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American Samoa Emergency Management and Homeland Security Statutory Authorities Summarized

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Summary

The Territorial Disaster Assistance Act of American Samoa addresses hazard mitigation and preparedness. The governor is authorized to issue an executive order to declare an emergency, which begins the emergency response process. Continuity of government operations provisions address vacancies in the offices of governor and lieutenant governor, chief justice and associate judges. The statute has established a disaster contingency fund. The governor may enter into mutual aid compacts to assist with disasters.

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: The governor is responsible for meeting the dangers presented by disasters, and may issue and change executive directives. The governor serves as commander-in-chief of the organized and unorganized militia, which is available for emergency duty. The governor is charged with delegating and assigning militia command authority by prior arrangement through executive orders and regulations. The governor may suspend statutes regarding the conducting of territorial business, or agency rules, use territorial public resources, transfer personnel and functions, commandeer private property (with compensation), direct or compel the evacuation of persons from stricken or threatened areas, prescribe routes, modes of transportation, and destinations during evacuations, control ingress and egress to and from a disaster area, including the movement of persons within the area and the occupancy of premises, suspend or limit specified commerce, and make temporary emergency housing available (Am. Samoa Code Ann. §26.0105 (b), (f),(g)). The governor’s emergency powers terminate when the governor declares the emergency no longer exists or the legislature acts through a concurrent resolution (Am. Samoa Code Ann. §15.0503).

Disaster Emergency Council: The Council consists of the director of Public Safety and six members appointed by the governor to advise him on matters relating to disasters. Three members of the council are district governors of the three political districts in American Samoa (Am. Samoa Code Ann. §26.0105 (c)).

Office of Territory Emergency Management Coordination: The office operates under the supervision and control of the governor or the disaster assistance coordinator. The office prepares and maintains territorial disaster assistance plans, and, with the assistance of political subdivisions, determines requirements for necessities and: adopts standards and requirements for the territorial disaster assistance plan; establishes and assists political subdivisions with public information programs; surveys public and private industries, resources, and facilities to carry out emergency management purposes; plans and makes arrangements for the use of private facilities, services, and property (and provides payments for the use of the property); establishes a registry of persons with training and skills important in emergency management and a registry of equipment and temporary housing (American Samoa Code Ann. §26.0106 (f)).

Preparedness

The “Territorial Disaster Assistance Act of 1978” established the following goals: reduce the vulnerability of people and communities and prepare for prompt and efficient rescue, care, and treatment of persons victimized or threatened by disaster; and, provide for rapid and orderly restoration and rehabilitation of persons and property affected by disasters.

See also “Entities with key responsibilities”(Am. Samoa Code Ann. §26.0101 *et seq.*).

The territorial disaster assistance plan must address prevention and minimization of injury and damage caused by a disaster, prompt and effective response procedures, safety measures for securing mobile homes or other nonpermanent or semi-permanent structures,

and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact (Am. Samoa Code Ann. §26.0106 (b)).

The Office of Territory Emergency Management Coordination must determine the means for rapid and efficient communications in times of disaster emergencies. The office considers the desirability of supplementing these communications resources, or of integrating them into a comprehensive territorial communications system or network. The office evaluates the possibility of multipurpose use for general territorial and local governmental purposes, and makes recommendations to the governor (Am. Samoa Code Ann. §26.0111).

Declaration Procedures

A disaster emergency shall be declared by the governor's executive order or proclamation if he finds that a disaster has occurred, or that this occurrence or the threat is imminent. The state of disaster emergency shall continue for 30 days maximum, but can be renewed until the governor finds that the threat or danger has ended, or that emergency conditions no longer exist. The governor must terminate the state of disaster emergency by executive order or proclamation. The legislature, by concurrent resolution, may terminate a state of disaster emergency at any time. The governor must then issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations must indicate the nature of the disaster, the area threatened, and the conditions that brought it about, or that make termination possible (American Samoa Code Ann. §26.0105 (d)).

Types of Assistance

The executive order or proclamation of state of disaster emergency activates the disaster response and recovery portions of territory, local, and inter-jurisdictional disaster emergency plans. The executive order authorizes the deployment and use of forces and the distribution of supplies, equipment, materials and facilities assembled and stockpiled for disaster emergencies (American Samoa Code Ann. §26.0105 (e)).

Mutual Aid

The governor may enter into a mutual aid compact with any state or U.S. possession if the joint action meets common intergovernmental problems of emergency disaster planning, prevention, response, and recovery (American Samoa Code Ann. §26.0108).

Funding

The Economic Stabilization and Emergency Fund has been created to help officials provide temporary relief for major disasters, federal grant reductions, or other major events not foreseen during the regular budget process, but would affect significantly the economic welfare of American Samoa (Am. Samoa Code Ann. § 10.0701).

Funds to meet disaster emergencies must always be available. A disaster contingency fund (\$50,000 minimum balance) has been established. The legislature appropriates funds which remain in the contingency fund until expended. The fund is an

earmarked portion of the economic stabilization and emergency fund, and is administered by the advisory budget commission. First recourse shall be to funds regularly appropriated to territorial agencies. If the governor finds that demands placed upon these funds are unreasonably great for a particular disaster, he or she, with the concurrence of the advisory budget commission, may make funds available from the disaster contingency fund. If moneys available from the fund are insufficient and if the governor finds that other sources are not available or sufficient, the governor (with commission concurrence) may transfer and expend funds appropriated for other purposes, or may borrow from the U.S. government or any other public or private source. Nothing limits the governor's authority to apply for, administer, and expend a grant, gift, or payment or pass-through funds to aid disaster prevention, preparedness, response, or recovery efforts (Am. Samoa Code Ann. § 26.0107).

Hazard Mitigation

In addition to disaster prevention measures, the governor shall consider steps to prevent or reduce the harmful consequences of disasters. Territorial agencies must study disaster prevention-related matters. The governor must make recommendations to the legislature, local governments, and to public and private entities to implement disaster mitigation measures. Land use and construction practices must be studied in areas susceptible to disasters in order to reduce risks. If the Office of Territory Emergency Management Coordination finds an area is susceptible and existing building standards and land use controls are inadequate, essential changes should be recommended to the governor, who may recommend legislative action. The governor may suspend standards or controls found inadequate, and may place new standards or controls in effect. The new standards or controls remain in effect until rejected by legislative concurrent resolution, or amended by the governor. The standards or controls contained in the governor's regulation must be given full effect by regulatory agencies and local governments. The governor's action in this matter is subject to judicial review, but not subject to temporary stay pending litigation (Am. Samoa Code Ann. §26.0109 (a)).

Continuity of Government Operations

If an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule with less than 20 days notice and states in writing its reasons for that finding, officials may proceed without prior notice or hearing, or upon any abbreviated notice and hearing, to adopt an emergency rule. The rule may be effective for a period not longer than 120 days. The agency shall take appropriate measures to make emergency rules known to persons who may be affected by them (American Samoa Code Ann. §4.1010).

Other

Any person who holds a license, certificate, or other permit issued by any state or political subdivision for professional, mechanical, or other skills may render aid involving that skill in American Samoa territory during an emergency or disaster. Officials in the territory shall give due recognition to the license, certificate, or other permit (American Samoa Code Ann. § 26.0108).

Emergency management response cannot: interfere with a labor dispute, with exceptions related to public health or safety; interfere with the dissemination of news or comment on public affairs; affect the jurisdiction or responsibilities of police forces, fire-fighting forces, or units of the armed forces of the United States, when on active duty; or, modify or abridge the authority of the governor to proclaim martial law or exercise any other powers vested in him under the constitution, statutes, or common law. Territorial disaster emergency plans must place reliance upon the forces available for performance of functions related to disaster emergencies. Communications facilities or related organizations (radio and television stations, wire services, and newspapers) may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster emergency (Am. Samoa Code Ann. §26.0103).

Each person shall keep and manage affairs and property to meet disaster emergencies. This includes appropriate personal service and the use or restriction on the use of property in time of disaster emergency. Compensation is provided for services or for the taking or use of property, with limits set (Am. Samoa Code Ann. §26.0110).

Key Term

Table 1. Key Emergency Management and Homeland Security Term Defined in American Samoa Statutes, with Citations

Term	Citation
Disaster	Am. Samoa Code Ann. §26.0104 (a)

For Further Research

The citations noted above and other elements of the state code for American Samoa may be searched at: [<http://www.lawsources.com/also/usa.cgi?xas>].