

# CRS Report for Congress

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## **Pennsylvania Emergency Management and Homeland Security Statutory Authorities Summarized**

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# Pennsylvania Emergency Management and Homeland Security Statutory Authorities Summarized

## Summary

The Emergency Management Services Code (35 Pa. C.S.A. 7101 *et seq.*) for Pennsylvania outlines emergency management roles and responsibilities for the commonwealth and local governments. Provisions include the authority of the governor to take emergency action, the mission of the Pennsylvania Emergency Management Agency, and mandates to be taken to reduce the risk of future disasters. The Emergency Interim Executive and Judicial Succession Act (71 P.S. 779.1 *et seq.*) provides for the continuity of government operations. The Temporary War Legislation (35 P.S. 2001 *et seq.*) authorizes civil defense actions to be taken by state officials.

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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# Pennsylvania Emergency Management and Homeland Security Statutory Authorities Summarized

## Entities with Key Responsibilities

*Governor:* The governor is authorized to issue, amend, and rescind executive orders, proclamations and regulations; activate emergency response programs and deploy forces; use and distribute stockpiled supplies, equipment, materials and facilities; serve as commander in chief of the commonwealth military forces; suspend statutory provisions that would prevent, hinder, or delay action to cope with an emergency; use all resources of the commonwealth and its political subdivisions to cope with an emergency; transfer personnel or functions of agencies to aide emergency services; commandeer and use any private, public or quasi-public property, with compensation; direct the evacuation of the population from stricken or threatened areas; prescribe routes, destinations and transportation modes for evacuation; control ingress or egress to a disaster area; and suspend or limit the sale of alcohol, firearms, explosives, and combustibles during an emergency (35 Pa. C.S.A. §7301).

*Pennsylvania Emergency Management Agency, (PEMA):* The agency is required to prepare and maintain the state emergency management plan; assist state and local governments with the design of emergency management plans and training programs; coordinate commonwealth, federal and local emergency management activities and plans; identify areas most vulnerable to disasters and recommending zoning, building and land-use controls to eliminate or reduce the impact of disasters; erect temporary works to protect against or mitigate damage from floods or other disasters; and provide notice on disasters and information and instructions to the public. The agency must report annually to the General Assembly on commonwealth preparedness, recommend legislation to the governor, and undertake other activities as specified (35 Pa. C.S.A. §7311, 7313, 7314). In addition, the agency must submit an annual report on local emergency planning committee activities to the general assembly (35 Pa. C.S.A. §6022.212).

*State Director (PEMA):* The director is appointed by the governor, has fiscal, planning, administrative, operational, and other duties, and is charged with coordinating the commonwealth and local disaster response efforts (35 Pa. C. S. A. §7312).

*Pennsylvania Emergency Management Council:* The council, consisting of the governor, other state officials, legislative leaders, representatives from the business, labor, and public-at-large sectors, and local officials in non-voting positions, has primary responsibility for establishing the policy and direction of the civil defense and disaster program for the commonwealth (35 Pa. C.S.A. §7312 (a)).

*Local coordinator of emergency management:* Each local coordinator is responsible for the planning, administration, and operations of local emergency management. The statute lists qualifications and in-service training requirements for coordinators (35 Pa. C.S.A. §7502).

*Local governments:* After the governor issues a disaster emergency proclamation each unit of government is authorized to clean roadways and lease or hire personnel and equipment to restore water systems, if necessary (35 Pa. C.S.A. §7705). Each unit of government must establish a local emergency management organization and is responsible for: emergency management, response, and recovery within its territory (35 Pa. C.S.A. §7501 (a)); preparation and maintenance of a disaster emergency management plan; establishment of an emergency operations center; and other actions as specified (35 Pa. C.S.A. §7503). The statute authorizes units of government to: enter into contracts and incur obligations for emergency management, response and recovery (35 Pa. C.S.A. §7501 (c)); rent equipment and buy supplies and materials during an emergency without meeting customary contracting requirements; levy taxes; and appropriate and spend public funds (35 Pa. C.S.A. §7501(d)).

*Emergency Management Council:* The council serves as an emergency response commission pursuant to the federal Community Right-to-Know Act (42 U.S.C. 11001), prescribes duties for local emergency planning committees and commonwealth agencies under the federal statute, and establishes requirements for training, equipment, public education (35 Pa. C.S.A. § 6022.201).

*Local emergency planning committee:* Each county must establish a committee that is supervised by the emergency management council and works with the county emergency management agency to prepare emergency response plans (35 Pa. C.S.A. § 6022.203).

## **Preparedness**

See “Entities with Key Responsibilities,” *PEMA*.

PEMA must maintain integrated communications systems to provide weather advisories, river forecasts, warnings, and direction and control of all emergency preparedness functions within the commonwealth (35 Pa. C.S.A. §7312 (h)).

PEMA has jurisdiction over the 911 telephone program (71 P.S. §1709.303).

Universities, colleges, elementary and secondary schools must be used for planning and exercises and as mass care facilities during the evacuation of a stricken or threatened area (35 Pa. C.S.A. §7701 (d)). School buses and transportation

vehicles from schools and universities are to be available for planning and exercises and evacuations (35 Pa. C.S.A. §7701 (e)).

All schools must conduct one tornado or other natural disaster drill per year and must have prepared disaster response plans (35 Pa. C.S.A. §7701 (f), (g)).

The state Hazardous Materials Emergency Planning and Response Act is codified (35 P.S. §6022.101 *et seq.*).

*State Council of Civil Defense:* The council must, during a war between the United States and any foreign country, protect the civilian population and property during air raids. The mandate for the council includes formulating and executing plans, making personnel and equipment available, and organizing volunteers, among other directives (35 P. S. §2002 - §2011).

## **Declaration Procedures**

The governor, by executive order or proclamation, is authorized to declare that a state of disaster emergency exists, which continues until the governor finds that the threat or danger has passed. Such a declaration may be terminated by executive order or proclamation, or by the general assembly through a concurrent resolution (which must be followed by a gubernatorial order terminating the disaster emergency). A state of emergency cannot extend beyond 90 days, except if renewed by the governor. Declarations must indicate the nature of the emergency, the affected geographic area, and conditions for declaring or discontinuing the emergency (35 Pa. C.S.A. §7301).

The governing body of a unit of local government may declare a local disaster emergency, or may authorize the mayor or chief executive officer to issue the declaration, subject to ratification by the governing body. The disaster emergency cannot exceed a seven day period unless continued or renewed by the governing body. Such a declaration and associated continuations or termination orders must be given general publicity. The issuance of such a declaration activates response and recovery efforts and local plans (35 Pa. C.S.A. §7501 (b)).

## **Types of Assistance**

The governor is authorized to: purchase or lease temporary housing units for disaster victims; assist political subdivisions to acquire sites for temporary housing; advance or lend funds from any appropriation or pass-through funds or cooperate with political subdivisions to acquire temporary housing; use commonwealth credit to pay for temporary housing; and suspend or modify for a maximum period of 60 days public health, safety, zoning and transportation statutes/regulations to provide temporary housing (35 Pa. C.S.A. §7302).

The statute authorizes the use of public agencies to remove debris and wreckage from public and private land or water as well as staff entry to private land or waters to perform necessary tasks. Responding staff are not liable for death or injury to persons or property damage while performing tasks (35 Pa. C.S.A. §7303).

The governor is authorized to apply to the federal government on behalf of political subdivisions for community disaster loans. The governor is to decide on the amount needed to restore or resume governmental functions and certify the amount to the federal government, to a maximum of 25% of the annual operating budget per fiscal year for each applicant. The governor is authorized to recommend cancellation of repayment if, within the first three fiscal years, revenues are not sufficient for repayment to the federal government (35 Pa. C.S.A. §7304).

The governor is authorized to make grants to meet disaster-related expenses and serious needs of individuals and families affected by a major disaster that is the subject of a presidential declaration (35 Pa. C.S.A. §7305).

## **Mutual Aid**

The Emergency Management Assistance Compact is codified (35 Pa. C.S.A. §7601).

The Interstate Civil Defense and Disaster Compact is codified (35 Pa. C.S.A. §7111).

County and local emergency management coordinators are authorized to develop mutual aid agreements for reciprocal emergency assistance (35 Pa. C.S.A. §7504 (c)).

Local governments are authorized to enter into mutual aid agreements with similar agencies in other states (35 Pa. C.S.A. §7504 (d)).

The governor is authorized to negotiate interstate agreements that are subject to legislative approval (35 Pa. C.S.A. §7703).

## **Funding**

Units of local government may appropriate funds to pay expenses needed for emergency management activities (35 Pa. C.S.A. §7511) and to use gifts or grants deposited in the state treasury and appropriated for emergency management (35 Pa. C.S.A. §§7514 (h), 7515 (d)).

All federal funds for disaster assistance or relief (temporary housing, debris and wreckage removal, community disaster loans) are to be paid into the general fund (35 Pa. C.S.A. §7306). The governor is authorized to transfer unused funds from state appropriations to clear roadways and restore water systems, to a maximum of \$2 million per year. Such transfers cannot occur if state or local entities are eligible for federal assistance (35 Pa. C.S.A. §7705 (c), (d)). The governor also may transfer unused funds for disaster relief, generally no more than \$10 million in any year unless the General Assembly acts (35 Pa. C.S.A. §7307).

## **Hazard Mitigation**

See “Entities with Key Responsibilities”—*PEMA*.

The governor is authorized to agree to commonwealth participation in funding mitigation projects if the federal government provides 75% of the cost of hazard mitigation projects designed to reduce future damages (35 Pa. C.S.A. §7305.1).

The governor is authorized to take steps to prevent or reduce the consequences of a disaster by making recommendations on mitigation (35 Pa. C.S.A. §7701 (a)).

The Department of Environmental Resources is to continuously study and review land use patterns and construction, and identify areas susceptible to flooding, subsidence, or similar threats (35 Pa. C.S.A. §7701 (b)). In addition, other agencies especially those responsible for missions such as economic recovery, floodplain management, stream encroachment, fire prevention, and public utilities, should conduct mitigation studies (35 Pa. C.S.A. §7701 (c)).

## **Continuity of Government Operations**

Emergency seats of local government may be established at any place in or out of territorial limits on the call of the presiding officer and two members of the governing body. Officials may establish alternate sites by ordinance or resolution (71 P.S. §777.1 *et. seq.*).

The governor is authorized to move the state capital from Harrisburg to a temporary location (71 P.S. §778.1.).

The Emergency Interim Executive and Judicial Succession Act provides for successors to the governor to be named if the lieutenant governor and president *pro tempore* of the Senate are not available. State officers are to designate by title their successors and the order of succession. Local governing bodies are to enact resolutions for successors to local offices. The governor is authorized to fill Supreme Court vacancies, and the chief justice is to fill other vacancies with special emergency judges. The tenure of interim successors may be terminated by the legislature through concurrent resolution. Interim successors may be removed by a designated authority with or without cause (71 P.S. §779.1 *et seq.*).

## **Other**

The statute establishes immunity from civil liability for emergency management employees and for persons owning or controlling real estate used for emergency services (35 Pa. C.S.A. §7704).

A state court may order a person convicted of a bomb threat to reimburse state, county, or municipal corporations for the emergency response costs incurred in protecting life and property from the threat (18 Pa. C.S.A. §2715 (c)).

If an emergency is declared, agencies are not required to follow state law related to various responsibilities, including contracts, incurring obligations, temporary workers, equipment rental and purchase of supplies, or materials (35 Pa. C.S.A. §7308).



Volunteers are entitled to compensation for accidental injury if injuries are sustained during tests, drills, exercises or actual operations approved by PEMA. The statute establishes ceilings for specific expenses (35 Pa. C.S.A. §7706).

Political subdivisions may lose federal funds for the remainder of a fiscal year if officials are convicted of violating plans and programs (35 Pa. C.S.A. §7707 (b)).

The Pennsylvania Volunteer Loan Assistance Program is implemented by the state fire commissioner and PEMA to make loans to volunteer fire companies, ambulance services, hazardous materials units and rescue squads to establish or modernize facilities and to purchase equipment (35 Pa. C.S.A. §7317, 71 P.S. §751-34).

## Key Terms

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

<b>Terms</b>	<b>Citations</b>
Attack	35 P.S. §2002, 71 P. S. §779.3
Disaster	35 Pa. C.S.A. §7102
Disaster emergency	35 Pa. C.S.A. §7102
Drill	35 P.S. §2002
During attack or drill	35 P.S. §2002
Emergency interim successor	71 P. S. §779.3
Emergency management	35 Pa. C.S.A. §7102, 35 P.S. §6022.103
Emergency management agency	4 Pa. C. S. A. §111.1 et seq.
Emergency services	35 Pa. C.S.A. §7102
Local emergency	35 Pa. C.S.A. §7102
Local emergency planning committee	35 Pa. C.S.A. §6022.103
Local organization	35 Pa. C.S.A. §7102
Man-made disaster	35 Pa. C.S.A. §7102
Municipal agencies	35 P.S. §2002
Natural disaster	35 Pa. C.S.A. §7102
Resources shortage	35 Pa. C.S.A. §7102
State council of civil defense	35 P.S. §2002

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<b>Terms</b>	<b>Citations</b>
Terroristic threats	18 Pa. C.S.A. §2706 (a)
Unavailable	71 P. S. §779.3
Volunteer agencies	35 P.S. §2002
War caused disaster	35 Pa. C.S.A. §7102

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## **For Further Research**

To a limited extent, the citations noted above and other elements of the state code for Pennsylvania may be searched at the following website: [<http://members.aol.com/StatutesPA/Index.html>]. Pennsylvania, however, maintains both statutes (cited as P.S.) and consolidated statutes (Pa. C.S.A). Background on the differences between these two methods of citation may be found at the website given above, but the text of many of the Pennsylvania statutes will only be found in paper copies.