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Alabama Emergency Management and Homeland Security Statutory Authorities Summarized

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Summary

Alabama has two statutes that address emergencies and disasters — the Alabama Emergency Management Act of 1955 (EMA) and the Alabama Homeland Security Act of 2003 (HSA, HB335). The EMA includes authorities to ensure that preparations are made to manage disasters or emergencies and to assist and encourage emergency management and emergency preparedness activities by making grants to political subdivisions for that purpose. The HSA established a Department of Homeland Security and other entities to coordinate and undertake state preparedness, planning, and response activities. A third statute, the Emergency Interim Succession Act, provides for the succession of powers for legislators and officers of political subdivisions in emergencies. Assistance is provided to victims through an extensive mutual aid program and federal aid.

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, and three territories (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: As commander and chief, the governor has power in case of war, invasions, insurrection, riot, tumult, breach of peace, natural disaster or imminent danger to call “all or any portion or class of the armed forces of the state” into active military service (Ala. Code §31-2-52(b)). The statute confers emergency powers on the governor and the governing bodies of political subdivisions (Ala. Code §31-9-2(2)). The governor is authorized to ascertain state needs in disasters or emergencies, consider rule changes and the need for warnings, among other tasks (Ala. Code §31-9-6(3,4)).

Department of Homeland Security: The Department of Homeland Security (DHS) coordinates the receipt and distribution of homeland security funding, coordinates state strategy and establishes standards for all state homeland security efforts (HSA, HB335, Act 2003 - 276 §4, 5(d)).

Director of Homeland Security: The director heads the state DHS and is subject to appointment by the governor and confirmation by the Senate. The powers of the director include: receiving and disseminating federal intelligence; planning and executing simulations; and ensuring cooperation of public officials and the private sector, among others. Also, the director exercises specified powers when the governor declares a state of emergency (HSA, HB335, Act 2003-276 §9).

Emergency Management Agency: The State Emergency Management Agency (EMA) ensures adequate preparations are taken to manage disasters and emergencies and provides for the common defense to protect the peace, health and safety, and preserve lives and property. (Ala. Code §31-9-2(1)) The director of the EMA serves as an assistant director for the Department of Homeland Security. (HSA, HB335, Act 2003-276 §7(c)) The director of the EMA is appointed by the governor. (Ala. Code §31-9-4)

Homeland Security Task Force: The Task Force advises the director of Homeland Security on plans and programs. (HSA, HB335, Act 2003-276 §12)

Office of Emergency Management and Preparedness: The Office of Emergency Management and Preparedness is responsible for the administration of grant assistance programs for planning and preparedness (see citation under “Types of Assistance”). State funds cannot be given to local governments not eligible for federal grants. State grants are provided on a 50-50 cost sharing basis (Ala. Code §31-9-24(b)).

Local emergency management organizations: Political subdivisions in Alabama are authorized and directed to establish local organizations, confer police officer powers, and appoint directors of the organizations. Each local organization performs emergency management functions within political subdivision limits (Ala. Code §31-9-10).

Joint Legislative Committee on Homeland Security Oversight: The Committee, composed of members of the Senate and the House, reviews operations of the Department of Homeland Security and makes annual reports to the legislature (HSA, HB335, Act 2003-276 §15).

Preparedness

The governor must prepare a comprehensive plan and program for emergency management, which is to be integrated and coordinated with federal government emergency management plans and with other states to the extent possible. Political subdivision emergency management plans and programs must be integrated into and coordinated with state plans and programs (Ala. Code §31-9-6(2,3)).

The mutual aid agreements in which the state participates must make plans for the orderly evacuation of civilians as a result of an emergency or disaster, and must be worked out periodically between state party representatives and local emergency management personnel. Plans include: type of transportation; number of evacuees in different areas; type of food, clothing, housing and medical care to be provided; and evacuee registration (Ala. Code §31-9-7 art. 9).

Declaration Procedures

Upon the governor's proclamation of a "state of emergency management emergency," the governor must immediately call the legislature into special session. During the period when the state of emergency exists or continues, the governor has emergency powers to enforce all laws, rules and regulations relating to emergency management and to assume direct operational control of all emergency management forces and helpers (Ala. Code §31-9-8).

Types of Assistance

State officials are authorized to make grants to political subdivisions for emergency planning and preparedness. Appropriations must be made for specific purposes and cannot exceed expenditures or the amount to be expended for personnel and administrative costs (Ala. Code §31-9-2 (c)).

Mutual Aid

Emergency Management Assistance Compact provisions are codified (Ala. Code §31-9-40).

The governor is authorized by direction of the legislature, or at his discretion, to enter into agreements and compacts with other states for mutual interstate aid in emergencies or disasters resulting from enemy attack or other causes (Ala. Code §31-9-7).

The state statute authorizes mutual aid among political subdivisions and with other states and the federal government with respect to emergency management functions (Ala. Code §31-9-2(a)(3)).

Mutual aid agreements or compacts are limited to furnishing or exchanging food and personal supplies, engineering services, emergency housing, police services, national or state guards while under state control, and health and medicine (Ala. Code §31-9-6 (9)).

The director of each local emergency management organization may develop mutual aid agreements with public or private agencies for emergency aid and assistance in case of disaster. Agreements must be consistent with state emergency management plan and program (Ala. Code §31-9-9).

The Director of the Department of Homeland Security is authorized to accept services from the federal government and private persons (HSA, HB335, Act 2003-276 §10).

Funding

The state, acting through the governor, or the political subdivision, acting through its governing body, may accept offers from the federal government and any federal agency or officer for services, equipment, supplies, materials or funds in the form of gifts, grants or loans for emergency management purposes (Ala. Code §31-9-18).

Grant program appropriations are limited to amounts provided for in the statute. They are disbursed, like all other state funds, by warrant of the comptroller as authorized by the agency director and approved by the governor, subject to terms, conditions, provisions and limitations. Funds appropriated from the state treasury may be used for operations and enforcement during an emergency (Ala. Code §31-9-24).

Hazard Mitigation

The statute provides for a “comprehensive land-use management plan” to be prepared in each county to manage land development, reduce flood damage, and improve the use of flood prone areas (Ala. Code 11-19-1 *et seq.*).

Continuity of Government Operations

Emergency Interim Succession Act: The Act provides for emergency interim succession to the legislature and authorizes legislators to designate at least three emergency interim successors and specify their order of succession. Emergency interim successors must meet constitutional and statutory qualifications to hold office, with the exception of restrictions on current office holders. Successors are appointed for at least one year, and must take the oath of office and keep generally informed as to the duties, procedures, practices and current business of the legislature (Ala. Code §29-3-1 to 8).

In the event of an attack, or when an attack may be imminent, the governor may change the legislature’s place of session to any place within or without the state (Ala. Code §29-3-9). The governor must call the legislature into session within 90 days. The legislature automatically convenes if the governor fails to issue a call. The statute suspends limitations on session length and subjects that may be acted upon. (Ala. Code §29-3-10) The statute also suspends quorum requirements and amends proportional voting requirements. (Ala. Code §29-3-13) The statutory provisions expire two years

following the attack. The governor, by proclamation, or the legislature, by concurrent resolution, may extend or restore authority or the operation of any provisions when necessary for up to one year (Ala. Code §29-3-14).

Local governing bodies of cities, towns, villages, townships and counties may enact resolutions or ordinances for filling vacancies and to provide for emergency interim successors to offices. (Ala. Code §29-3-15) Officers of political subdivisions listed in §29-3-15 and school, fire, power, and drainage districts must designate emergency interim successors and specify their order of succession. The executive head of the political subdivision must designate at least three deputies or emergency interim successors or any combination (Ala. Code §29-3-16).

The state constitution provides for a line of succession to the office of governor (Ala. Constitution Article 5, §127).

Other

Persons rendering shelter during a disaster or attack are not liable for death or injuries on their property (Ala. Code §31-9-17).

During a state of emergency and the recovery, state employees called on to respond may claim state per diem (HSA, HB335, Act 2003-276 §9(6)).

Functions authorized by the statute are government functions and are protected by state immunity (HSA, HB335, Act 2003-276 §13).

Key Terms

Term	Citation
Act of terrorism	Ala. Code §13A-10-151
Attack	Ala. Code §29-3-3
Emergency management	Ala. Code §31-9-3 (1)
Emergency	Ala. Code §31-9-8
Emergency management worker	Ala. Code §31-9-16
Homeland security	HSA, HB 335, Act 2003-276 §3(3)

For Further Research

The citations noted above and other elements of the state code for Alabama may be searched at: [<http://alisdb.legislature.state.al.us/acas/alisonstart.asp>].