emergency management and disaster administration plans. Municipal directors are appointed by the mayor and approved by the municipal assembly, and undertake the initial response to emergencies and disasters, as well as mitigation, preparation, and recovery efforts required in the municipality (Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172i).

Safety and Public Protection Commission: The statute establishes the adjutant general as a member of the commission who coordinates the national guard in special operations against crimes and emergencies caused by natural disasters or by man (Laws of Puerto Rico, Title 3, Appendix V § I (2002) §I-II). The statute established the position of commissioner with the duty, among others, to develop plans, programs and services regarding the protection of the citizenry in cases of fire and emergencies caused by natural disasters or by man (Laws of Puerto Rico, Title 3, Appendix V §IV).

Municipal governments: Each municipality must establish programs and adopt measures that provide aid in emergencies or natural disasters (Laws of Puerto Rico, Title 21, Subtitle 6, Chap. 203, §4054(f)).

Mayors: Mayors are authorized to proclaim a state of emergency by executive order and identify measures to be taken in cases of natural disaster, catastrophic accident, and situations which place life, health, safety, peace of mind and welfare of the citizenry in imminent danger or significantly interrupt community services. When the governor of Puerto Rico declares an emergency, the mayor is relieved of the authority invoked in the proclamation (Laws of Puerto Rico, Title 21, Subtitle 6, Chap. 205, §4109(u)).

Interagency Natural and Technological Risk Management Committee: The committee is responsible for preparing and implementing the commonwealth mitigation plan; establishing priorities; assessing the nature of damages caused by an emergency or disaster; and recommending mitigation actions to curtail future damages. Commonwealth agencies are to appoint directors to participate as members of the committee and to coordinate and prepare mitigation plans and activities in their respective agencies (Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172I).

Preparedness

See “Entities with Key Responsibilities,” especially *Emergency Management Director, Interagency coordinators, and Municipal emergency management and disaster administration offices.*

Declaration Procedures

During a presidentially declared disaster, emergency and disaster plans and programs of the commonwealth are to be coordinated with the U.S. Government. The EMDA director serves as the liaison between the commonwealth and the federal government. When the intervention of the EMDA is pertinent, the governor decrees a state of disaster through executive order. The director is responsible for the coordination, implementation and administration of disaster management plans and programs (Laws of Puerto Rico, Title 25, Subtitle 1., Part I., Chap. 9B, §172g).

The governor may decree that a state of emergency or disaster exists, may request federal assistance from President of United States, and is authorized to order, amend or revoke regulations, and issue, amend or cancel those orders. The governor may order the removal of rubble and debris, acquire through purchase, donation, or eminent domain, any real or personal property, and recommend that the commissioner request total or partial

activation of resources available to the military forces of the commonwealth (Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172m).

Types of Assistance

The Department of Housing works with commonwealth agencies to administer and maintain temporary housing for emergency or disaster victims. The primary responsibility for maintaining and operating temporary housing rests with the secretary of housing (Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172j).

The director of emergency management appoints a search and rescue coordinator to develop programs, including the Search and Rescue Volunteer Service. The Civil Defense Corps of Volunteers is included in this function (Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172k).

Using any available resources, the governor may order the removal of rubble or debris that could affect public health, private land, or bodies of water, with prior written approval of owners of private property. Property owners must hold the governor and the governor's agents harmless from damages caused to property and further agree to compensate the commonwealth government if a claim arises as result of clearance or removal of debris (Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172n).

Individuals are allowed deductions for losses sustained during the taxable year due to earthquakes, hurricanes, storms, tropical depressions and floods in a designated disaster area. Covered losses include automobiles, furniture, and household goods (excluding jewelry or cash) not compensated for by insurance. Deductions are limited to \$5,000 dollars per individual or \$2,500 per married individual filing a separate return (Laws of Puerto Rico, Title 13, Subtitle 14, Part III, Chap. 853, Subchapter B, §8423(aa)(2)(G)).

A municipality may assign or donate public funds to persons with real and specific needs concerning natural disasters and other conditions. Municipal officers must verify that the person is indigent and that municipal functions, activities and operations are neither interrupted nor adversely affected. The assignment of funds must be approved by the municipal assembly (Laws of Puerto Rico, Title 21, Subtitle 6, Chap. 219, 21 §4464a).

Mutual Aid

The Emergency Management Assistance Compact is codified (Laws of Puerto Rico, Title 1, Chap. 31, §621-633).

The governor may order the municipal police into active service with the commonwealth police due to an emergency such as natural disaster, or to protect public order and safety. Such activations cannot exceed 15 calendar days unless authorized by the municipal assembly and signed by the mayor (Laws of Puerto Rico, Title 21, Subtitle 3, Chap. 97, §1076).

Funding

Regular expenses for the operation of the EMDA are consigned annually in the general expenses budget of the commonwealth government. Special expenses incurred during a state of emergency or disaster are reimbursed from the emergency fund (Laws of Puerto Rico, Title 25, Subtitle 1, Part I, Chap. 9B, §172s).

The statute created a trust fund under custody of the Secretary of the Treasury, known as the “emergency fund,” which is capitalized by specified amounts derived from total net revenues. The governor and the director of the Office of Management and Budget may order sums greater than that fixed by law if deemed convenient. The balance within the emergency fund cannot exceed 5% of funds appropriated in the Joint Budget Resolution for the year the resources are to be covered. The fund is to be used to meet unexpected and unforeseen public needs caused by natural disasters, wars, and plagues, to protect lives and property of the people and to aid the United States and other countries. If sent outside the Commonwealth, aid is limited to \$25,000 (Laws of Puerto Rico, Title 3, Chapter 21, §457-464).

Hazard Mitigation

The intent of the legislature in creating the emergency fund is to, in part, enable the commonwealth to “avoid” calamities. See “Funding,” (Laws of Puerto Rico, Title 3, Chap. 21, § 459).

See also “Entities with Key Responsibilities,” — *Interagency Natural and Technological Risk Management Committee*.

Continuity of Government Operations

In case of invasion, rebellion, epidemic or any other event that causes a state of emergency, the governor may call the legislative assembly to meet in a place other than the capitol, subject to the approval or disapproval of the legislative assembly. The governor may, during the period of emergency, order the government, its agencies and instrumentalities to be moved temporarily to a place other than the seat of the government (Constitution of the Commonwealth of Puerto Rico, Article VI, Section 17).

Emergency Succession Act: The statute provides a line of succession for departments and agencies within the executive branch for the resumption of government temporarily suspended due to an attack. When organizations do not provide for the appropriate number of successors the succession plan must guarantee the continuity of essential services. The governor determines the line of succession for secretaries of the executive branch of government. Emergency successors must take the oath of office and may only exercise authority when Puerto Rico is attacked (Laws of Puerto Rico, Title 25, Subtitle 1, Part I, Chap. 9, §161-168).

Other

The statute provides for leave for voluntary service in the Civil Defense Corps in case of disasters (Laws of Puerto Rico, Title 3, Chap. 51, Subchapter V, §1355(4)).

The statute authorizes municipal employees to receive leave with or without pay to render volunteer services to the Civil Defense Corps and other organizations that render emergency services in case of disasters (Laws of Puerto Rico, Title 21, Subtitle 6, Chap. 223, §4568(g)).

The owner of real property used as a shelter to house persons during an emergency or disaster, or during a drill are held harmless from damages from persons placed or housed in the shelter, and from employees or officials. The commonwealth government and its employees and municipalities cannot be held liable (Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172p).

Key Terms

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

Terms	Citations
Attack	Laws of Puerto Rico, Title 25, Chapter 9, §163(a)
Federal disaster assistance	Laws of Puerto Rico, Title 25, Subtitle 1, Part I, Chap. 9B, §172a.(b)
Disaster	Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172a.(e)
Emergency Support Functions (ESF)	Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172a(i)
Emergency management	Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172a(j)
Mitigation	Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172a. (k)
State Coordinating Officer (SCO)	Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172a(l)
Preparation	Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172a(m)
Recovery	Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172a(n)
Response	Laws of Puerto Rico, Title 25, Subtitle 1, Part I., Chap. 9B, §172a(p)

For Further Research

The citations noted above and other elements of the state code for Puerto Rico may be searched, in Spanish, at [<http://www.lexjuris.com/>].