

[\$127A-5] County emergency management agency. (a) The mayor of each county shall have direct responsibility for emergency management within the county, including the organization, administration, and operation of a county emergency management agency.

(b) Each county emergency management agency shall perform emergency management functions within the territorial limits of the county within which it is organized, coordinate all emergency management plans within the county, and cooperate as closely as possible with the agency and emergency management agencies in the other counties in all aspects of emergency management.

(c) Each county shall be responsible for the establishment, naming, and operation of a county emergency management agency under the mayor's direction, and shall enact ordinances to establish the county emergency management agency and ensure that the mayor and the county's emergency management agency have the powers necessary to receive state and federal funds and carry out the functions of this chapter at the county level. The ordinances shall comply with powers established under sections 127A-12 and 127A-13.

(d) Each county, under the mayor's direction, shall make appropriations and authorize expenditures for the purposes of this chapter, including for use as matching funds for federal aid, out of the normal revenues or fund balances or surpluses of the counties, notwithstanding any legal restrictions upon the purposes for which the funds may be expended, except that pension and retirement funds, funds set aside for the redemption of bonds or the payment of interest thereon, trust funds, loan funds, and funds received from the federal government or from any person for specific purposes shall not be affected.

(e) Each county, under the mayor's direction, shall provide a county-level administrator or director of the county emergency management agency, and technical, administrative, and other personnel; office space; furniture; equipment; supplies; and funds necessary to carry out the purposes of this chapter.

(f) *[Subsection effective July 1, 2016.]* The administrator or director of the county emergency management agency shall be subject to chapter 76.

(g) Each county, under the mayor's direction, shall, in order to ensure continuity of government during an emergency period, establish a procedure for the appointment and designation of stand-by officers for the mayor and the county legislative body during an emergency period, who shall serve in the event of the unavailability of the officers for whom they are standing-by.

(h) Each county, under the mayor's direction, shall establish and maintain an emergency operations center, as the place from where emergencies and disasters shall be managed, and staff it appropriately.

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(i) Each county, under the mayor's direction, shall coordinate, develop, and implement an emergency operations plan for the county. [L 2014, c 111, pt of §2]

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[\$127A-12] Emergency management powers, in general. (a) The governor or mayor, as applicable, may exercise the following powers pertaining to emergency management:

(1) Prepare comprehensive plans and programs for the protection of the State or county against all hazards, which shall be integrated into and coordinated with the emergency management plans of the State, counties, the federal government, other states, and private-sector and nonprofit organizations;

(2) Identify emergency workers required to report for duty as directed by the department head regardless of the availability of any type of leave;

(3) Institute training, preparedness, and public-information programs in coordination with the State, counties, the federal government, other states, and private-sector and nonprofit organizations;

(4) Provide or authorize suitable insignia of authority for all authorized emergency management personnel; and

(5) Direct or control as may be necessary for emergency management:

- (A) Alerts, warnings, notifications, activations, exercises, drills, and tests;
- (B) Warnings and signals for alerts or exercises, and any type of warning device, system, or method to be used in connection therewith;
- (C) Partial or full mobilization of personnel for exercises or training, in advance of, or in response to, an actual emergency or disaster; and
- (D) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, before, and after alerts, exercises, training, emergencies, or disasters.

(b) The governor may exercise the following powers pertaining to emergency management:

(1) Support requests from a mayor for assistance in preparing for, responding to, and recovering from any emergency or disaster or threat thereof;

(2) Lease, lend, or otherwise furnish, on such terms and conditions as the governor may consider necessary to promote the public welfare and protect the interest of the State, any real or personal property of the state government, to the President of the United States, the armed forces, or to the emergency management agency of the United States;

(3) Enter into, participate in, or carry out mutual aid agreements or compacts for emergency management or emergency management functions with the federal government and with other states;

(4) Sponsor and develop mutual aid plans and agreements for emergency management between the State, one or more counties, and other governmental, private-sector, and nonprofit organizations, for the furnishing or exchange of food, clothing, medicine, and other materials; engineering services; emergency housing; police services; health, medical, and related services; firefighting, rescue, transportation, and construction services and facilities; personnel necessary to provide or conduct

these services; and such other materials, facilities, personnel, and services as may be needed. The mutual aid plans and agreements may be made with or without provisions for reimbursement of costs and expenses, and on such terms and conditions as are deemed necessary;

(5) Take possession of, use, manage, control, and reallocate any public property of the State, real or personal, required by the governor for the purposes of this chapter, including airports, parks, playgrounds, and schools, and other public buildings. Whenever the property is so taken, the governor may make such provision for the temporary accommodation of the government service affected thereby as the governor may deem advisable;

(6) Utilize all services, materials, and facilities of nongovernmental agencies, relief organizations, community associations, and other private-sector and nonprofit organizations that may be made available;

(7) Receive, expend, or use contributions or grants, which shall be deemed to be trust funds, in money, property, or services, or loans of property, or special contributions or grants in money, property, or services, or loans of property, for special purposes provided for by this chapter; establish funds in the state treasury for the deposit and expenditure of the moneys; procure federal aid as the same may be available; and apply the provisions of chapter 29 in cases of federal aid, even though not in the form of money. The contributions or grants are appropriated for the purposes of this chapter, or for the special purposes;

(8) Purchase, make, produce, construct, rent, lease, or procure by condemnation or otherwise, transport, store, install, maintain, and insure, repair, renovate, restore, replace or reconstruct, and distribute, furnish or otherwise dispose of, with or without charges, materials and facilities for emergency management; and to procure federal aid therefor whenever feasible. Chapter 103D and sections 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4 shall not apply to any emergency management functions of the governor to the extent that the governor finds that the provisions, in whole or in part, impede or tend to impede the expeditious discharge of those functions, or that compliance therewith is impracticable due to existing conditions;

(9) Provide for the appointment, employment, training, equipping, and maintaining with compensation, or on a volunteer basis without compensation and without regard to chapters 76, 78, and 88, of such agencies, officers, and other persons as the governor deems necessary to carry out the purposes of this chapter; to determine to what extent any law prohibiting the holding of more than one office or employment applies to the agencies, officers, and other persons; and subject to provisions of this chapter, to provide for the interchange of personnel, by detail, transfer, or otherwise, between agencies or departments of the State;

(10) Make charges in such cases and in such amounts as the governor deems advisable, for any property sold, work performed, services rendered, or accommodations or facilities furnished by the State under this chapter;

(11) Make or authorize such contracts as may be necessary to carry out this chapter;

(12) Establish special accounting forms and practices whenever necessary;

(13) Require each public utility, or any person owning, controlling, or operating a critical infrastructure facility as identified by the governor, to protect and safeguard its or the person's property, or to provide for the protection and safeguarding thereof; and provide for the protection and

safeguarding of all critical infrastructure and key resources; provided that without prejudice to the generality of the foregoing two clauses, the protecting and safeguarding may include the regulation or prohibition of public entry thereon, or the permission of the entry upon such terms and conditions as the governor may prescribe;

(14) Restrict the congregation of the public in stricken or dangerous areas or under dangerous conditions;

(15) Direct and control the non-compulsory evacuation of the civilian population;

(16) Order and direct government agencies, officials, officers, and employees of the State, to take such action and employ such measures for law enforcement, medical, health, firefighting, traffic control, warnings and signals, engineering, rescue, construction, emergency housing, other welfare, hospitalization, transportation, water supply, public information, training, and other emergency functions as may be necessary, and utilize the services, materials, and facilities of the agencies and officers. All such agencies and officers shall cooperate with and extend their services, materials, and facilities to the governor as the governor may request;

(17) Provide for the repair and maintenance of public property, whenever adequate provision therefor is not otherwise made; insure the property against any emergency or disaster; provide for the restoration, renovation, replacement, or reconstruction of insured property in the event of damage or loss; and make temporary restoration of public utilities and other critical infrastructure facilities in the event of an emergency or disaster;

(18) Fix or revise the hours of government business; and

(19) Take any and all steps necessary or appropriate to carry out the purposes of this chapter notwithstanding that those powers in section 127A-13(a) may only be exercised during an emergency period.

(c) The mayor may exercise the following powers pertaining to emergency management:

(1) Lease, lend, or otherwise furnish, on such terms and conditions as the mayor may consider necessary to promote the public welfare and protect the interest of the county, any real or personal property of the county government, to the governor of the State, to the mayors of the other counties of the State, or to the agency;

(2) Sponsor and develop mutual aid plans and agreements for emergency management between one or more counties, and other governmental, private-sector, or nonprofit organizations, for the furnishing or exchange of food, clothing, medicine, and other materials; engineering services; emergency housing; police services; health, medical, and related services; firefighting, rescue, transportation, and construction services and facilities; personnel necessary to provide or conduct these services; and such other materials, facilities, personnel, and services as may be needed. The mutual aid plans and agreements may be made with or without provisions for reimbursement of costs and expenses, and on such terms and conditions as are deemed necessary;

(3) Take possession of, use, manage, control, and reallocate any public property of the county, real or personal, required by the mayor for the purposes of this chapter, including parks, playgrounds, and

other public buildings. Whenever the property is so taken, the mayor may make such provision for the temporary accommodation of the government service affected as the mayor may deem advisable;

(4) Utilize all services, materials, and facilities of nongovernmental agencies, relief organizations, community associations, and other private-sector and nonprofit organizations that may be made available;

(5) Receive, expend, or use contributions or grants, which shall be deemed to be trust funds, in money, property, or services, or loans of property, or special contributions or grants in money, property, or services, or loans of property, for special purposes provided for by this chapter; establish funds in the treasury for the deposit and expenditure of the moneys; and procure federal aid as the same may be available. The contributions or grants are appropriated for the purposes of this chapter, or for the special purposes;

(6) Purchase, make, produce, construct, rent, lease, or procure by condemnation or otherwise, transport, store, install, maintain, and insure, repair, renovate, restore, replace or reconstruct, and distribute, furnish or otherwise dispose of, with or without charges, materials and facilities for emergency management; and to procure federal aid therefor whenever feasible. Chapter 103D and sections 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4 shall not apply to any emergency management functions of and to the extent that the mayor finds that the provisions, in whole or in part, impede or tend to impede the expeditious discharge of the functions, or that compliance therewith is impracticable due to existing conditions;

(7) Provide for the appointment, employment, training, equipping, and maintaining, with compensation, or on a volunteer basis without compensation and without regard to chapters 76, 78, and 88, of such agencies, officers, and other persons as the mayor deems necessary to carry out this chapter; to determine to what extent any law prohibiting the holding of more than one office or position of employment applies to the agencies, officers, and other persons; and subject to provisions of this chapter, to provide for the interchange of personnel, by detail, transfer, or otherwise, between agencies or departments of the county;

(8) Make charges in such cases and in such amounts as the mayor deems advisable, for any property sold, work performed, services rendered, or accommodations or facilities furnished by the county under this chapter;

(9) Make or authorize such contracts as may be necessary to carry out this chapter;

(10) Establish special accounting forms and practices whenever necessary;

(11) Require each public utility, or any person owning, controlling, or operating a critical infrastructure facility as identified by the mayor, to protect and safeguard its or the person's property, or to provide for such protection and safeguarding; and provide for the protection and safeguarding of all critical infrastructure and key resources; provided that without prejudice to the generality of the foregoing two clauses, the protection and safeguarding may include the regulation or prohibition of public entry thereon, or the permission of the entry upon such terms and conditions as the mayor may prescribe;

(12) Restrict the congregation of the public in stricken or dangerous areas or under dangerous conditions;

(13) Direct and control the non-compulsory evacuation of the civilian population of the county;

(14) Order and direct government agencies, officials, officers, and employees of the county, to take such action and employ such measures for law enforcement, medical, health, firefighting, traffic control, warnings and signals, engineering, rescue, construction, emergency housing, and other welfare, hospitalization, transportation, water supply, public information, training, and other emergency functions as may be necessary, and utilize the services, materials, and facilities of the agencies and officers. All such agencies and officers shall cooperate with and extend their services, materials, and facilities to the mayor as the mayor may request;

(15) Provide for the repair and maintenance of public property, whenever adequate provision therefor is not otherwise made; insure the property against any emergency or disaster; provide for the restoration, renovation, replacement, or reconstruction of insured property in the event of damage or loss; and make temporary restoration of public utilities and other critical infrastructure facilities in the event of an emergency or disaster;

(16) Fix or revise the hours of county government business; and

(17) Take any and all steps necessary or appropriate to carry out the purposes of this chapter notwithstanding that those powers in section 127A-13(b) may only be exercised during an emergency period. [L 2014, c 111, pt of §2]

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[\$127A-14] State of emergency. (a) The governor may declare the existence of a state of emergency in the State by proclamation if the governor finds that an emergency or disaster has occurred or that there is imminent danger or threat of an emergency or disaster in any portion of the State.

(b) A mayor may declare the existence of a local state of emergency in the county by proclamation if the mayor finds that an emergency or disaster has occurred or that there is imminent danger or threat of an emergency or disaster in any portion of the county.

(c) The governor or mayor shall be the sole judge of the existence of the danger, threat, or circumstances giving rise to a declaration of a state of emergency in the State or a local state of emergency in the county, as applicable. This section shall not limit the power and authority of the governor under section 127A-13 (a) (4).

(d) A state of emergency and a local state of emergency shall terminate automatically sixty days after the issuance of a proclamation of a state of emergency or local state of emergency, respectively, or by a separate proclamation of the governor or mayor, whichever occurs first. [L 2014, c 111, pt of S2]

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[§127A-22] Determination of compensation. (a) Whenever the governor or mayor requisitions and takes over any property or the temporary use thereof, the owner, or other person entitled thereto, shall be paid as compensation for the property or use, such sum as the governor or mayor determines to be fair and just, within twenty days after it has been requisitioned and taken; provided that the compensation for temporary use may be paid in monthly or lesser installments.

(b) If any person is unwilling to accept, as full and complete compensation for the property or use thereof, the sum determined by the governor or mayor, the person shall be paid seventy-five per cent of the sum determined by the governor or mayor. The person shall also be entitled to sue the State or county for such additional sum as, when added to the sum already received by the person, the person may consider fair and just compensation for such property or use, in the manner provided by chapter 661 for actions against the State and any other applicable chapter for actions against the county. Any suit under this section shall be instituted within two years after the requisition in the case of the taking of real property in fee simple, or within one year after the requisition in all other cases, subject to sections 657-13 to 657-15, which are hereby made applicable to such a suit; except that no more than six months shall be allowed for the bringing of a suit after the appointment of a conservator of a person under disability, or the removal of the disability, or after the appointment of personal representatives. Recovery shall be confined to the fair market value of the property or its fair rental value, as the case may be, without any allowance for prospective profits, or punitive or other damages. Whenever the owner of property, or other person entitled to compensation on account of the requisitioning of property or the use thereof, is under a disability, or has died, and no conservator or personal representative has been appointed, the State, acting through the attorney general, may apply for the appointment of a conservator or for the appointment of a personal representative. [L 2014, c 111, pt of §2]

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[§127A-23] Determination of damages. The governor or mayor, as applicable, shall appoint a board of three disinterested certified appraisers with whom may be filed any claim for damages arising out of any failure to return private property, the temporary use of which was requisitioned, or which was leased, or any claim for damages arising out of the condition in which the private property is returned; provided that no such claim shall be filed for deterioration of property resulting from ordinary wear and tear, and not for any deterioration or damage, except such as is shown to have resulted from the taking or use of the property. Any claim shall be filed within thirty days after the return of the property or after the governor or mayor proclaims that all private property has been returned to the owners, whichever is earlier. The decision of the appraisers shall be final and binding upon the governor or mayor, as applicable, and the claimant; provided that either party may file a petition in the circuit court within sixty days after the rendering of a decision of the board, praying for the decision of the court upon the claim. The petition, if filed by the State, shall be entitled in the name of the State, by the attorney general, and if filed by the county, shall be entitled in the name of the county, by its corporation counsel, and shall be heard and decided by the circuit court without the intervention of a jury. If filed by any other party, the petition shall be filed, heard, and decided in the manner provided for suits against the State. Appellate review may be had, subject to chapter 602, in the manner provided for civil appeals from the circuit courts. The court may order the joinder of other parties or may allow other parties to intervene. Any award that has become final shall be paid out of any funds available under this chapter and, if not sufficient, out of the general revenues of the State as appropriated or out of the general revenues of the county as appropriated. [L 2014, c 111, pt of §2]

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