

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is centered in the narrow neck of the hourglass. The top bulb has a dark blue cap, and the bottom bulb has a light blue cap.

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Report RL32332

*New York Emergency Management and Homeland Security  
Authorities Summarized.*

Keith Bea, L. Cheryl Runyon, and Kae M. Warnock, Government and Finance Division

Updated March 23, 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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## **New York Emergency Management and Homeland Security Authorities Summarized**

**March 23, 2004**

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# New York Emergency Management and Homeland Security Authorities Summarized

## Summary

New York state statutes provide that local government and emergency organizations serve as the “first line of defense in times of disaster” and that the state provides support as needed. The governor’s powers include declaring a disaster, coordinating the response of state agencies after a disaster, issuing a declaration of significant economic distress for a municipality after a disaster, and allowing it to apply for state funding. The state disaster preparedness commission is responsible for developing a state disaster preparedness plan. Should a natural disaster significantly affect voter turnout, elections can be rescheduled to allow all voters an opportunity to participate.

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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# New York Emergency Management and Homeland Security Authorities Summarized

## Entities with Key Responsibilities

*Governor:* Upon declaration of a state disaster emergency, the governor may direct any state agency to take specified actions and provide assistance, and may, by executive order, temporarily suspend statutes if compliance would delay necessary action. Also, the governor is authorized to use civil defense forces in disaster situations (N.Y. Exec. Con. Laws Art.2-B §§28, 29, 29-a, 29-b).

*State Fire Administrator:* The administrator must establish a hazardous materials emergency response training program that includes hands-on training, hazard assessment, use of emergency equipment, and chemical properties of materials. In addition, the administrator must provide an annual report on the program to the following officials: governor, speaker of the assembly, senate president, and transportation committee chairs of both chambers (N.Y. Executive Con. Laws Art. 6-C §156-a).

*Disaster Preparedness Commission:* The heads of state agencies and three gubernatorial appointees serve on the commission, the adjutant general is secretary, and the state emergency management office provides staff support. The commission's mandates include studying manmade and natural disaster prevention and response and recovery; preparing a plan for the governor's approval; directing state disaster operations and coordinating with local efforts after a declaration; creating, if necessary, a temporary organization in a disaster area to ensure coordination; and submitting an annual report to the governor and legislature. The commission must review the state disaster preparedness plan annually; the plan must address specified disaster prevention, response, and recovery components (N.Y. Exec. Con. Laws Art. 2-B §§ 21-22).

*Adjutant general:* The adjutant general serves as the commander of the state national guard and naval militia (N.Y. Exec. Con. Laws Art. 9 §190), controls the division of military affairs, and acts as state director of civil defense (N.Y. Military Con. Laws Art. 1 §11). The general has authority to issue rules pertaining to the release of money from the state contingency fund to help municipalities rebuild infrastructure after a disaster (N.Y. Exec. Con. Laws Art. 2-B §29-e (4)).

## Preparedness

See “Entities with Key Responsibilities,” *Disaster Preparedness Commission*.

The governor, at his or her discretion, may direct the state civil defense commission to conduct a civil defense drill. Upon the occurrence or threat of a disaster, county chief executives may direct the local civil defense director to hold a drill in the disaster area. Civil defense forces are regarded as a reserve disaster force to be used when the county executive determines that local emergency forces cannot adequately respond to a disaster (N.Y. Exec. Con. Laws Art. 2-B §29-b).

The disaster preparedness commission is authorized to monitor off-site releases of radiological material. Owners of nuclear generating facilities must pay an annual fee to support emergency preparedness and response activities, to a maximum of \$550,000. The commission may use the fees to buy, maintain and operate equipment to monitor releases, purchase, store and distribute drugs that would protect public health and safety, provide training, and pay required matching costs (N.Y. Exec. Con. Laws Art. Art. 2-B §29-c).

Local governments are authorized to prepare disaster preparedness plans, with assistance provided by the Disaster Preparedness Commission, to prevent disasters, coordinate resources, and provide for recovery and redevelopment. The plans, and the process used to develop the plans, must meet specified requirements (N.Y. Exec. Con. Laws Art. 2-B §23).

The statute recommends that the chief executive of each county with a local disaster preparedness plan maintain a voluntary registry, updated annually, of disabled persons who would need assistance during evacuation and sheltering. Any county chief executive who has compiled such a registry must make it available to state, local, federal agencies to provide services. Information collected for the registry is confidential (N.Y. Exec. Con. Laws Art. 2-B §23-a).

The governing body of each county is authorized to establish a hazardous materials emergency response team and to establish a regional emergency response team (N.Y. Gen. Municipal Con Laws Art. 10 §209-y).

## Declaration Procedures

If the governor finds that a disaster has occurred or is imminent, and that local governments are unable to respond adequately, he must declare a disaster emergency by executive order. A declaration associated with a radiological accident must be accompanied by adequate notice and implementation of the radiological preparedness plan. A declaration remains in effect for a maximum of six months and the governor may issue an extension effective for not more than six months. After a declaration, the governor may request federal assistance and make money available from the government emergency fund or other funds to pay the state share of federal grants to meet disaster related expenses (N.Y. Exec. Con. Laws Art. 2-B §28).

The governor, pursuant to specified requirements, and through an executive order, may temporarily suspend statutes during a state disaster emergency for a maximum period of 30 days, with renewals authorized. The legislature may terminate such an executive order by concurrent resolution (N.Y. Exec. Con. Laws Art. 2-B §29-a).

A local chief executive may proclaim that a local state of emergency exists for a maximum period of 5 days (with renewals authorized), and provide local emergency orders to protect people and property and respond to the emergency. Actions that might be taken include: establishing curfews, prohibiting traffic, limiting ingress and egress, closing amusement and assembly places, suspending the sale of alcohol, firearms, and explosives, and establishing emergency shelters. After requesting that the governor declare a state emergency, a local chief executive may suspend local laws and ordinances that prevent or hinder disaster response or recovery. Such suspensions may extend for a maximum period of five days, with renewals authorized. The local chief executive may request that the governor remove inmates from county institutions, and may request assistance from the governor if disaster is beyond local capacity. The legislature may terminate emergency orders at any time by concurrent resolution (N.Y. Exec. Con. Laws Art. 2-B §24).

The sheriff of any county may declare a “state of special emergency” when the peace of the public is threatened, after advising the governor (N.Y. Gen. Municipal Con. Laws Art. 10 §209-f 2.).

## **Types of Assistance**

Upon the threat or occurrence of a disaster, the chief executive of a local government is to use any and all facilities, equipment, supplies, and staff in the political subdivision to address the disaster. An executive can use real or personal property from another political subdivision only for purposes of emergency relief, reconstruction, and rehabilitation resulting from a disaster. Political subdivisions are not liable in exercising this authority (N.Y. Exec. Con. Laws Art. 2-B §25).

The governor may declare that a municipality has suffered significant economic distress from loss of assessed value, damage to municipal buildings, cleanup costs, business losses, unemployment or federal declaration of disaster and assistance eligibility. Pursuant to statutory restrictions and specifications, such a municipality may seek state reimbursement from the state contingency reserve fund for extraordinary and unanticipated costs to reconstruct or repair public buildings and facilities and infrastructure. The municipality must agree to have a local disaster preparedness plan and amend the plan to mitigate future disasters in order to receive funds. The state emergency management office is authorized to prioritize claims or give pro rata share of the funds if the amount is limited (N.Y. Exec. Con. Laws Art. 2-B §29-e (2)).

## Mutual Aid

The Emergency Management Assistance Compact is codified (N.Y. Executive Con. Laws Art. 2-B §29-g).

The Northeastern Interstate Forest Fire Protection Compact is codified (N.Y. Env. Cons. Con. Laws Art. 9 §9-1123).

The governor is authorized to mobilize police forces for emergencies, power and immunity to render services in any jurisdiction in the state (N.Y. Gen. Municipal Art. 10 §209-f).

The governor, with the prior consent of Congress, is authorized to enter into compacts with other states and with Canada for military aid in the event of hostile action, disasters, or imminent danger (N.Y. Military Con. Laws Art. 1 §22a).

A local government chief executive may request the use of real or personal property from another unit of local government, as well as the assistance of civil defense and disaster preparedness staff if they already have been activated (N.Y. Exec. Con. Laws Art. 2-B §25 (3-6)).

A county chief executive may coordinate requests for disaster assistance made by chief executives of political subdivisions within the county (N.Y. Exec. Con. Laws Art. 2-B §26).

The statute calls for establishment of a mutual aid plan for water service in the event of a water supply emergency (N.Y. Gen. Municipal Con. Laws Art. 6 §120-u).

The state fire administrator must prepare a fire mobilization and mutual aid plan (N.Y. Gen. Municipal Con. Laws Art. 10 §209-e).

County officials are authorized to fund the development and maintenance of mutual aid plans for fires and other emergencies (N.Y. Gen. Municipal Con. Laws Art. 10 §209-j).

## Funding

See “Types of Assistance.”

The statute established an emergency services revolving loan account that is administered by the secretary of state and authorized to make loans to purchase firefighting equipment, ambulances, protective equipment, communications equipment, within specified financial limits (N.Y. State Fin. Con. Laws Art. 6 §97pp).



## Hazard Mitigation

Dam owners are required to operate and maintain dams in a safe condition. The commissioner of environmental conservation is authorized to promulgate regulations to require owners to prepare a safety program to safeguard life, property and natural resources. At its discretion, the Department of Public Safety is to inspect dams and direct owners to conduct studies, investigations and analysis to evaluate safety and to remove or repair structures (N.Y. Env. Cons. Con. Laws Art. 15 §15-0507).

The statute requires local governments to comply with flood insurance program requirements and to maintain participation in the program. The statute provides sanctions for local governments failing to participate. The state provides technical assistance to communities, and state agencies are responsible for minimizing flood hazards related to state owned or financed buildings, roads, and facilities. The statute requires that actions be taken to reduce flood hazards in the siting, planning, construction and maintenance of state facilities. The commissioner of environmental conservation must assist state agencies in evaluating flood hazards and protection measures. The Department of Environmental Conservation acts as the state coordinating agency for national flood insurance program (N.Y. Env. Cons. Con. Laws Art. 36 §36-0101 et seq.).

In general, following a state declaration, affected localities must prepare a local recovery and redevelopment plan to be submitted to the disaster preparedness commission within 45 days of the declaration. Within 60 days, the commission must report on the status of the plan to the governor and legislature. The commission is directed to provide technical assistance to local governments, and comment on the plan if requested. The plan must consider the replacement, reconstruction, relocation, and removal of damaged or destroyed facilities, new zoning regulations, building and sanitation codes, and plans for economic recovery and community development and mitigation. The plan must be presented at a public hearing (N.Y. Exec. Con. Laws Art. 2-B §28-a).

## Continuity of Government Operations

In the event of disaster and emergency conditions a county, city, town, and village may provide for the continuity of government operations when officers are unable to perform duties or are absent from political subdivision. Local laws or resolutions must provide a list or order of succession (N.Y. Exec. Con. Law Art. 2-B §27).

If the governor's office becomes vacant due to an attack or natural disaster and the lieutenant governor, temporary president of the senate and speaker of the assembly are unable to perform duties, then specified state officers are designated to fill the position. The acting governor must fill the vacancy until the next election (N.Y. Unconsol. Con. Laws §§ 9105, 9106).

## Other

A building with off-street parking that provides underground shelter for emergencies is exempt from taxation for a maximum period of 25 years (N.Y. Real Property Tax Con. Laws Art. 4 §478).

Any real property with a fallout shelter is exempt from taxation for shelter space (N.Y. Real Property Tax Con. Laws Art. 4 §479).

The board of education of every school district must adopt or amend comprehensive district-wide and building level school safety plans that address crisis intervention, emergency response, and management issues. Emergency response plans must address shelter and evacuation concerns and designation of response teams. The commissioner of education must report annually to the governor and the legislature concerning implementation of, and compliance with, this requirement (N.Y. Education Con. Laws Art. 55 §2801-a).

The statute provides immunity for services provided by local fire departments outside their home jurisdictions (N.Y. Gen. Municipal Con. Laws Art. 10 §209).

The statute provides for workers' compensation for civil defense volunteers (N.Y. Workers' Comp. Con. Laws Art. 10 §300 *et seq.*)

The statute prohibits the sale of any motor vehicle with mechanical or electrical system damage resulting from natural disaster that has rendered the vehicle inoperable without giving notice in writing to the buyer (N.Y. Gen. Business Con. Laws Art. 26 §396-k\*).

State employees who are American Red Cross volunteers may be granted leave with pay for a maximum period of 20 days per year to participate in disaster relief without a loss of seniority (N.Y. Civil Service Con. Laws Art. 5 §82-b). Similar authority is extended to employees of municipal corporations and school districts (N.Y. Gen. Municipal Con. Laws Art. 5 §92-c) and to public authorities employees (N.Y. Gen. Public Authorities Con. Laws Art. 9 §2850-a).

New York Fire Department members who are American Red Cross volunteers may be granted leave with pay for a maximum period of 100 days per year to participate in disaster relief without a loss of seniority (N.Y. Gen. Municipal Con. Laws Art. 10 §209-aa).

If the state or any county board of elections determines that less than 25% of registered voters participated in a general election because of a fire, earthquake, tornado, power failure, act of sabotage, enemy attack or other disaster (and if the state board of elections approves the county board's determination), it must notify the said county board of elections that an additional day of election must be held. The statute does not apply to absentee or military ballots unless they were cast by the original due date (N.Y. Elections Con. Laws Art. 3 §3-108).

## Key Terms

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

| <b>Terms</b>                      | <b>Citations</b>                         |
|-----------------------------------|--|
| Area of special flood hazard      | N.Y. Env. Cons. Con. Laws §36-0103(1)    |
| Commission                        | N.Y. Exec. Con. Laws §20(2)(d)           |
| Disaster                          | N.Y. Exec. Con. Laws §20(2)(a)           |
| Emergency                         | N.Y. Gen'l Municipal Con. Laws §120-u(e) |
| Emergency services organization   | N.Y. Exec. Con. Laws §20(2)(e)           |
| Fund                              | N.Y. Exec. Con. Laws §29-e(1)(d)         |
| National flood insurance program  | N.Y. Env. Cons. Con. Laws §36-0103 (3)   |
| State disaster emergency          | N.Y. Exec. Con. Laws §20 (2) (b)         |
| State emergency management office | N.Y. Exec. Con. Laws §29-e (1) (e)       |

## For Further Research

The citations noted above and other elements of the state code for New York may be searched at: [<http://www.senate.state.ny.us/>].