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Received through the CRS Web

Maine Emergency Management and Homeland Security Statutory Authorities Summarized

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Summary

The primary state disaster statute (codified at Maine Rev. Stat. Ann., Title 37-B) delegates powers to the governor, the state emergency management agency, and local emergency management agencies. The statute provides for mutual aid agreements among political subdivisions and with Canadian provinces. Maine has established the Natural Disaster Business Assistance Fund to help businesses affected by disasters; other assistance is obtained primarily from federal aid. The governor and political subdivisions may move seats of government during an emergency related to an enemy attack.

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.

Entities with Key Responsibilities

Governor: The statute confers specific emergency powers upon the governor and executive heads of governing bodies of political subdivisions (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, §701 (3)). The governor may assume direct operational control over all,

or any part, of the emergency management and public safety functions if a disaster exceeds local control. The governor may make and rescind necessary orders, direct preparation of a comprehensive emergency management plan, coordinate preparation of emergency management plans and programs by political subdivisions, procure supplies and equipment, establish emergency reserves, and enter into mutual aid arrangements with other states and foreign countries, among other duties. (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, §741)

After issuing an emergency proclamation the governor may commandeer private property for the protection and welfare of the state and its inhabitants. (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, §821) The governor may also authorize the transfer of equipment, supplies, materials or funds to any political subdivision through sale, lease or grant; use any available property; enlist the aid of any person; restrict traffic patterns; and use existing services and facilities. (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, Subchapter 4, §826-831)

Department of Defense, Veterans and Emergency Management: The department is charged with coordinating and improving the state emergency management and other matters (Me. Rev. Stat. Ann., Title 37-B, Chap. 1, §1).

Commissioner of Defense, Veterans and Emergency Management: The adjutant general serves as commissioner and administers the Department of Defense, Veterans and Emergency Management (Me. Rev. Stat. Ann., Title 37-B, Chap. 1, §3).

Emergency Management Agency: The EMA, established by the statute, is charged with lessening the effects of disasters through leadership and coordination in mitigation, preparedness, response, and recovery (Me. Rev. Stat. Ann., Title 37-B, Chap. 1, §701).

Director of Emergency Management: The director of the EMA, subject to the direction and control of the adjutant general, is responsible for carrying out the state program for emergency management. The director coordinates activities of emergency management and serves as liaison with agencies of other states, the federal government, and foreign countries. In consultation with the Office of Chief Medical Examiner, the director must prepare a plan for the recovery, identification and disposition of human remains in a disaster (Me. Rev. Stat. Ann., Title 37-B, Chap. 13 §704).

Municipal or Interjurisdictional Agencies: Each municipality must be served by an emergency management agency, whether municipal or interjurisdictional. Each county must maintain an emergency management agency, or create regional agencies that serve member counties. The state director of emergency management provides advice regarding the organizational structure of interjurisdictional and regional emergency management agencies, including the method by which directors are appointed (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, §781).

Municipal Agency Director: Local emergency management directors are to be appointed by municipal officers, and they are to cooperate in disaster prevention, preparedness, response and recovery. Directors meet each year with the director of the EMA and the respective appointing authority to review the performance of the local emergency management organization and to jointly set new goals for the coming year (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, §782).

Local organizations: The statute authorizes the creation of local organizations for emergency management in political subdivisions (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, §701(2)).

Emergency Response Commission: The statute outlines the membership, as well as the powers and duties of the commission that implements provisions of federal law, works with local emergency planning committees and response plans, and develops requirements for chemical facility plans and other tasks relevant to hazardous substances. The statute established a fund to carry out the commission's duties (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, Subchapter 3-A, §791-806).

Preparedness

Each municipal, interjurisdictional, county and regional emergency management agency must prepare a disaster emergency plan. Each plan includes procedures and operations necessary to prevent or minimize injury and damage and identify personnel, equipment and supplies required to implement procedures. Agencies must consult with hospitals within their jurisdiction to ensure that the disaster plans developed by the agency and the hospitals are compatible (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, Subchapter 3, §783).

Declaration Procedures

The governor may declare a state of emergency, the proclamation of which activates emergency plans applicable to affected areas. The statute also provides for the issuance of energy emergency proclamations and oil spill emergency proclamations (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, Subchapter 2, §742). The governor may terminate the emergency by issuing another proclamation. No state of emergency may continue for longer than 30 days unless it is renewed by governor. The legislature, by joint resolution, may terminate a state of emergency at anytime (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, Subchapter 2, §743).

Types of Assistance

The governor is authorized to provide for the availability and use of temporary emergency housing after an emergency proclamation is filed (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, Subchapter 2, §742 (10)).

The Maine Natural Disaster Business Assistance Program, supported from the Natural Disaster Business Assistance Fund, provides financial aid to eligible enterprises that have suffered serious financial hardship as a direct result of a natural disaster, have insufficient access to federal or other disaster funds or financial assistance, and are for-profit business enterprises. The program is a source of direct loans or security for loans from financial institutions, and provides direct interim financing to eligible applicants. The initial term of financial assistance cannot to exceed six months. The statute sets limits on interest rates and terms; the assistance provided cannot exceed \$50,000 (Me. Rev. Stat. Ann., Title 10, Chap. 110, Subchapter 1-C, §1011-1012.).

The statute authorizes benefits to be provided to needy families with children in emergency situations, including, but not limited to, fire and other natural disasters, in which the family is deprived of the basic necessities essential to their support. The statute also sets limits on the use of state general assistance funds (Me. Rev. Stat. Ann., Title 22, Subtitle 3, Part 3, Chapter 1053-A, §3761).

The governor is authorized to accept federal assistance for individual or family expenses or serious needs that cannot be met by other means of assistance. The statute limits the amount of grants and establishes standards of eligibility for benefits (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, Subchapter 2, §744 (1)).

The governor is authorized to apply to the federal government for aid or loans on behalf of the state or a local government to repair or replace publicly owned facilities. The statute limits the amount that may be obligated from state resources, and the governor may recommend the cancellation of all or any part of repayment when a unit of local government is unable to meet operating expenses (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, Subchapter 2, §744 (2-A)).

The governor is authorized to establish temporary housing for disaster victims and to assist local government efforts to acquire sites. The statute authorizes the use of temporary housing units from any federal agency, and acceptance of funds passed through from other sources. The governor is authorized to suspend or modify, for a time not to exceed 60 days, any public health, safety, zoning, transportation or other requirement of law, when such an action is essential to provide temporary housing for victims (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, Subchapter 2, §744 (3)(3-A)).

The governor may order debris and wreckage removal from publicly or privately owned land or water, and is authorized to accept federal funds. The statute indemnifies the federal government from claims arising from debris removal and limits liability. The governor may accept federal funds on behalf of local governments for the removal of debris or wreckage (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, Subchapter 2, §744 (4)).

Mutual Aid

The Emergency Management Assistance Compact is codified (Me. Rev. Stat. Ann., Title 37-B, Chap 16, §921).

The International Emergency Management Assistance Compact is codified. Six states and six Canadian provinces are eligible to become members of this compact, which provides for mutual assistance between party jurisdictions in managing any emergency or disaster when the governor or premier of the affected jurisdiction asks for assistance, whether arising from natural disaster, technological hazard, man-made disaster or civil emergency aspects of resource shortages. The statute also provides for mutual cooperation in emergency related exercises, testing or other training activities (Me. Rev. Stat. Ann., Title 37-B, Chap 16A, §935).

The statute provides for mutual aid to be rendered among political subdivisions of the state, with other states, and with provinces of Canada for emergency management functions (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, Subchapter 1, §701(4)).

Funding

Authorizes the EMA to accept gifts, grants and research funds and to contract with the federal government, other state and provincial governments, corporations, foundations and other legal entities for authorized purposes, including conducting emergency planning activities related to nuclear power facilities in adjacent states or provinces (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, Subchapter 1, §707).

During a declared emergency the governor may transfer money from the state's general fund, including unexpended appropriation balances of any state department or agency, to the EMA. Political subdivisions are authorized to make appropriations for emergency management (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, Subchapter 4, §824).

The governor may accept services, equipment, supplies, materials, or funds for emergency management purposes from the federal government or any agency (public or private), by way of gifts, loans or grants (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, Subchapter 4, §825).

Hazard Mitigation

See "Entities with Key Responsibilities"

Continuity of Government Operations

The statute authorizes the governor to declare an emergency temporary location for the seat of government as a result of an enemy attack or threatened attack. The emergency temporary location remains as the seat of government until the legislature establishes a new location by law, or until the governor declares the emergency has ended (Me. Rev. Stat. Ann., Title 1, Chap 19, §711-712).

The statute authorizes the governing bodies of political subdivisions to meet on the call of the presiding officer or any two members to determine the emergency temporary location(s) of government due to an emergency resulting from the effects of enemy attack, or the anticipated effects of a threatened enemy attack. Sites may be within or without the territorial limits of political subdivision or within or without the state (Me. Rev. Stat. Ann., Title 1, Chap 19, §761-762).

Other

State employees certified in disaster relief service may be granted up to 15 days of paid administrative leave annually to participate in disaster relief services for the American Red Cross, without loss of any other accrued leave. The statute also authorizes leave through employees' compensated time off (Me. Rev. Stat. Ann., Title 5, Chap. 1, §19-B).

The Department of Health and Welfare (DHW), with gubernatorial approval, may procure and distribute within the State, and sell or give away, antitoxins, serums, and analogous products in case of war or in any declared emergency (Me. Rev. Stat. Ann., Title 22, Sub 2, Part 4 Chap 401 §1706).

DHW is to develop plans, with the advice and assistance of the Bureau of Emergency Preparedness and of the public water systems of the state, for emergency conditions and situations involving the contamination of the drinking water supply that may endanger the public health or welfare (Me. Rev. Stat. Ann., Title 22, Sub 2, Part 5 Chap 601, §2606).

The statute grants immunity from civil liability to the state, political subdivisions, and persons who provide shelter space while engaged in or complying with emergency management activities (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, Subchapter 4, §822).

Emergency management organizations cannot participate in “any form of political activity,” nor can they be used for political purposes (Me. Rev. Stat. Ann., Title 37-B, Chap. 13, §832).

Key Terms

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

Terms	Citations
Disaster	Me. Rev. Stat. Ann., Title 37-B, Chap. 13, §703 (2)
Emergency management	Me. Rev. Stat. Ann., Title 37-B, Chap. 13, §703 (2-A)
Emergency management forces	Me. Rev. Stat. Ann., Title 37-B, Chap. 13, §703 (2-B)
Local organization for emergency management	Me. Rev. Stat. Ann., Title 37-B, Chap. 13, §703 (3)
Mitigation	Me. Rev. Stat. Ann., Title 37-B, Chap. 13, §703 (3-A)
Preparedness	Me. Rev. Stat. Ann., Title 37-B, Chap. 13, §703 (5)
Recovery	Me. Rev. Stat. Ann., Title 37-B, Chap. 13, §703 (6)
Response	Me. Rev. Stat. Ann., Title 37-B, Chap. 13, §703 (7)

For Further Research

The citations noted above and other elements of the state code for Maine may be searched at [<http://janus.state.me.us/legis/ros/meconlaw.htm>].