

GA - Official Code of Georgia Annotated

TITLE 38. MILITARY, EMERGENCY MANAGEMENT, AND VETERANS AFFAIRS

CHAPTER 3. EMERGENCY MANAGEMENT

ARTICLE 1. GENERAL PROVISIONS

§ 38-3-1. Short title

Articles 1 through 3 of this chapter may be cited as the "Georgia Emergency Management Act of 1981."

§ 38-3-2. Policy and purpose

(a) Because of the existing and increasing possibility of the occurrence of emergencies or disasters resulting from manmade or natural causes or enemy attack; in order to ensure that preparations of this state will be adequate to deal with such emergencies or disasters; generally to provide for the common defense and to protect the public peace, health, and safety; and to preserve the lives and property of the people of this state, it is found and declared to be necessary:

(1) To create a state emergency management agency and to authorize the creation of local organizations for emergency management in the political subdivisions of the state;

(2) To confer upon the Governor and upon the executive heads of governing bodies of the political subdivisions of the state the emergency powers provided in Articles 1 through 3 of this chapter;

(3) To provide for the rendering of mutual aid among the political subdivisions of the state, with other states, and with the federal government with respect to the carrying out of emergency management functions; and

(4) To authorize the establishment of such organizations and the taking of such steps as are necessary and appropriate to carry out Articles 1 through 3 of this chapter.

(b) It is further declared to be the purpose of Articles 1 through 3 of this chapter and the policy of this state that all emergency management functions of this state be coordinated to the maximum extent with the comparable functions of the federal government, including its various departments and agencies; of other states and localities; and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any emergency or disaster that may occur.

§ 38-3-3. Definitions

As used in Articles 1 through 3 of this chapter, the term:

(1) "Bioterrorism" means the intentional creation or use of any microorganism, virus, infectious substance, or any component thereof, whether naturally occurring or bioengineered, to cause death, illness, disease, or other biological malfunction in a human, animal, plant, or other living organism in

order improperly or illegally to influence the conduct of government, to interfere with or disrupt commerce, or to intimidate or coerce a civilian population.

(2) "Emergency management" means the preparation for the carrying out of all emergency functions other than functions for which military forces are primarily responsible to prevent, minimize, and repair injury and damage resulting from emergencies, energy emergencies, disasters, or the imminent threat thereof, of manmade or natural origin caused by enemy attack, sabotage, acts of domestic or international terrorism, civil disturbance, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, infestation, explosion, riot or other hostile action, radiological action, or other causes. These functions include, without limitation, fire-fighting services; police services; emergency medical services; rescue; engineering; warning services; communications; defense from radiological, chemical, biological, and other special weapons to include weapons of mass destruction; evacuation of persons from stricken areas; emergency welfare services; consequence management functions to include victim services; emergency transportation; plant protection; temporary restoration of public utility services; and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions.

(2.1) "Emergency Operations Command" means the unified command group comprising the director of emergency management and homeland security, the director of the Georgia Bureau of Investigation, the commissioner of public safety, the commissioner of natural resources, the commissioner of transportation, and the adjutant general.

(3) "Energy emergency" means a condition of danger to the health, safety, welfare, or economic well-being of the citizens of this state arising out of a present or threatened shortage of usable energy resources; also any condition of substantial danger to the health, safety, or welfare of the citizens of this state resulting from the operation of any electrical power-generating facility, the transport of any energy resource by any means whatsoever, or the production, use, or disposal of any source material, special nuclear material, or by-product, as defined by the Atomic Energy Act of 1954, 68 Stat. 919, 42 U.S.C. Section 2011, et seq.; also any nuclear incident, as defined by the Atomic Energy Act of 1954, occurring within or outside this state, substantially affecting the health, safety, or welfare of the citizens of this state.

(4) "Energy resources" means all forms of energy or power, including, without limitation, oil, gasoline, and other petroleum products; natural or synthetic gas; electricity in all forms and from all sources; and other fuels of any description, except wood.

(4.1) "Homeland security activity" shall have the same meaning as provided for in Code Section 35-3-200.

(4.2) "Pandemic influenza emergency" means the declaration by the World Health Organization of at least a Phase 5 Pandemic Alert for influenza occurring in the United States or the State of Georgia or the declaration by the Centers for Disease Control and Prevention of at least a Category 2 Pandemic Severity Index for influenza occurring in the United States or the State of Georgia.

(5) "Political subdivision" means:

(A) Cities having a population of over 1,000;

(B) Cities having a population of less than 1,000 in which the Governor has established a local organization; and

(C) Counties.

(6) "Public health emergency" means the occurrence or imminent threat of an illness or health condition that is reasonably believed to be caused by bioterrorism or the appearance of a novel or previously controlled or eradicated infectious agent or biological toxin and poses a high probability of any of the following harms:

(A) A large number of deaths in the affected population;

(B) A large number of serious or long-term disabilities in the affected population; or

(C) Widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people in the affected population.

(7) "State of emergency" means the condition declared by the Governor when, in his or her judgment, the threat or actual occurrence of a disaster, emergency, or energy emergency in any part of the state is of sufficient severity and magnitude to warrant extraordinary assistance by the state to supplement the efforts and available resources of the several localities and relief organizations in preventing or alleviating the damage, loss, hardship, or suffering threatened or caused thereby.

§ 38-3-4. Enforcement

The law enforcement authorities of the state and of the political subdivisions thereof shall enforce the orders, rules, and regulations issued pursuant to Articles 1 through 3 of this chapter.

§ 38-3-5. (See Editor's notes.) Injunction; who may obtain; remedy at law irrelevant

The director of emergency management or any person, corporation, firm, or association, in addition to the remedies set forth in Articles 1 through 3 of this chapter, may obtain from a court of competent jurisdiction an injunction to restrain violation of the provisions of Articles 1 through 3 of this chapter. The grant of an injunction is authorized notwithstanding the availability of adequate remedies at law.

History. -- Ga. L. 1974, p. 558, § 3.

Editor's notes. -- For application of this statute in 2020, see Executive Order 04.20.20.01.

A listing of Executive Orders issued in 2020 can be found at <https://gov.georgia.gov/executive-action/executive-orders/2020-executive-orders>.

§ 38-3-6. Liberality of construction

Articles 1 through 3 of this chapter shall be construed liberally in order to effectuate their purposes.

§ 38-3-7. Penalty for violation

Any person who violates any provision of Articles 1 through 3 of this chapter or any rule, order, or regulation made pursuant to Articles 1 through 3 of this chapter shall be guilty of a misdemeanor.

ARTICLE 2. ORGANIZATION AND ADMINISTRATION

§ 38-3-20. Georgia Emergency Management and Homeland Security Agency created; director; staff; offices; director's duties; disaster coordinator

(a) There is established the Georgia Emergency Management and Homeland Security Agency with a director of emergency management and homeland security who shall be the head thereof. The Georgia Emergency Management and Homeland Security Agency shall be assigned to the Office of Planning and Budget for administrative purposes only as provided in Code Section 50-4-3.

(b) The Governor shall appoint the director of emergency management and homeland security. He or she shall hold office at the pleasure of the Governor, who shall fix his or her compensation. The director of emergency management and homeland security shall hold no other state office.

(c) The director may employ such professional, technical, clerical, stenographic, and other personnel, may fix their compensation, and may make such expenditures within the appropriation therefor, or from other funds made available for purposes of emergency management and homeland security, as may be necessary to carry out the purposes of Article 9 of Chapter 3 of Title 35; Article 1, this article, and Article 3 of this chapter; and the duties of the agency and the director described in Part 4 of Article 2 of Chapter 5 of Title 46, the "Georgia Emergency Telephone Number 9-1-1 Service Act of 1977," as amended.

(d) The director and other personnel of the Georgia Emergency Management and Homeland Security Agency shall be provided with appropriate office space, furniture, equipment, supplies, stationery, and printing in the same manner as provided for personnel of other state agencies.

(e) The director, subject to the direction and control of the Governor, shall:

(1) Be the executive head of the Georgia Emergency Management and Homeland Security Agency and shall be responsible to the Governor for carrying out the program for emergency management and homeland security in this state;

(2) Serve as the central authority reporting to the Governor on all matters relating to homeland security;

(3) Have authority over areas involving imminent or current terrorist activity within this state, including, but not limited to, leading and directing the actions of the Homeland Security Task Force and the Emergency Operations Command where such Emergency Operations Command shall not usurp the operational authority of participating agencies but shall be responsible only for coordinating the public safety response to natural disasters, homeland security activities, and other emergencies within the state;

(4) Coordinate the activities of all organizations for emergency management and homeland security within the state;

(5) Maintain liaison with and cooperate with emergency management agencies and organizations of other states and of the federal government;

(6) Through risk and threat assessments, coordinate plans for timely and complete responses through a network of state, local, and federal organizations, including, but not limited to, the coordination of efficient and timely flow of information;

(7) Be responsible for crisis and consequence management planning, including, but not limited to, measures to identify, acquire, and plan the use of resources needed to anticipate, prevent, or resolve a threat or act of terrorism;

(8) Coordinate and review activities involving homeland security within any agency, authority, or entity of this state, including, but not limited to, homeland security activities found within the Department of Public Safety, the Georgia Bureau of Investigation, the Georgia National Guard, the Department of Natural Resources, the Department of Community Health, and the Department of Public Health;

(9) Evaluate information developed by the criminal justice community in regard to threats or potential threats of terrorism;

(10) Serve as this state's security manager for the purpose of identifying and processing state personnel for security clearances through the United States Department of Homeland Security; and

(11) Have such additional authority, duties, and responsibilities authorized by Article 1, this article, and Article 3 of this chapter as may be prescribed by the Governor and such additional authority, duties, and responsibilities as described in Article 9 of Chapter 3 of Title 35 and Part 4 of Article 2 of Chapter 5 of Title 46, the "Georgia Emergency Telephone Number 9-1-1 Service Act of 1977," as amended.

(f) The director of emergency management and homeland security shall also be the disaster coordinator and shall act for the Governor when requested to do so.

§ 38-3-21. Director authorized to make rules and regulations

Subject to the approval of the Governor, the director of emergency management shall be authorized to promulgate such rules and regulations as may be required to effectuate the purposes of Articles 1 through 3 of this chapter.

§ 38-3-22. Governor's emergency management powers and duties

(a) The Governor shall have general direction and control of the Georgia Emergency Management and Homeland Security Agency and shall be responsible for the carrying out of the provisions of Article 1, this article, and Article 3 of this chapter and, in the event of disaster or emergency beyond local control, may assume direct operational control over all or any part of the emergency management functions within this state.

(b) In performing his duties under Articles 1 through 3 of this chapter, the Governor is further authorized and empowered:

- (1) To make, amend, and rescind the necessary orders, rules, and regulations to carry out the provisions of Articles 1 through 3 of this chapter with due consideration to the plans of the federal government;
- (2) To prepare a comprehensive plan and program for emergency management in this state, such plan and program to be integrated into and coordinated with the emergency management and preparedness plans of the federal government and of other states to the fullest possible extent; and to coordinate the preparation of plans and programs for emergency management by the political subdivisions of this state, such plans to be integrated into and coordinated with the emergency management plan and program of this state to the fullest possible extent;
- (3) In accordance with the plan and program for emergency management in this state, to ascertain the requirements of the state or the political subdivisions thereof for food, clothing, and other necessities of life, in the event of a manmade or natural emergency or disaster, or enemy attack; to plan for and procure supplies, medicines, materials, and equipment, and to use and employ from time to time any of the property, services, and resources within the state for the purposes set forth in Articles 1 through 3 of this chapter; to make surveys of the industries, resources, and facilities within the state as are necessary to carry out the purposes of Articles 1 through 3 of this chapter; to institute training programs and public information programs, to take all other preparatory steps including the partial or full mobilization of emergency management organizations in advance of actual emergency or disaster, and to ensure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need;
- (4) To coordinate with the President, the heads of the armed forces, the agency or officers responsible for emergency management and defense of the United States, and the officers and agencies of other states, matters pertaining to emergency management in the state and nation and the incidents thereof; and in connection therewith, to take any measures which he may deem proper to carry into effect any request of the President and the appropriate federal officers and agencies for any action looking to emergency management, including the direction or control of emergency management exercises he deems necessary and appropriate for operational capability;
- (5) To take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with Articles 1 through 3 of this chapter and with the orders, rules, and regulations made pursuant thereto;
- (6) To employ such measures and give such directions to the Department of Public Health and local boards of health as may be reasonably necessary for the purpose of securing compliance with Articles 1 through 3 of this chapter or with the findings or recommendations of the Department of Public Health and local boards of health by reason of conditions arising from emergencies or disasters, manmade or natural, or the threat of enemy attack or otherwise;
- (7) To utilize the services and facilities of existing offices and agencies of the state and of the political subdivisions thereof; and all such offices and agencies shall cooperate with and extend their services and facilities to the Governor as he may request;
- (8) To establish agencies and offices and to appoint executive, technical, clerical, and other personnel as may be necessary to carry out the provisions of Articles 1 through 3 of this chapter including, with due

consideration to the recommendations of the local authorities, full-time state and regional area or field coordinators;

(9) To delegate any authority vested in him under Articles 1 through 3 of this chapter;

(10) On behalf of this state to enter into reciprocal aid agreements or compacts with other states and the federal government, either on a state-wide basis or local political subdivision basis or with a neighboring state. Such mutual aid arrangements shall include but not be limited to the furnishing or exchange of food, clothing, medicine, and other supplies; engineering services; emergency housing; police services; national or state guards while under the control of the state; health, medical, and related services; fire-fighting, rescue, transportation, and construction services and equipment; personnel necessary to provide or conduct these services; such other supplies, equipment, facilities, personnel, and services as may be needed; the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items for mobile support units; and fire-fighting, police, and health units on such terms and conditions as are deemed necessary; and

(11) To sponsor and develop mutual aid plans and agreements between the political subdivisions of the state, similar to the mutual aid arrangements with other states referred to in paragraph (10) of this subsection.

(c) In addition to the emergency and disaster prevention measures included in the state and local emergency management plans, the Governor shall be empowered to make such studies, surveys, or analyses of potential emergency or disaster areas of the state as he deems necessary, both public and private, to prevent or reduce the harmful consequences of emergencies or disasters resulting from manmade or natural causes or from enemy attack; and to develop or cause to be developed measures to reduce the harmful consequences indicated in the studies, surveys, or analyses.

§ 38-3-22.1. Safety plan addressing threat of terrorism required of state agencies or authorities; exemptions; training and technical assistance; confidentiality of plans and related documentation

(a) Every state agency or authority, except those exempted in subsection (b) of this Code section, shall prepare an agency safety plan to address the threat of terrorism, to respond effectively to such incidents, and to provide a safe environment for state personnel and for those citizens conducting business with state agencies. In addition to acts of terrorism, such plan shall also address preparedness for natural disasters, hazardous materials or radiological accidents, and acts of violence. The safety plans of agencies and authorities shall be prepared with input from the appropriate supervisors and rank-and-file employees and local law enforcement, fire service, public safety, and emergency management agencies. Such plans shall be reviewed internally and, if necessary, updated annually. Such plans shall be submitted to the local emergency management agency.

(b) The Department of Public Safety, the Department of Corrections, and any other state agency which operates secured facilities shall be exempt from the requirements of subsection (a) of this Code section.

(c) Subject to the availability of funds for such purpose, the Georgia Emergency Management and Homeland Security Agency shall provide training and technical assistance to agencies and authorities and may provide such training and technical assistance to local units of government and to critical facilities operated by the private sector. Such training and technical assistance shall include, but not be limited to,

crisis response team development, site surveys and safety audits, crisis management planning, exercise design, safe school planning, emergency operations planning, search and seizure, bomb threat management, and model safety plans.

(d) The following records shall not be subject to public inspection or disclosure under Article 4 of Chapter 18 of Title 50:

(1) Site surveys, safety audits, and vulnerability assessments performed pursuant to subsection (a) of this Code section; and

(2) Any other record produced pursuant to this Code section the disclosure of which would, in the determination of the director of the Georgia Emergency Management and Homeland Security Agency, endanger the life or physical safety of any person or persons or the physical safety of any public property.

§ 38-3-22.2. Establishment of Airport Antiterrorism Training Committee; annual training

Repealed by Ga. L. 2018, p. 681, § 1-3/ HB 779, effective July 1, 2018.

§ 38-3-23. Investigations and surveys; subpoena power; cooperation

For the purpose of making surveys and investigations and obtaining information, except the investigation of subversive activities that are the responsibility of the Federal Bureau of Investigation, the Governor may compel by subpoena the attendance of witnesses and the production of books, papers, records, and documents of individuals, firms, associations, and corporations. All officers, boards, commissions, and departments of the state and the political subdivisions thereof having information with respect thereto shall cooperate with and assist him in making the investigations and surveys.

§ 38-3-24. Traffic control; plans, regulations, and coordination

The Governor may formulate and execute plans and regulations for the control of traffic in order to provide for the rapid and safe movement of evacuation over public highways and streets of people, troops, or vehicles and of materials for national defense or for use in any defense industry. He may coordinate the activities of the departments or agencies of the state and of the political subdivisions thereof concerned directly or indirectly with public highways and streets in a manner which will best effectuate such plans.

§ 38-3-25. Lease or loan of state property for national or local purposes; transfer of state personnel; local authorities empowered to utilize property

(a) Whenever the Governor deems it to be in the public interest and notwithstanding any inconsistent provision of law, he may:

(1) Authorize any department or agency of the state to lease or lend, on such terms and conditions as he may deem necessary to promote the public welfare and protect the interests of the state, any real or personal property of the state government to the President, the heads of the armed forces, or to the emergency management agency or officials of the United States; and

(2) Enter into a contract on behalf of the state for the lease or loan to any political subdivision of the state, on such terms and conditions as he may deem necessary to promote the public welfare and protect the interests of the state, of any real or personal property of the state government or the temporary transfer or employment of personnel of the state government to or by any political subdivision of the state.

(b) The mayor, chief executive, or executive body of each political subdivision of the state may, notwithstanding any inconsistent provision of law:

(1) Enter into a contract or lease with the state, or accept any loan, or employ personnel as provided in paragraph (2) of subsection (a) of this Code section. Furthermore, the political subdivision may equip, maintain, utilize, and operate any such property and employ necessary personnel therefor in accordance with the purposes for which the agreement was executed; and

(2) Do all things and perform any and all acts which he may deem necessary to effectuate the purpose for which the contract was entered into.

§ 38-3-26. Mobile support units; organization; rights, powers, duties, privileges, immunities, and compensation, of employees; reimbursement to localities and out-of-state units; service out of state

(a) The Governor, or the director of emergency management at the request of the Governor, is authorized to create and establish such number of mobile support units as may be necessary to reinforce emergency management organizations in stricken areas and with due consideration of the plans of the federal government and of other states. He shall appoint a commander for each unit who shall have primary responsibility for the organization, administration, and operation of the unit. Mobile support units shall be called to duty upon orders of the Governor or the director and shall perform their functions in any part of the state or, upon the conditions specified in this Code section, in other states.

(b) Personnel of mobile support units while on duty, whether within or outside the state, shall:

(1) If they are employees of the state, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment;

(2) If they are employees of a political subdivision of the state and, whether serving within or outside the political subdivision, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment; and

(3) If they are not employees of the state or a political subdivision thereof, be entitled to adequate compensation incidental to their employment by the state for their services and to the same rights and immunities as are provided by law for the employees of this state. All personnel of mobile support units, while on duty, shall be subject to the operational control of the authority in charge of emergency management activities in the area in which they are serving and shall be reimbursed for all actual and necessary travel and subsistence expenses.

(c) The state shall reimburse a political subdivision for the compensation paid and actual and necessary travel, subsistence, and maintenance expenses of employees of the political subdivision while serving as members of a mobile unit; for all payments for death, disability, or injury of the employees incurred in the

course of such duty; and for all losses of or damage to supplies and equipment of the political subdivision resulting from the operation of the mobile support unit.

(d) Whenever a mobile support unit of another state shall render aid in this state pursuant to the orders of the governor of its home state and upon the request of the Governor of this state, this state shall reimburse the other state for the compensation paid and actual and necessary travel, subsistence, and maintenance expenses of the personnel of the mobile support unit while rendering the aid; for all payments for death, disability, or injury of the personnel incurred in the course of rendering the aid; and for all losses of or damage to supplies and equipment of the other state or a political subdivision thereof resulting from the rendering of the aid; provided, however, that the laws of such other state contain provisions substantially similar to this Code section or that provisions to the foregoing effect are embodied in a reciprocal mutual aid agreement or compact or that the federal government has authorized or agreed to make reimbursement for the mutual aid as above provided.

(e) No personnel of mobile support units of this state shall be ordered by the Governor to operate in any other state unless the laws of the other state contain provisions substantially similar to this Code section, or unless the reciprocal mutual aid agreements or compacts include provisions providing for the reimbursement, or unless the reimbursement will be made by the federal government by law or agreement.

§ 38-3-27. Local organizations for emergency management; creation; structure; powers; directors; appointment, qualifications, and compensation; state to provide financial assistance; entitlement for funding

(a)

(1) The governing body of each county of this state may establish a local organization for emergency management in accordance with the state emergency management plan and program. If a county fails to establish an organization for emergency management in accordance with the state emergency management plan and program, any municipality in such county may establish its own organization for emergency management. In cases where a county has an organization for emergency management, such organization shall include participation by each city within the county unless the governing authority of any particular city elects to implement its own organization for emergency management. Any two or more of the above-mentioned political subdivisions may, with the approval of the director, contract with each other so as to form one emergency management organization for the entire area included in the bounds of the contracting political subdivisions. The executive officer or governing body of the political subdivision is authorized to nominate a local director to the director of emergency management who shall have the authority to make the appointment. The local director shall have direct responsibility for the organization, administration, and operation of the local organization for emergency management, subject to the direction and control of the executive officer or governing body and shall serve at the pleasure of such executive officer or governing body. Each local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to Article 1, this article, and Article 3 of this chapter.

(2) A local director appointed pursuant to the provisions of paragraph (1) of this subsection who is paid a salary for full-time service as a director by the political subdivision or political subdivisions shall have the following minimum qualifications:

(A) The director shall be at least 21 years of age;

(B) The director shall not have been convicted of a felony. The executive officer or governing body of a political subdivision which nominates a local director shall furnish the director of emergency management two sets of fingerprints of the nominee. The director of emergency management shall forward fingerprints received concerning each nominee to the Georgia Crime Information Center of the Georgia Bureau of Investigation for the purpose of criminal identification through the fingerprint system of identification established by the Georgia Bureau of Investigation and the fingerprint system of identification established by the Federal Bureau of Investigation. The Georgia Crime Information Center shall report the findings of its records search and the records search of the Federal Bureau of Investigation to the director of emergency management;

(C) The director shall have completed a high school education or its equivalent and shall have successfully completed all initial courses required by the director of emergency management within 180 days following the date of nomination to office or within an extended period as determined by the director of emergency management and shall have successfully completed subsequent courses required by the director of emergency management within an appropriate period as determined by the director of emergency management;

(D) The director shall be capable of writing plans for responding to and recovering from disasters in his jurisdiction and shall be routinely available to respond to emergency scenes, command posts, or operation centers; to coordinate emergency response of public and private agencies and organizations; to attend training; and to attend meetings convened by the appointing authority or the director of emergency management; and

(E) The director shall not be self-employed or have any other occupation in the private sector which conflicts with his duties as a local director.

(3) (A) If a local director appointed pursuant to the provisions of paragraph (1) of this subsection is a part-time director, such part-time director shall meet the minimum qualifications in subparagraphs (A) through (D) of paragraph (2) of this subsection. If such local director is employed under a 40 to 90 percent (time required on job) work contract, such local director shall be required to devote at least 80 hours per month on emergency management matters but not more than 30 hours in any one week during normal business hours of other county offices. If such local director is employed under a 25 to 39 percent (time required on job) work contract, such local director shall be required to devote at least 40 hours per month on emergency management matters but not more than 15 hours in any one week during normal business hours of other county offices.

(B) If the part-time paid director is also a part-time paid employee of the federal or state government, he must have written authorization from the appropriate appointing authority to hold the position of director and to comply with the provisions of subparagraph (A) of this paragraph and subparagraph (D) of paragraph (2) of this subsection.

(C) If the part-time paid director is also a part-time paid employee of county or municipal government in another capacity, that government must enact an order or ordinance specifying that such director will be permitted to comply with the provisions of subparagraph (A) of this paragraph and subparagraph (D) of paragraph (2) of this subsection. The order or ordinance shall also specify that the individual, when acting as director, shall relinquish authorities and responsibilities associated with his other governmental employment and shall name a person to assume those authorities and responsibilities until such time as the director shall cease to function as director. In no case shall the county or municipal government seek or receive any reimbursement for the part-time paid director's salary if such director is employed and compensated by the county or municipality in another capacity.

(D) If the part-time paid director is also a part-time paid employee in the private sector, he shall have a letter from his employer stating that he shall, without penalty, be permitted to comply with the provisions of subparagraph (A) of this paragraph and subparagraph (D) of paragraph (2) of this subsection.

(E) If the part-time paid director is self-employed, he must certify, by letter, that his schedule shall permit him to comply with the provisions of subparagraph (A) of this paragraph and subparagraph (D) of paragraph (2) of this subsection.

(F) Except as provided in this subparagraph, any director or deputy director of a local emergency management organization appointed after July 1, 1999, shall be a certified emergency manager under the Georgia Emergency Management and Homeland Security Agency's Certified Emergency Manager Program. The curriculum of the Certified Emergency Manager Program and requirements for certification shall be determined by the director of emergency management and homeland security and shall include, but not be limited to, professional development series training, independent study courses, emergency preparedness courses, and field-delivered courses. Certification may be obtained by an appointed director or deputy director within six months of his or her appointment. Certification shall expire biennially. As a condition of certification renewal, such emergency management personnel shall be required to satisfactorily complete continuing education requirements provided for in subparagraph (G) of this paragraph.

(G) Emergency management personnel certified under the Certified Emergency Manager Program shall complete annually a minimum of 24 hours of continuing education to maintain certification. The continuing education shall include programs and courses sponsored or approved by the director of emergency management. Personnel who lose their certification because of their failure to meet continuing education requirements will be eligible for recertification under provisions included in the Certified Emergency Manager Program.

(4) If a political subdivision has a volunteer director, the political subdivision shall furnish assistance to enable the volunteer director to carry out his duties outlined in this article and Article 3 of this chapter.

(5) The political subdivision shall designate an office in a building owned or leased by the political subdivision as the office of emergency management. Such office of emergency management shall have appropriate equipment and supplies, including but not limited to telephone and communication equipment, access to the 9-1-1 system if such system is operational in the political subdivision, desks, typewriters, file cabinets, and necessary office supplies. No such equipment or supplies shall be used for personal business. The local director shall post on the front door of the office the schedule of hours of the

work week in which he will be attending to emergency management matters. The citizens of a political subdivision shall have accessibility to the office of emergency management and the local director or his designee shall be available or on call at all times beyond working hours.

(6) A local director whose salary is reimbursed in part or in full by the Georgia Emergency Management and Homeland Security Agency shall also meet all requirements which may be imposed by the federal emergency management agency or its successor.

(7) A local director who no longer meets the qualifications or complies with the requirements of this subsection may be removed by the director of emergency management. In any case where a local director is removed pursuant to this paragraph, the executive officer or governing body of the political subdivision shall nominate another local director.

(b) Each political subdivision shall have the power and authority:

(1) To appropriate and expend funds, to execute contracts, and to obtain and distribute equipment, materials, and supplies for emergency management purposes;

(2) To provide for the health and safety of persons and property, including emergency assistance to the victims of any emergency or disaster resulting from manmade or natural causes or enemy attack and to direct and coordinate the development of emergency management plans and programs in accordance with the policies and plans set by the federal and state emergency management agencies;

(3) To appoint, employ, remove, or provide, with or without compensation, chiefs of services, warning personnel, rescue teams, auxiliary fire and police personnel, and other emergency management workers;

(4) To establish a primary and one or more secondary control centers to serve as command posts during an emergency or disaster;

(5) Subject to the order of the Governor or the chief executive of the political subdivision, to assign and make available for duty the employees, property, or equipment of the subdivision relating to fire-fighting, engineering, rescue, health, medical, and related services and to police, transportation, construction, and similar items or services for emergency management purposes, within or outside of the physical limits of the subdivision;

(6) In addition to the heretofore stated powers and authorities, to acquire, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster victims; and to enter into whatever arrangements, including purchase, of temporary housing units and payment of transportation charges which are necessary to prepare or equip such sites to utilize the housing units.

(c) There is created a state fund to provide assistance to local organizations for emergency management which are authorized by subsections (a) and (b) of this Code section. The fund shall be used for the purpose of making grants to local emergency management organizations to enable them to purchase or otherwise obtain equipment which is needed for disaster preparedness. The fund shall be administered by the director of emergency management who, by rules and regulations, shall establish uniform criteria

governing application for and the use of funds granted to local organizations for emergency management pursuant to this subsection. The rules and regulations shall include, but shall not be limited to, provisions:

- (1) Requiring that, as a condition precedent to receiving a state grant pursuant to this subsection, an amount equal to the state grant shall be raised from local funds for the purchase of disaster preparedness equipment;
 - (2) Defining disaster preparedness equipment which shall qualify for purchase by the use of matching funds made available pursuant to this subsection;
 - (3) Establishing procedures and requirements governing the purchase of disaster preparedness equipment when matching funds made available pursuant to this subsection are used for the purchase;
 - (4) Establishing priorities governing grants made pursuant to this subsection which shall be based on the most effective and efficient use of disaster preparedness equipment purchased with matching funds made available pursuant to this subsection;
 - (5) Establishing forms, procedures, and requirements governing applications for grants pursuant to this subsection; and
 - (6) Prohibiting any single local emergency management organization from receiving more than 12 1/2 percent of the total funds annually appropriated to carry out this subsection.
- (d) The funds necessary to carry out subsection (c) of this Code section shall come from funds specifically appropriated for such purpose by the General Assembly.
- (e) (1) To the extent funds are appropriated for such purpose by the General Assembly, the director of emergency management is authorized and directed to provide funds to counties or municipalities which operate a local emergency management organization as required by this Code section. No county or municipality shall be entitled to receive funds unless the local emergency management organization has met all of the state and federal requirements to be an emergency management organization qualified to receive federal funds, including:
- (A) Legal establishment by local ordinance or resolution;
 - (B) A legally appointed local director who has been endorsed and approved by the state director of emergency management and appointed by the Governor;
 - (C) An approved emergency and disaster plan with all applicable annexes; and
 - (D) An approved fiscal year program paper and other necessary compliance documents.
- (2) The amount provided to each county or municipality shall be equal to the amount of any shortfall in federal funding which results in federal funds which less than match (on a 50 percent—50 percent basis) the amount budgeted by the county or municipality for the purpose of operating and maintaining the local emergency management organization.
- (3) In the event sufficient state funds other than those from federal sources are not appropriated for a fiscal year to fund the full amount provided for in paragraph (2) of this subsection, then the amount which

would otherwise be payable to each county and municipality shall be reduced pro rata on the basis of the funds actually appropriated.

(4) The director of emergency management is authorized and directed to adopt and promulgate appropriate rules and regulations to carry out this subsection.

(5) Funds to carry out this subsection shall come from funds appropriated to the Office of Planning and Budget specifically for the purposes of carrying out this subsection.

(f)

(1) After December 31, 1993, any county which fails at any time to have established a local organization for emergency management in accordance with the state emergency management plan and program shall not be entitled to any state funding for disaster relief assistance.

(2) After December 31, 1993, if a county has an organization for emergency management but a municipality within the county is not a part of the county's organization or plan and fails to have in place a local organization for emergency management in accordance with the state emergency management plan and program, such municipality shall not be entitled to any state funding for disaster relief assistance.

§ 38-3-28. Authority of political subdivisions; filing of orders, rules, and regulations; effect; consideration of federal emergency management regulations

(a) The political subdivisions of the state and other agencies designated or appointed by the Governor are authorized and empowered to make, amend, and rescind such orders, rules, and regulations as may be necessary for emergency management purposes and to supplement the carrying out of Articles 1 through 3 of this chapter, but not inconsistent with any orders, rules, or regulations promulgated by the Governor or by any state agency exercising a power delegated to it by him.

(b) All orders, rules, and regulations promulgated by the Governor, or by any political subdivision or other agency authorized by Articles 1 through 3 of this chapter to make orders, rules, and regulations, shall have the full force and effect of law when, in the event of issuance by the Governor or any state agency, a copy thereof is filed in the office of the Secretary of State or, if promulgated by a political subdivision of the state or agency thereof, when filed in the office of the clerk of the political subdivision or agency promulgating the same. All laws, ordinances, rules, and regulations inconsistent with Articles 1 through 3 of this chapter, or of any order, rule, or regulation issued under the authority of Articles 1 through 3 of this chapter, shall be suspended during the period of time and to the extent that the conflict exists.

(c) In order to attain uniformity so far as practicable throughout the country in measures taken to aid emergency management, all action taken under Articles 1 through 3 of this chapter and all orders, rules, and regulations made pursuant thereto shall be taken or made with due consideration to the orders, rules, regulations, actions, recommendations, and requests of federal authorities relevant thereto and, to the extent permitted by law, shall be consistent with such orders, rules, regulations, actions, recommendations, and requests.

§ 38-3-29. Local mutual aid arrangements; out-of-state arrangements; conformity with state plan

(a) The director of each local organization for emergency management, in collaboration with other public and private agencies within this state, may develop or cause to be developed mutual aid arrangements for reciprocal emergency management aid and assistance in case of emergency or disaster too great to be dealt with unassisted. The arrangements shall be consistent with the state emergency management plan and program, and in time of emergency it shall be the duty of each local organization for emergency management to render assistance in accordance with the mutual aid arrangements.

(b) The director of each local organization for emergency management, subject to the approval of the Governor, may enter into mutual aid arrangements with emergency management agencies or organizations in other states for reciprocal emergency management aid and assistance in case of emergency or disaster too great to be dealt with unassisted.

§ 38-3-30. Aid rendered by local employees to other political subdivisions; reimbursement of personnel and equipment expenses by aided locality; procedure

(a) Whenever the employees of any political subdivision are rendering outside aid pursuant to the authority contained in Code Section 38-3-27, the employees shall have the same powers, duties, rights, privileges, and immunities as if they were performing their duties in the political subdivisions in which they are normally employed.

(b) The political subdivision in which any equipment is used pursuant to this Code section shall be liable for any loss or damage thereto and shall pay any expense incurred in the operation and maintenance thereof. No claim for the loss, damage, or expense shall be allowed unless, within 60 days after the same is sustained or incurred, an itemized notice of the claim under oath is served by mail or otherwise upon the chief fiscal officer of the political subdivision where the equipment was used. The political subdivision which is aided pursuant to this Code section shall also pay and reimburse the political subdivision furnishing the aid for the compensation paid to employees furnished under this Code section during the time of the rendition of the aid and shall defray the actual traveling and maintenance expenses of the employees while they are rendering the aid. The reimbursement shall include any amounts paid or due for compensation due to personal injury or death while the employees are engaged in rendering the aid. The term "employee," as used in this Code section, shall mean, and this Code section shall apply with equal effect to, paid, volunteer, and auxiliary employees and emergency management workers.

(c) The foregoing rights, privileges, and obligations shall also apply in the event such aid is rendered outside the state, provided that payment or reimbursement in such case shall or may be made by the state or political subdivision receiving the aid pursuant to a reciprocal mutual-aid agreement or compact with the state or by the federal government.

§ 38-3-31. Authority of state and localities to accept gifts, grants, or loans, from federal or private sources

(a) Whenever the federal government or any agency or officer thereof offers to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of emergency management, the state, acting through the Governor, or the political subdivision acting with the consent of the Governor and through its executive officer or governing body, may accept the offer. Upon the acceptance the Governor of the state or executive officer

or governing body of the political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive the service, equipment, supplies, materials, or funds on behalf of the state or the political subdivision, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

(b) Whenever any person, firm, or corporation offers to the state or to any political subdivision thereof services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purpose of emergency management, the state, acting through the Governor, or the political subdivision acting through its executive officer or governing body, may accept the offer. Upon the acceptance the Governor of the state or executive officer or governing body of the political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive the services, equipment, supplies, materials, or funds on behalf of the state or the political subdivision, subject to the terms of the offer.

§ 38-3-32. Sovereign immunity granted those who allow premises to be used for emergency management purposes; when

When any person, firm, or corporation owning or controlling any real estate or other premises authorizes and permits any emergency management agency, board, or other authority of this state or of any political subdivision of this state to use the premises without charge therefor for the purpose of sheltering persons during an actual or practice emergency or disaster as contemplated by Articles 1 through 3 of this chapter, the person, firm, or corporation, at such times and for such periods during which the premises are occupied and actually employed for purpose of emergency management, shall be clothed with the sovereign immunity of the state. No civil action shall be brought or maintained against any such person, firm, or corporation to recover damages for personal injuries or death of any person while on the premises during an actual or practice emergency, disaster, or enemy attack, or for the loss or destruction of personal property brought upon the premises by any person seeking shelter thereon during an actual or practice emergency or disaster.

§ 38-3-33. Immunity granted those who provide equipment in emergencies

Any person, including anyone in the business of selling or leasing new or used equipment, who provides equipment to the state or to any political subdivision of the state at no cost during an emergency or disaster situation, whether or not officially declared as such, for use in meeting any exigency caused by the emergency or disaster situation shall not be liable for any civil damages as a result of any act or omission by the person in providing the equipment.

§ 38-3-34. Emergency management personnel; qualifications; oath; who may administer

(a) No person shall be employed or associated in any capacity in any emergency management organization established under Articles 1 through 3 of this chapter who advocates a change by force or violence in the constitutional form of the government of the United States or in this state or the overthrow of any government in the United States by force or violence; or who has been convicted of or is under indictment or accusation charging any subversive act against the United States.

(b) Before entering upon his duties, each person who is appointed to serve in an organization for emergency management shall take an oath in writing before a person authorized to administer oaths in this state, which oath shall be substantially as follows:

"I, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Georgia, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates, the overthrow of the government of the United States or of this state by force or violence; and that during such time as I am a member of the (name of emergency management organization) I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence."

(c) For the purposes of Articles 1 through 3 of this chapter only, the executive heads of local organizations for emergency management and their duly appointed deputies and assistants are authorized to administer oaths to emergency management personnel.

§ 38-3-35. (See Editor's notes.) Immunity of state and political subdivisions; of emergency management workers

(a) Neither the state nor any political subdivision of the state, nor the agents or representatives of the state or any political subdivision thereof, shall be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer emergency management worker or member of any agency engaged in emergency management activity. The foregoing shall not affect the right of any person to receive benefits or compensation to which he might otherwise be entitled under Chapter 9 of Title 34, Code Section 38-3-30, any pension law, or any act of Congress.

(b) Neither the state nor any political subdivision of the state nor, except in cases of willful misconduct, gross negligence, or bad faith, the employees, agents, or representatives of the state or any political subdivision thereof, nor any volunteer or auxiliary emergency management worker or member of any agency engaged in any emergency management activity complying with or reasonably attempting to comply with Articles 1 through 3 of this chapter; or any order, rule, or regulation promulgated pursuant to Articles 1 through 3 of this chapter, or pursuant to any ordinance relating to precautionary measures enacted by any political provisions of Articles 1 through 3 of this chapter, or pursuant to any ordinance relating to precautionary measures enacted by any political subdivision of the state shall be liable for the death of or the injury to person or for damage to property as a result of any such activity.

History. -- Ga. L. 1951, p. 224, § 17; Ga. L. 1973, p. 74, § 8; Ga. L. 1981, p. 389, § 2; Ga. L. 1982, p. 3, § 38.

Editor's notes. -- For application of this statute in 2020, see Executive Orders 04.14.20.01 and 04.20.20.01.

A listing of Executive Orders issued in 2020 can be found at <https://gov.georgia.gov/executive-action/executive-orders/2020-executive-orders>.

§ 38-3-36. Director to license nongovernmental rescue organizations; exception; registration of public and private search and rescue dog teams

(a) Except as otherwise provided by subsection (b) of this Code section, all nongovernmental rescue organizations, associations, groups, teams, search and rescue dog teams, or individuals, whether or not they are holders of a charter issued by this state or officers thereof, shall be prohibited from performing any rescue or emergency management type activity until the organization, association, group, team, search and rescue dog team, or individual has been licensed by the director of emergency management to perform the activities. It is expressly declared that Articles 1 through 3 of this chapter shall not amend, repeal, alter, or affect in any manner Code Section 51-1-29.

(b) Any marine rescue squadron sponsored by and operating under the direction and control of the sheriff of the county of residence of the squadron and chartered as a Marine Rescue Squadron of America, which was so chartered on January 1, 1960, or prior to that date, and which performs only water or boat safety rescue missions within this state, shall be deemed to be a governmental rescue organization within the meaning of subsection (a) of this Code section and need not be licensed by the director of emergency management as provided in the subsection.

(c) The director of emergency management shall promulgate rules and regulations for training and licensing standards for private search and rescue dog teams. The director shall maintain a registry of public and private search and rescue dog teams operating within the state. Any public or private organization which provides rescue services in this state utilizing search and rescue dog teams shall register with the director the name and address of the organization, a 24 hour telephone number to be used for contact during emergencies, the counties in which the search and rescue dog teams provide service, the types of specialized search and rescue dog teams which are available, and such other information as the director may require by rule and regulation.

§ 38-3-37. Prohibited actions by government official or employee during declared state of emergency

(a) As used in this Code section, the term:

(1) "Firearm" means any handgun, rifle, shotgun, or similar device or weapon which will or can be converted to expel a projectile by the action of an explosive or electrical charge.

(2) "License holder" shall have the same meaning as set forth in Code Section 16-11-125.1.

(3) "Weapon" shall have the same meaning as set forth in Code Section 16-11-125.1.

(b) No official or employee of the state or any political subdivision thereof, member of the National Guard in the service of the state, or any person operating pursuant to or under color of state law, while acting during or pursuant to a declared state of emergency, shall:

(1) Temporarily or permanently seize, or authorize the seizure of, any firearm or ammunition or any component thereof the possession of which was not prohibited by law at the time immediately prior to the declaration of a state of emergency, other than as provided by the criminal or forfeiture laws of this state;

(2) Prohibit possession of any firearm or ammunition or any component thereof or promulgate any rule, regulation, or order prohibiting possession of any firearm or ammunition or any component thereof if

such possession was not otherwise prohibited by law at the time immediately prior to the declaration of a state of emergency;

(3) Prohibit any license holder from carrying any weapon or promulgate any rule, regulation, or order prohibiting such carrying if such carrying was not otherwise prohibited by law at the time immediately prior to the declaration of a state of emergency; or

(4) Require the registration of any firearm.

§ 38-3-38. Entrance upon private property by Department of Corrections personnel during state of emergency or disaster

During any state of emergency or state of disaster declared by the Governor pursuant to Code Section 38-3-51, Department of Corrections personnel and individuals in their custody and subject to their direction shall be authorized to enter upon private property following such declaration to the extent necessary for property protection, debris removal, restoration of services, and infrastructure repair and relocation; provided, however, that such personnel and individuals shall avoid interfering with the rights of private property owners and shall vacate such private property upon request of any owner thereof.

ARTICLE 2A. BOARD OF HOMELAND SECURITY

§ 38-3-40. Definitions

As used in this article, the term:

(1) "Board" means the Board of Homeland Security.

(2) "Center" means the Georgia Information Sharing and Analysis Center.

(3) "Critical infrastructure" shall have the same meaning as set forth in Code Section 16-11-220.

(4) "Domestic terrorism" shall have the same meaning as set forth in Code Section 16-11-220.

(5) "Public transportation system" shall have the same meaning as set forth in Code Section 16-11-220.

(6) "Serious bodily harm" shall have the same meaning as set forth in Code Section 16-11-220.

(7) "State or government facility" shall have the same meaning as set forth in Code Section 16-11-220.

§ 38-3-41. Creation; membership; allowances

(a) There is created a Board of Homeland Security that shall, for administrative purposes only, be attached to the Georgia Emergency Management and Homeland Security Agency.

(b) The board shall consist of 16 members who shall be as follows:

(1) The Governor, ex officio, who shall be chairperson of the board;

- (2) The director of emergency management and homeland security;
- (3) The director of the Georgia Bureau of Investigation;
- (4) The commissioner of public safety;
- (5) The Attorney General or his or her designee who shall be the deputy attorney general or an assistant attorney general;
- (6) The adjutant general;
- (7) The commissioner of natural resources;
- (8) The commissioner of public health;
- (9) The State School Superintendent;
- (10) The commissioner of transportation;
- (11) The Commissioner of Agriculture;
- (12) The executive director of the Georgia Technology Authority; and
- (13) Five appointees of the Governor who shall be individuals from the public or private sector who are directly involved in policy, program, security, or funding activities relevant to homeland security or infrastructure protection; provided, however, that one such appointment shall be a sheriff, one such appointment shall be a member of the Senate, one such appointment shall be a member of the House of Representatives, and one such appointment shall be a chief executive of a law enforcement agency of a county or a municipality. Such appointees under this paragraph shall serve at the pleasure of the Governor.

(c)

- (1) Any legislative members of the board who may be appointed pursuant to paragraph (13) of subsection (b) of this Code section shall receive the allowances provided for in Code Section 28-1-8.
- (2) Members of the board who are state or local government officials, other than legislative members, or state or local government employees shall receive no compensation for their services on the board, but they may be reimbursed for expenses incurred by them in the performance of their duties as members of the board in the same manner as they are reimbursed for expenses in their capacities as state or local government officials or state or local government employees.
- (3) Members of the board who are not legislators, state or local government officials, or state or local government employees shall receive a daily expense allowance in an amount the same as that specified in subsection (b) of Code Section 45-7-21, as well as the mileage or transportation allowance authorized for state employees.

(4) Funds for the reimbursement of the expenses of state or local government officials, other than legislative members, and state or local government employees shall come from funds appropriated to or otherwise available to their respective governments, departments, authorities, or agencies.

§ 38-3-42. Board's duty to advise Governor; development of state-wide homeland security strategy; coordination with federal strategic guidance on homeland security; rules and regulations

(a) The board shall advise the Governor on:

(1) The implementation of the homeland security strategy by state and local agencies and provide specific guidance and counsel for helping those agencies implement the strategy; and

(2) All matters related to the planning, development, coordination, and implementation of initiatives to promote the homeland security strategy of the state.

(b) The board shall develop a state-wide homeland security strategy that improves the state's ability to:

(1) Protect against, respond to, and recover from domestic terrorism and other homeland security threats and hazards; and

(2) Mitigate loss of life and property by lessening the impact of future homeland security threats and hazards.

(c) The board's homeland security strategy shall coordinate homeland security activities among and between local, state, and federal agencies and the private sector and shall include specific plans for:

(1) Intelligence gathering, analysis, and sharing;

(2) Reducing the state's vulnerability to domestic terrorism and other homeland security threats and hazards;

(3) Protecting critical infrastructure, public transportation systems, and state or government facilities;

(4) Protecting the state's ports and airports;

(5) Detecting, deterring, and defending against domestic terrorism and cyber, biological, chemical, and nuclear terrorism;

(6) Positioning equipment, technology, and personnel to improve the state's ability to respond to homeland security threats and hazards;

(7) Providing the center certain forms of authority to aid the Georgia Emergency Management and Homeland Security Agency in implementing the homeland security strategy of this state; and

(8) Using technological resources to:

(A) Facilitate the interoperability of governmental technology resources, including data, networks, and applications;

(B) Coordinate the warning and alert systems of state and local agencies;

- (C) Incorporate multidisciplinary approaches to homeland security; and
- (D) Improve the security of governmental and private sector information technology and information resources.
- (d) The homeland security strategy shall complement and operate in coordination with federal strategic guidance on homeland security.
- (e) The board shall adopt rules and regulations which shall be adopted, established, promulgated, amended, repealed, filed, and published in accordance with the applicable provisions and procedures set forth in Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." The courts shall take judicial notice of any such rules or regulations. As used in this subsection, the term "rules and regulations" shall have the same meaning as the word "rule" as defined in paragraph (6) of Code Section 50-13-2.

ARTICLE 3. EMERGENCY POWERS

PART 1. GOVERNOR

§ 38-3-50. Emergency interim successors to various officials; necessity of declared emergency

- (a) As used in this Code section, the term:
 - (1) "Disaster" means any happening that causes great harm or damage.
 - (2) "Emergency" means a sudden generally unexpected occurrence or set of circumstances demanding immediate action.
 - (3) "Emergency interim successor" means a person designated pursuant to this Code section, in the event an officer is unavailable to exercise the powers and discharge the duties of an office, until a successor is appointed or elected and qualified as may be prescribed by the Constitution, statutes, laws, charters, and ordinances of this state and its political subdivisions, or until the lawful incumbent or his successor is able to resume the exercise of the powers and the discharge of the duties of the office.
 - (4) "Local offices and local officers" means positions in the political subdivisions of the state.
 - (5) "Office" means the position of head of any and all departments, agencies, boards, or commissions of the state or any of its political subdivisions; all constitutional General Assembly offices; all constitutional and other county offices; all of the judgeships of the state and its political subdivisions; and all of the positions in the legislative departments of the state or its political subdivisions.
 - (6) "Officer" means the individual who shall hold an office.
 - (7) "Political subdivisions" means cities, counties, towns, villages, authorities, and any other bodies created by the state and exercising any of the governmental powers of the state.
 - (8) "State office" and "state officer" mean positions in the government of this state.

(9) "Unavailable" means either that a vacancy in an office exists as the result of any emergency as defined in paragraph (2) of this subsection and there is no deputy or other successor authorized to exercise all of the powers and discharge all of the duties of the office, or that the lawful incumbent of the office, including any deputy exercising the powers and discharging the duties of an office because of a vacancy, and his duly authorized deputy are absent or unable to exercise the powers and discharge the duties of the office.

(b) All state officers shall within 30 days after taking office, in addition to any deputy authorized pursuant to law to exercise all of the powers and discharge the duties of office, designate by title individuals as emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this Code section to ensure their current status. The officer will designate a sufficient number of such emergency interim successors so that there will be not less than three nor more than seven deputies or emergency interim successors or any combination thereof at any time. In the event that any state officer is unavailable following an emergency or disaster and in the event his deputy, if any, is also unavailable, the powers of his office shall be exercised and the duties of his office shall be discharged by his designated emergency interim successors in the order specified. The emergency successors shall exercise the powers and discharge the duties only until such time as the Governor under the Constitution or authority other than this Code section, or other official authorized under the Constitution or this Code section to exercise the powers and discharge the duties of the office of Governor, may, where a vacancy exists, appoint a successor to fill the vacancy or until a successor is otherwise appointed or elected and qualified as provided by law, or until an officer or his deputy or a preceding named emergency interim successor becomes available to exercise or resume the exercise of the powers and discharge the duties of his office.

(c) All emergency interim successors designated under this Code section shall have the same qualifications as are prescribed by law for the officer by whom they are designated.

(d) Designations of emergency interim successors to state officers shall become official upon the officer filing a list of the successors with the Secretary of State, who shall inform the Governor, the Georgia Emergency Management and Homeland Security Agency, all emergency interim successors to the officer involved, and the judge of the probate court of the county of legal residence of the successors of all such designations and any changes therein. Any designation of an emergency interim successor may be changed or altered by the officer concerned filing a notice of the change or alteration with the Secretary of State.

(e) All constitutional county officers shall within 30 days after taking office, in addition to any deputy authorized pursuant to law to exercise all the powers and discharge the duties of the office, designate by title individuals as emergency interim successors and specify their order of succession. The successors shall have the same powers, duties, and qualifications as specified by subsections (b) and (c) of this Code section for successors to state officers. Designations of the successors shall be made in the same manner as prescribed for successors to state officers in subsection (d) of this Code section.

(f) The legislative bodies of all political subdivisions of the state are authorized and directed to provide by ordinance or resolution for emergency interim successors for the officers of the political subdivisions. The resolutions and ordinances shall not be inconsistent with this Code section.

(g) At the time of their designation, emergency interim successors shall take such oath as may be required for them to exercise the powers and discharge the duties of the office to which they may succeed. Notwithstanding any other provision of law, no person, as a prerequisite to the exercise of the powers or discharge of the duties of an office to which he succeeds, shall be required to comply with any other provision of law relative to taking office.

(h) Emergency interim successors shall receive the same compensation as is paid the officer by whom they are appointed. The compensation shall be paid only during such time as a successor shall exercise the powers of the officer by whom he has been designated.

(i) Governmental powers shall be exercised by emergency interim successors appointed under this Code section only during a period of emergency or disaster, as defined by this Code section.

§ 38-3-51. (See Editor's notes.) Emergency powers of Governor; termination of emergency; limitations in emergency emergency; immunity

(a) In the event of actual or impending emergency or disaster of natural or human origin, or pandemic influenza emergency, or impending or actual enemy attack, or a public health emergency, within or affecting this state or against the United States, the Governor may declare that a state of emergency or disaster exists. As a condition precedent to declaring that a state of emergency or disaster exists as a result of a public health emergency, the Governor shall issue a call for a special session of the General Assembly pursuant to Article V, Section II, Paragraph VII of the Constitution of Georgia, which session shall convene at 8:00 A.M. on the second day following the date of such declaration for the purpose of concurring with or terminating the public health emergency. The state of emergency or disaster shall continue until the Governor finds that the threat or danger has passed or the emergency or disaster has been dealt with, to the extent that emergency or disaster conditions no longer exist, and terminates the state of emergency or disaster. No state of emergency or disaster may continue for longer than 30 days unless renewed by the Governor. The General Assembly by concurrent resolution may terminate a state of emergency or disaster at any time. Thereupon, the Governor shall by appropriate action end the state of emergency or disaster.

(b) A declaration of a state of emergency or disaster shall activate the emergency and disaster response and recovery aspects of the state and local emergency or disaster plans applicable to the political subdivision or area in question and shall be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to Articles 1 through 3 of this chapter or any other law relating to emergencies or disasters.

(c) The Governor shall have and may exercise for such period as the state of emergency or disaster exists or continues the following additional emergency powers:

(1) To enforce all laws, rules, and regulations relating to emergency management and to assume direct operational control of all civil forces and helpers in the state;

(2) To seize, take for temporary use, or condemn property for the protection of the public in accordance with condemnation proceedings as provided by law;

(3) To sell, lend, give, or distribute all or any such property among the inhabitants of the state and to account to the proper agency for any funds received for the property; and

(4) To perform and exercise such other functions, powers, and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population.

(d) In addition to any other emergency powers conferred upon the Governor by law, he may:

(1) Suspend any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster;

(2) Utilize all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the emergency or disaster;

(3) Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

(4) Commandeer or utilize any private property if he finds this necessary to cope with the emergency or disaster;

(4.1) Compel a health care facility to provide services or the use of its facility if such services or use are reasonable and necessary for emergency response. The use of such health care facility may include transferring the management and supervision of the health care facility to the Department of Public Health for a limited or unlimited period of time not extending beyond the termination of the public health emergency;

(5) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if he deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery;

(6) Prescribe routes, modes of transportation, and destinations in connection with evacuation;

(7) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;

(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, or combustibles; provided, however, that for purposes of this paragraph, the terms "explosives" and "combustibles" shall not include firearms or ammunition or any component thereof; and

(9) Make provision for the availability and use of temporary emergency housing.

(e) When the available funds are not sufficient for the purpose of paying the expenses incident to carrying out the provisions authorized by Articles 1 through 3 of this chapter, the Governor may transfer from any available fund in the state treasury such sum as may be necessary to meet the emergency or disaster; and the moneys so transferred shall be repaid to the fund from which transferred when moneys become available for that purpose by legislative appropriation or otherwise.

(f) In the event that the Governor proclaims an emergency or disaster, as defined by Articles 1 through 3 of this chapter, to be a catastrophe within the meaning of Article III, Section IX, Paragraph VI(b) of the Constitution of the state, the funds referred to in the paragraph may be utilized by the Governor for the purpose of carrying out the provisions authorized by Articles 1 through 3 of this chapter.

(g) In the event that the Governor proclaims an emergency or disaster, as defined in Articles 1 through 3 of this chapter, the Governor may provide welfare benefits to the citizens of this state in the form of grants to meet disaster related necessary expenses or serious needs of individuals or families adversely affected by an emergency or disaster in those cases where the individuals or families are unable to meet the expenses or needs from other means, provided that such grants are authorized only when matching federal funds are available for such purposes pursuant to the Disaster Relief Act of 1974 (Pub. L. 93-288).

(h) If the Governor declares a state of emergency solely because of an energy emergency, he shall not have the authority to:

(1) Seize, take for temporary use, or condemn property other than energy resources as authorized by paragraph (2) of subsection (c) of this Code section;

(2) Sell, lend, give, or distribute property other than energy resources as authorized by paragraph (3) of subsection (c) of this Code section; or

(3) Commandeer or utilize property other than energy resources as authorized by paragraph (4) of subsection (d) of this Code section.

(i) (1) The Governor may direct the Department of Public Health to coordinate all matters pertaining to the response of the state to a public health emergency including without limitation:

(A) Planning and executing public health emergency assessments, mitigation, preparedness response, and recovery for the state;

(B) Coordinating public health emergency responses between state and local authorities;

(C) Collaborating with appropriate federal government authorities, elected officials of other states, private organizations, or private sector companies;

(D) Coordinating recovery operations and mitigation initiatives subsequent to public health emergencies;

(E) Organizing public information activities regarding state public health emergency response operations; and

(F) Providing for special identification for public health personnel involved in a public health emergency.

(2) The following due process procedures shall be applicable to any quarantine or vaccination program instituted pursuant to a declaration of a public health emergency:

(A) Consonant with maintenance of appropriate quarantine rules, the department shall permit access to counsel in person or by such other means as practicable that do not threaten the integrity of the quarantine;

(B) An order imposing a quarantine or a vaccination program may be appealed but shall not be stayed during the pendency of the challenge. The burden of proof shall be on the state to demonstrate that there exists a substantial risk of exposing other persons to imminent danger. With respect to vaccination, the state's burden of proof shall be met by clear and convincing evidence. With respect to quarantine, the state's burden of proof shall be met by a preponderance of the evidence;

(C) An individual or a class may challenge the order before any available judge of the superior courts in the county where the individual or a member of the class resides or in Fulton County. Such judge, upon attestation of the exigency of the circumstances, may proceed ex parte with respect to the state or may appoint counsel to represent the interests of the state or other unrepresented parties. The judge hearing the matter may consolidate a multiplicity of cases or, on the motion of a party or of the court, proceed to determine the interests of a class or classes. The rules of evidence applicable to civil cases shall be applied to the fullest extent practicable taking into account the circumstances of the emergency. All parties shall have the right to subpoena and cross-examine witnesses, but in enforcement of its subpoena powers the court shall take into account the circumstances of the emergency. All proceedings shall be transcribed to the extent practicable. Filing fees shall be waived and all costs borne by the state;

(D) The judge hearing the matter may enter an appropriate order upholding or suspending the quarantine or vaccination order. With respect to vaccination, the order may be applicable on notice to the department or its agents administering the vaccination, or otherwise in the court's discretion. With respect to quarantines, the order shall be automatically stayed for 48 hours;

(E) The department or any party may immediately appeal any order to the Supreme Court pursuant to paragraph (7) of subsection (a) of Code Section 5-6-34. The Supreme Court, or any available Justice thereof in the event that circumstances render a full court unavailable, shall consider the appeal on an expedited basis and may suspend any time requirements for the parties to file briefs. In the event no Justice is available, then a panel of the Court of Appeals, or any Judge thereof in the event that circumstances render a panel unavailable, shall consider the appeal on an expedited basis and may suspend any time requirements for the parties to file briefs. If the trial judge has proceeded ex parte or with counsel appointed for the state, the trial court shall either direct the filing of an appeal in its order or itself certify the order for appeal. Filing fees for appeal shall be waived, all costs shall be borne by the state, and such appeals shall be heard expeditiously; and

(F) No provisions of this paragraph shall be construed to limit or restrict the right of habeas corpus under the laws of the United States.

(j) Any individual, partnership, association, or corporation who acts in accordance with an order, rule, or regulation entered by the Governor pursuant to the authority granted by this Code section will not be held liable to any other individual, partnership, association, or corporation by reason thereof in any action seeking legal or equitable relief.

History. -- Ga. L. 1951, p. 224, § 7; Ga. L. 1973, p. 74, § 4; Ga. L. 1974, p. 558, § 1; Ga. L. 1975, p. 1551, § 1; Ga. L. 1977, p. 192, §§ 2, 3; Ga. L. 1981, p. 389, § 2; Ga. L. 1983, p. 3, § 59; Ga. L. 2002, p. 1386, §§ 12-15; Ga. L. 2009, p. 184, § 4/ HB 217; Ga. L. 2009, p. 453, § 1-4/ HB 228; Ga. L. 2011, p. 701, § 1/ HB 339; Ga. L. 2011, p. 705, § 6-3/ HB 214; Ga. L. 2014, p. 599, § 2-3/ HB 60.

Editor's notes. -- For application of this statute in 2020, see Executive Order 04.20.20.01.

A listing of Executive Orders issued in 2020 can be found at <https://gov.georgia.gov/executive-action/executive-orders/2020-executive-orders>.

§ 38-3-52. Emergency locations -- State government; proclamation; effect of official acts

(a) Whenever, due to an emergency or disaster resulting from manmade or natural causes or enemy attack, it becomes imprudent, inexpedient, or impossible to conduct the affairs of state government at the normal location of the seat thereof in Atlanta, Fulton County, the Governor, as often as the exigencies of the situation require, shall by proclamation declare an emergency temporary location or locations for the seat of government at such place or places within or outside this state as he may deem advisable under the circumstances and shall take such action and issue such orders as may be necessary for an orderly transition of the affairs of state government to the emergency temporary location or locations. The emergency temporary location or locations shall remain as the seat of government until the General Assembly shall by law establish a new location or locations or until the emergency or disaster is declared to be ended by the Governor and the seat of government is returned to its normal location.

(b) During such time as the seat of government remains at the emergency temporary location or locations, all official acts required by law to be performed at the seat of government by any officer, agency, department, or authority in this state, including the convening and meeting of the General Assembly, shall be as valid and binding when performed at the emergency temporary location or locations as if performed at the normal location of the seat of government.

§ 38-3-53. Emergency locations -- Meeting of General Assembly; call; suspension of constitutional rules

The General Assembly shall meet at the new location provided for in Code Section 38-3-52 either upon the call of the Governor or, if no call is issued, through the initiative of the members thereof following an emergency or disaster resulting from manmade or natural causes or enemy attack impending or affecting this state. At such time the General Assembly shall not be limited by any constitutional provisions relating to length of sessions, and it may suspend the operation of any and all constitutional rules governing the procedure of both the House of Representatives and the Senate as it deems necessary during the period of emergency or disaster.

§ 38-3-54. Emergency locations -- Local government; who may call meeting; effect of acts

Whenever, due to an emergency or disaster resulting from manmade or natural causes or enemy attack, it becomes imprudent, inexpedient, or impossible to conduct the affairs of local government at the regular or usual place or places thereof, the governing body of each political subdivision, including but not limited to each and every city, county, and municipality of the state, may meet at any place within or outside the territorial limits of the political subdivision on the call of the presiding officer or any two members of the governing body and shall proceed to establish and designate by ordinance, resolution, or other manner alternate or substitute sites or places as the emergency temporary location or locations of government where all or any part of the public business may be transacted and conducted during the emergency or disaster situation. The sites or places may be within or outside the territorial limits of the

political subdivision and may be within or outside this state. During the period when the public business is being conducted at the emergency temporary location or locations, the governing body and other officers of a political subdivision of this state shall have and possess and shall exercise at the location or locations all of the executive, legislative, and judicial powers and functions conferred upon such body and officers by or under the laws of this state. The powers and functions may be exercised in the light of the exigencies of the emergency situation without regard to or compliance with time-consuming procedures and formalities prescribed by law and pertaining thereto, and all acts of the body and officers shall be as valid and binding as if performed within the territorial limits of their political subdivision.

§ 38-3-55. Emergency locations -- When authorized; proclamation

The provisions of Code Sections 38-3-52 through 38-3-54 shall be operative only in the event and for the duration of an emergency or disaster of manmade or natural causes or enemy attack impending on or affecting this state or the United States, as proclaimed by an appropriate state official.

§ 38-3-56. Registration of businesses during emergency

Notwithstanding any other provisions of law, the governing authority of any county or municipality may provide by ordinance for a program of emergency registration of all or certain designated classes of businesses doing business in the county or municipality during a state of emergency declared by the Governor. Such ordinance may be implemented for a period during which the state of emergency continues and for a subsequent recovery period of up to three months at the direction of the governing authority. In any county or municipality adopting such an ordinance, no business subject to the ordinance may do business in the county or municipality without first registering in conformance with the provisions of the ordinance.

§ 38-3-57. Establishment of standardized, verifiable, performance based unified incident command system; utilization; training; implementation; funding; first informer broadcasters

(a) The Georgia Emergency Management and Homeland Security Agency shall establish and maintain, in collaboration with all appropriate state agencies and volunteer organizations with emergency support function roles and professional organizations that represent local public safety agencies, including the Emergency Management Association of Georgia, the Georgia Association of Police Chiefs, the Georgia Fire Chiefs' Association, and the Georgia Sheriffs' Association, a standardized, verifiable, performance based unified incident command system.

(b) Such system shall be consistent with the Georgia Emergency Operations Plan and shall be utilized in response to emergencies and disasters referenced in the Georgia Emergency Operations Plan, including presidentially declared disasters and states of emergency issued by the Governor.

(c) The Georgia Emergency Management and Homeland Security Agency, in cooperation with the Georgia Public Safety Training Center and the State Forestry Commission, shall develop or adopt a course of instruction for use in training and certifying emergency response personnel in unified incident command.

(d) All local public safety and emergency response organizations, including emergency management agencies, law enforcement agencies, fire departments, and emergency medical services, shall implement the standardized unified incident command system provided for in subsection (a) of this Code section by October 1, 2004.

(e) Local agencies that have not established such system by October 1, 2004, shall not be eligible for state reimbursement for any response or recovery related expenses.

(f) (1) As used in this subsection, the term:

(A) "Broadcaster" means any corporation or other entity that is primarily engaged in the business of broadcasting video or audio programming, whether through the public airwaves, cable, direct or indirect satellite transmission, or any other similar means of communication.

(B) "Emergency" means the declaration of a state of emergency or disaster as provided in Code Section 38-3-51 or as presidentially declared.

(C) "First informer broadcaster" means a broadcaster in Georgia who makes application to the Georgia Emergency Management and Homeland Security Agency for designation as a first informer broadcaster and who is granted such designation as a first informer broadcaster pursuant to rules and regulations promulgated by the director of emergency management and homeland security.

(2) The unified incident command system and the Georgia Emergency Operations Plan shall, by July 1, 2016, establish planning for first informer broadcasters such that first informer broadcasters, to any extent practicable, may during an emergency:

(A) Have access to areas affected by an emergency for the purpose of restoring, repairing, or resupplying any facility or equipment critical to the ability of a broadcaster to acquire, produce, or transmit emergency related programming, including but not limited to repairing and maintaining transmitters and generators and transporting fuel for generators;

(B) Have access to the distribution of fuel, food, water, supplies, equipment, and any other materials necessary for maintaining or producing a broadcast or broadcasting signal; and

(C) Not have vehicles, fuel, food, water, and any other materials seized or condemned that are essential for maintaining or producing a broadcast or broadcasting signal.

(3) The Georgia Emergency Management and Homeland Security Agency may develop or adopt courses of instruction for use in training personnel of first informer broadcasters on personal safety and navigation in an area affected by an emergency. The requirements of any such training shall be established pursuant to rules and regulations promulgated by the director of emergency management and homeland security. The costs of any such training shall be paid by the first informer broadcasters participating in the training.

§ 38-3-58. "Essentials" defined; system to facilitate transport and distribution; certification

(a) As used in this Code section, the term "essentials" means goods that are consumed or used as a direct result of a state of emergency declared by the Governor or that are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being.

(b) Notwithstanding Code Section 38-3-56, the Georgia Emergency Management and Homeland Security Agency shall establish a state-wide system to facilitate the transport and distribution of essentials in commerce during a state of emergency declared by the Governor for the purpose of meeting the needs of the residents of this state during such an emergency and to ensure the continuing economic resilience of communities impacted by such an emergency.

(c) In conformance with subsection (b) of this Code section, such system shall provide for a certification of organizations and business entities that facilitate, or are likely to facilitate, the transport or distribution of essentials where such certification shall apply to all employees or agents of such organizations and business entities who, as designated by such organizations and business entities, are employed to facilitate the transport or distribution of essentials. In providing for such certification, the Georgia Emergency Management and Homeland Security Agency:

(1) May provide for a preemergency or postemergency certification;

(2) May rely on information provided for by bona fide employers in this state about the jobs performed by their employees relating to essentials;

(3) Shall create easily recognizable indicia of certification to assist the efforts of local officials in determining the employees and agents of such organizations and business entities which are certified pursuant to this Code section; and

(4) May provide for an electronic certification process and an electronic distribution of the recognizable indicia of certification.

(d) Except as provided for in this Code section, the Georgia Emergency Management and Homeland Security Agency shall not require any organization, business entity, or individual to obtain any additional certification or to fulfill any additional requirement to transport or distribute essentials in commerce during a state of emergency declared by the Governor.

(e) Notwithstanding any established curfew, a designated employee or agent of an organization or business entity certified pursuant to this Code section may enter or remain in a curfew area beyond the restrictions of the curfew for the limited purpose of facilitating the transport or distribution of essentials. Nothing in this Code section shall be construed to prohibit the Georgia Emergency Management and Homeland Security Agency or local officials from specifying a permissible route of ingress or egress or from denying access to an area in order to preserve, protect, or sustain the life, health, safety, or economic well-being of a person or property or from granting access as otherwise deemed necessary.

(f)

(1) The Georgia Emergency Management and Homeland Security Agency may suspend or revoke certification granted pursuant to this Code section as a result of any violation or abuse of this certification. If the suspension is based on a reported violation or abuse, the Georgia Emergency Management and Homeland Security Agency shall investigate the reported violation or abuse in a timely manner.

(2) If the Georgia Emergency Management and Homeland Security Agency suspends or revokes a certification, such agency shall communicate the cause of the suspension or revocation to the certified

organization or business entity as provided for in subsection (c) of this Code section. If the suspension is based on a reported violation, the Georgia Emergency Management and Homeland Security Agency shall investigate the reported violation in a timely manner to determine whether the reported violation occurred.

PART 2. JUDICIAL EMERGENCY

§ 38-3-60. Definitions

As used in this part, the term:

(1) "Authorized judicial official" means any of the following officials when acting with regard to his or her respective jurisdiction:

(A) The Chief Justice of the Georgia Supreme Court;

(B) A chief judge of a Georgia superior court judicial circuit; or

(C) The replacement for or successor to any of the officials set forth in subparagraphs (A) and (B) of this paragraph, as determined by the applicable rules of incapacitation and succession, should such official become incapacitated or otherwise unable to act.

(2) "Judicial emergency" means:

(A) A state of emergency declared by the Governor under Part 1 of this article;

(B) A public health emergency under Code Section 31-12-1.1;

(C) A local emergency under Code Section 36-69-2; or

(D) Such other serious emergency

when, as determined by an authorized judicial official, the emergency substantially endangers or infringes upon the normal functioning of the judicial system, the ability of persons to avail themselves of the judicial system, or the ability of litigants or others to have access to the courts or to meet schedules or time deadlines imposed by court order or rule, statute, or administrative rule or regulation.

§ 38-3-61. Declaration of judicial emergency; duration of judicial emergency declaration; designation of alternative facility in lieu of court

(a) An authorized judicial official is authorized to declare the existence of a judicial emergency which shall be done by order either upon his or her own motion or upon motion by any interested person. The order shall state:

(1) The identity and position of the issuing authorized judicial official;

(2) The time, date, and place at which the order is executed;

(3) The jurisdiction or jurisdictions affected by the order;

- (4) The nature of the emergency necessitating the order;
- (5) The period or duration of the judicial emergency; and
- (6) Any other information relevant to the suspension or restoration of court operations.

(b) An order declaring the existence of a judicial emergency shall be limited to an initial duration of not more than 30 days; provided, however, that the order may be modified or extended for no more than two periods not exceeding 30 days each unless a public health emergency exists as set forth in Code Section 38-3-51, in which case the Chief Justice of the Supreme Court of Georgia may extend the emergency order for so long as such emergency exists, as declared by the Governor. Any modification or extension of the initial order shall require information regarding the same matters set forth in subsection (a) of this Code section for the issuance of the initial order.

(c) In the event the circumstances underlying the judicial emergency make access to the office of a clerk of court or a courthouse impossible or impractical, the order declaring the judicial emergency shall designate another facility, which is reasonably accessible and appropriate, for the conduct of court business.

§ 38-3-62. Suspension or tolling of deadlines and time schedules in event of judicial emergency

An authorized judicial official in an order declaring a judicial emergency, or in an order modifying or extending a judicial emergency order, is authorized to suspend, toll, extend, or otherwise grant relief from deadlines or other time schedules or filing requirements imposed by otherwise applicable statutes, rules, regulations, or court orders, whether in civil or criminal cases or administrative matters, including, but not limited to:

- (1) A statute of limitation;
- (2) The time within which to issue a warrant;
- (3) The time within which to try a case for which a demand for speedy trial has been filed;
- (4) The time within which to hold a commitment hearing;
- (5) A deadline or other schedule regarding the detention of a juvenile;
- (6) The time within which to return a bill of indictment or an accusation or to bring a matter before a grand jury;
- (7) The time within which to file a writ of habeas corpus;
- (8) The time within which discovery or any aspect thereof is to be completed;
- (9) The time within which to serve a party;
- (10) The time within which to appeal or to seek the right to appeal any order, ruling, or other determination; and

(11) Such other legal proceedings as determined to be necessary by the authorized judicial official.

§ 38-3-63. Notification to other judicial officials and public

Upon an authorized judicial official issuing an order declaring the existence of a judicial emergency, or any modification or extension of such an order, the authorized judicial official issuing the order, modification, or extension to the extent permitted by the circumstances underlying the judicial emergency shall:

- (1)** Immediately notify the Chief Justice of the Georgia Supreme Court of the action;
- (2)** Notify and serve a copy of the order, modification, or extension on the judges and clerks of all courts sitting within the jurisdictions affected and on the clerks of the Georgia Court of Appeals and the Georgia Supreme Court, such service to be accomplished through reasonable means to assure expeditious receipt; and
- (3)** Give notice of the issuance of the order, modification, or extension to the affected parties, counsel for the affected parties, and the public. Notice shall be provided by whatever means are reasonably calculated to reach the affected parties, counsel for the affected parties, and the public and may, without limitation, include mailing, publication in a newspaper of local or state-wide distribution, posting of written notices at courthouses and other public gathering sites, transmittal by facsimile or e-mail, and announcements on television, radio, and public address systems.

§ 38-3-64. Appeal rights of adversely affected parties; cost of appeal borne by state

- (a)** Any person whose rights or interests are adversely affected by an order declaring the existence of a judicial emergency or any modification or extension of such an order shall be entitled to appeal.
- (b)** A notice of appeal shall be filed no later than 45 days after the expiration of the judicial emergency order, or any modification or extension of a judicial emergency order, from which an appeal is sought. A notice of appeal shall be filed with the clerk of a superior court in any jurisdiction affected by the order and shall be served upon:
 - (1)** The authorized judicial official who issued the order;
 - (2)** The parties to any criminal proceeding or civil litigation in which the appellant is involved which would be affected by the appeal;
 - (3)** The district attorney of the county in which the notice of appeal is filed; and
 - (4)** All other parties in any criminal proceeding or civil litigation which would be affected by the appeal; provided, however, that service in this regard shall be accomplished by publishing notice of the filing of the appeal in the newspaper which is the legal organ for the county in which the notice of the appeal is filed.
- (c)** The appeal shall be heard immediately by the Georgia Court of Appeals under the procedure of emergency motions. A party dissatisfied by the judgment of the Georgia Court of Appeals may appeal as

a matter of right to the Georgia Supreme Court. Filing fees for these appeals shall be waived. All costs of court shall be borne by the state. Appeals shall be heard expeditiously.

ARTICLE 4. RECOGNITION OF EMERGENCY MEDICAL SERVICES PERSONNEL LICENSURE INTERSTATE COMPACT

§ 38-3-70. Short title

This article shall be known and may be cited as the "Recognition of Emergency Medical Services Personnel Licensure Interstate Compact (REPLICA)."

§ 38-3-71. Text of compact

Section 1. Purpose.

In order to protect the public through verification of competency and ensure accountability for patient care related activities all states license emergency medical services (EMS) personnel, such as emergency medical technicians (EMTs), advanced EMTs, and paramedics. This Compact is intended to facilitate the day-to-day movement of EMS personnel across state boundaries in the performance of their EMS duties as assigned by an appropriate authority and authorize state EMS offices to afford immediate legal recognition to EMS personnel licensed in a member state. This Compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of EMS personnel and that such state regulation shared among the member states will best protect public health and safety. This Compact is designed to achieve the following purposes and objectives:

- (1) Increase public access to EMS personnel;
- (2) Enhance the states' ability to protect the public's health and safety, especially patient safety;
- (3) Encourage the cooperation of member states in the areas of EMS personnel licensure and regulation;
- (4) Support licensing of military members who are separating from an active duty tour and their spouses;
- (5) Facilitate the exchange of information between member states regarding EMS personnel licensure, adverse action, and significant investigatory information;
- (6) Promote compliance with the laws governing EMS personnel practice in each member state; and
- (7) Invest all member states with the authority to hold EMS personnel accountable through the mutual recognition of member state licenses.

Section 2. Definitions.

In this compact:

(A) "Advanced Emergency Medical Technician (AEMT)" means: an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

- (B)** "Adverse Action" means: any administrative, civil, equitable, or criminal action permitted by a state's laws which may be imposed against licensed EMS personnel by a state EMS authority or state court, including, but not limited to, actions against an individual's license such as revocation, suspension, probation, consent agreement, monitoring, or other limitation or encumbrance on the individual's practice, letters of reprimand or admonition, fines, criminal convictions, and state court judgments enforcing adverse actions by the state EMS authority.
- (C)** "Alternative program" means: a voluntary, non-disciplinary substance abuse recovery program approved by a state EMS authority.
- (D)** "Certification" means: the successful verification of entry-level cognitive and psychomotor competency using a reliable, validated, and legally defensible examination.
- (E)** "Commission" means: the national administrative body of which all states that have enacted the compact are members.
- (F)** "Emergency Medical Technician (EMT)" means: an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.
- (G)** "Home State" means: a member state where an individual is licensed to practice emergency medical services.
- (H)** "License" means: the authorization by a state for an individual to practice as an EMT, AEMT, paramedic, or a level in between EMT and paramedic.
- (I)** "Medical Director" means: a physician licensed in a member state who is accountable for the care delivered by EMS personnel.
- (J)** "Member State" means: a state that has enacted this compact.
- (K)** "Paramedic" means: an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.
- (L)** "Privilege to Practice" means: an individual's authority to deliver emergency medical services in remote states as authorized under this compact.
- (M)** "Remote State" means: a member state in which an individual is not licensed.
- (N)** "Restricted" means: the outcome of an adverse action that limits a license or the privilege to practice.
- (O)** "Rule" means: a written statement by the interstate Commission promulgated pursuant to Section 12 of this compact that is of general applicability; implements, interprets, or prescribes a policy or provision of the compact; or is an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a member state and includes the amendment, repeal, or suspension of an existing rule.

(P) "Scope of Practice" means: defined parameters of various duties or services that may be provided by an individual with specific credentials. Whether regulated by rule, statute, or court decision, it tends to represent the limits of services an individual may perform.

(Q) "Significant Investigatory Information" means:

(1) Investigative information that a state EMS authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proved true, would result in the imposition of an adverse action on a license or privilege to practice; or

(2) Investigative information that indicates that the individual represents an immediate threat to public health and safety regardless of whether the individual has been notified and had an opportunity to respond.

(R) "State" means: means any state, commonwealth, district, or territory of the United States.

(S) "State EMS Authority" means: the board, office, or other agency with the legislative mandate to license EMS personnel.

Section 3. Home State Licensure.

(A) Any member state in which an individual holds a current license shall be deemed a home state for purposes of this compact.

(B) Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this compact.

(C) A home state's license authorizes an individual to practice in a remote state under the privilege to practice only if the home state:

(1) Currently requires the use of the National Registry of Emergency Medical Technicians (NREMT) examination as a condition of issuing initial licenses at the EMT and paramedic levels;

(2) Has a mechanism in place for receiving and investigating complaints about individuals;

(3) Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding an individual;

(4) No later than five years after activation of the Compact, requires a criminal background check of all applicants for initial licensure, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation with the exception of federal employees who have suitability determination in accordance with US CFR § 731.202 and submit documentation of such as promulgated in the rules of the Commission; and

(5) Complies with the rules of the Commission.

Section 4. Compact Privilege to Practice.

(A) Member states shall recognize the privilege to practice of an individual licensed in another member state that is in conformance with Section 3.

(B) To exercise the privilege to practice under the terms and provisions of this compact, an individual must:

(1) Be at least 18 years of age;

(2) Possess a current unrestricted license in a member state as an EMT, AEMT, paramedic, or state recognized and licensed level with a scope of practice and authority between EMT and paramedic; and

(3) Practice under the supervision of a medical director.

(C) An individual providing patient care in a remote state under the privilege to practice shall function within the scope of practice authorized by the home state unless and until modified by an appropriate authority in the remote state as may be defined in the rules of the Commission.

(D) Except as provided in subsection (C) of this section, an individual practicing in a remote state will be subject to the remote state's authority and laws. A remote state may, in accordance with due process and that state's laws, restrict, suspend, or revoke an individual's privilege to practice in the remote state and may take any other necessary actions to protect the health and safety of its citizens. If a remote state takes action it shall promptly notify the home state and the Commission.

(E) If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

(F) If an individual's privilege to practice in any remote state is restricted, suspended, or revoked the individual shall not be eligible to practice in any remote state until the individual's privilege to practice is restored.

Section 5. Conditions of Practice in a Remote State.

An individual may practice in a remote state under a privilege to practice only in the performance of the individual's EMS duties as assigned by an appropriate authority, as defined in the rules of the Commission, and under the following circumstances:

(1) The individual originates a patient transport in a home state and transports the patient to a remote state;

(2) The individual originates in the home state and enters a remote state to pick up a patient and provide care and transport of the patient to the home state;

(3) The individual enters a remote state to provide patient care and/or transport within that remote state;

(4) The individual enters a remote state to pick up a patient and provide care and transport to a third member state; or

(5) Other conditions as determined by rules promulgated by the Commission.

Section 6. Relationship to Emergency Management Assistance Compact.

Upon a member state's governor's declaration of a state of emergency or disaster that activates the Emergency Management Assistance Compact (EMAC), all relevant terms and provisions of EMAC shall apply and to the extent any terms or provisions of this Compact conflicts with EMAC, the terms of EMAC shall prevail with respect to any individual practicing in the remote state in response to such declaration.

Section 7. Veterans, Service Members Separating from Active Duty Military, and Their Spouses.

(A) Member states shall consider a veteran, active military service member, and member of the National Guard and Reserves separating from an active duty tour, and a spouse thereof, who holds a current valid and unrestricted NREMT certification at or above the level of the state license being sought as satisfying the minimum training and examination requirements for such licensure.

(B) Member states shall expedite the processing of licensure applications submitted by veterans, active military service members, and members of the National Guard and Reserves separating from an active duty tour, and their spouses.

(C) All individuals functioning with a privilege to practice under this Section remain subject to the Adverse Actions provisions of Section 8.

Section 8. Adverse Actions.

(A) A home state shall have exclusive power to impose adverse action against an individual's license issued by the home state.

(B) If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

(1) All home state adverse action orders shall include a statement that the individual's compact privileges are inactive. The order may allow the individual to practice in remote states with prior written authorization from both the home state and remote state's EMS authority.

(2) An individual currently subject to adverse action in the home state shall not practice in any remote state without prior written authorization from both the home state and remote state's EMS authority.

(C) A member state shall report adverse actions and any occurrences that the individual's compact privileges are restricted, suspended, or revoked to the Commission in accordance with the rules of the Commission.

(D) A remote state may take adverse action on an individual's privilege to practice within that state.

(E) Any member state may take adverse action against an individual's privilege to practice in that state based on the factual findings of another member state, so long as each state follows its own procedures for imposing such adverse action.

(F) A home state's EMS authority shall investigate and take appropriate action with respect to reported conduct in a remote state as it would if such conduct had occurred within the home state. In such cases, the home state's law shall control in determining the appropriate adverse action.

(G) Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the member state's laws. Member states must require individuals who enter any alternative programs to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

Section 9. Additional Powers Invested in a Member State's EMS Authority.

A member state's EMS authority, in addition to any other powers granted under state law, is authorized under this compact to:

(1) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a member state's EMS authority for the attendance and testimony of witnesses, and/or the production of evidence from another member state, shall be enforced in the remote state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state EMS authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

(2) Issue cease and desist orders to restrict, suspend, or revoke an individual's privilege to practice in the state.

Section 10. Establishment of the Interstate Commission for EMS Personnel Practice.

(A) The Compact states hereby create and establish a joint public agency known as the Interstate Commission for EMS Personnel Practice.

(1) The Commission is a body politic and an instrumentality of the Compact states.

(2) Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

(B) Membership, Voting, and Meetings

(1) Each member state shall have and be limited to one (1) delegate. The responsible official of the state EMS authority or his or her designee shall be the delegate to this Compact for each member state. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the member state in which the vacancy exists. In the event that more than one board, office, or

other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists, the Governor of the state will determine which entity will be responsible for assigning the delegate.

(2) Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(3) The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(4) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 12.

(5) The Commission may convene in a closed, non-public meeting if the Commission must discuss:

(a) Non-compliance of a member state with its obligations under the Compact;

(b) The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees, or other matters related to the Commission's internal personnel practices and procedures;

(c) Current, threatened, or reasonably anticipated litigation;

(d) Negotiation of contracts for the purchase or sale of goods, services, or real estate;

(e) Accusing any person of a crime or formally censuring any person;

(f) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(g) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(h) Disclosure of investigatory records compiled for law enforcement purposes;

(i) Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

(j) Matters specifically exempted from disclosure by federal or member state statute.

(6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain

under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

(C) The Commission shall, by a majority vote of the delegates, prescribe bylaws and/or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including, but not limited to:

- (1)** Establishing the fiscal year of the Commission;
- (2)** Providing reasonable standards and procedures:
 - (a)** For the establishment and meetings of other committees; and
 - (b)** Governing any general or specific delegation of any authority or function of the Commission;
- (3)** Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the membership votes to close a meeting in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed;
- (4)** Establishing the titles, duties and authority, and reasonable procedures for the election of the officers of the Commission;
- (5)** Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any member state, the bylaws shall exclusively govern the personnel policies and programs of the Commission;
- (6)** Promulgating a code of ethics to address permissible and prohibited activities of Commission members and employees;
- (7)** Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and/or reserving of all of its debts and obligations.
- (8)** The Commission shall publish its bylaws and file a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the member states, if any.
- (9)** The Commission shall maintain its financial records in accordance with the bylaws.
- (10)** The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the bylaws.

(D) The Commission shall have the following powers:

(1) The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;

(2) To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state EMS authority or other regulatory body responsible for EMS personnel licensure to sue or be sued under applicable law shall not be affected;

(3) To purchase and maintain insurance and bonds;

(4) To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

(5) To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(6) To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety and/or conflict of interest;

(7) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

(8) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(9) To establish a budget and make expenditures;

(10) To borrow money;

(11) To appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(12) To provide and receive information from, and to cooperate with, law enforcement agencies;

(13) To adopt and use an official seal; and

(14) To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of EMS personnel licensure and practice.

(E) Financing of the Commission

(1) The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(3) The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

(4) The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

(5) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

(F) Qualified Immunity, Defense, and Indemnification

(1) The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

(2) The Commission shall defend any member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(3) The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided

that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

Section 11. Coordinated Database.

(A) The Commission shall provide for the development and maintenance of a coordinated database and reporting system containing licensure, adverse action, and significant investigatory information on all licensed individuals in member states.

(B) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the coordinated database on all individuals to whom this compact is applicable as required by the rules of the Commission, including:

- (1) Identifying information;
 - (2) Licensure data;
 - (3) Significant investigatory information;
 - (4) Adverse actions against an individual's license;
 - (5) An indicator that an individual's privilege to practice is restricted, suspended or revoked;
 - (6) Non-confidential information related to alternative program participation;
 - (7) Any denial of application for licensure, and the reason(s) for such denial; and
 - (8) Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.
- (C) The coordinated database administrator shall promptly notify all member states of any adverse action taken against, or significant investigative information on, any individual in a member state.
- (D) Member states contributing information to the coordinated database may designate information that may not be shared with the public without the express permission of the contributing state.
- (E) Any information submitted to the coordinated database that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the coordinated database.

Section 12. Rulemaking.

(A) The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(B) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule shall have no further force and effect in any member state.

(C) Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

(D) Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

(1) On the website of the Commission; and

(2) On the website of each member state EMS authority or the publication in which each state would otherwise publish proposed rules.

(E) The Notice of Proposed Rulemaking shall include:

(1) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(2) The text of the proposed rule or amendment and the reason for the proposed rule;

(3) A request for comments on the proposed rule from any interested person; and

(4) The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

(F) Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(G) The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) At least twenty-five (25) persons;

(2) A governmental subdivision or agency; or

(3) An association having at least twenty-five (25) members.

(H) If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing.

(1) All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

(2) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(3) No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.

(4) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

(I) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

(J) The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(K) If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

(L) Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(1) Meet an imminent threat to public health, safety, or welfare;

(2) Prevent a loss of Commission or member state funds;

(3) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(4) Protect public health and safety.

(M) The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

Section 13. Oversight, Dispute Resolution, and Enforcement.

(A) Oversight

(1) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Commission.

(3) The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

(B) Default, Technical Assistance, and Termination

(1) If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the Commission shall:

(a) Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

(b) Provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(4) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the Commission and the defaulting state.

(6) The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(C) Dispute Resolution

(1) Upon request by a member state, the Commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.

(2) The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(D) Enforcement

(1) The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(3) The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

Section 14. Date of Implementation of the Interstate Commission for EMS Personnel Practice and Associated Rules, Withdrawal, and Amendment.

(A) The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(B) Any state that joins the compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the compact becomes law in that state.

(C) Any member state may withdraw from this compact by enacting a statute repealing the same.

(1) A member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's EMS authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(D) Nothing contained in this compact shall be construed to invalidate or prevent any EMS personnel licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this compact.

(E) This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

Section 15. Construction and Severability

This Compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any state member thereto, the compact shall remain in full force and effect as to the remaining member states. Nothing in this compact supersedes state law or rules related to licensure of EMS agencies.

ARTICLE 5. EMERGENCY MANAGEMENT ASSISTANCE COMPACT

§ 38-3-80. Short title

This article shall be known and may be cited as the "Emergency Management Assistance Compact."

§ 38-3-81. Enactment; text

The Emergency Management Assistance Compact is enacted into law and entered into by the State of Georgia with all other states which adopt the compact in a form substantially as follows:

"EMERGENCY MANAGEMENT ASSISTANCE COMPACT

The contracting states solemnly agree that:

ARTICLE I -- PURPOSE AND AUTHORITIES This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this agreement, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state(s), whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

ARTICLE II -- GENERAL IMPLEMENTATION Each party state entering into this compact recognizes many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the Federal Government or any other source, that are essential to the safety,

care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

ARTICLE III -- PARTY STATE RESPONSIBILITIES

(a) It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

(1) Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resource shortages, civil disorders, insurgency, or enemy attack.

(2) Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency.

(3) Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans.

(4) Assist in warning communities adjacent to or crossing the state boundaries.

(5) Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material.

(6) Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness.

(7) Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

(b) The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this agreement shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within 30 days of the verbal request. Requests shall provide the following information:

(1) A description of the emergency service function for which assistance is needed, such as but not limited to fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

(2) The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed.

(3) The specific place and time for staging of the assisting party's response and a point of contact at that location.

(c) There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States Government, with free exchange of information, plans, and resource records relating to emergency capabilities.

ARTICLE IV -- LIMITATIONS Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect or loaned resources remain in the receiving state(s), whichever is longer.

ARTICLE V -- LICENSES AND PERMITS Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

ARTICLE VI -- LIABILITY Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes; and no party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE VII -- SUPPLEMENTARY AGREEMENTS Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this instrument contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with

another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

ARTICLE VIII -- COMPENSATION Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

ARTICLE IX -- REIMBURSEMENT Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such request; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this provision.

ARTICLE X -- EVACUATION Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines, and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

ARTICLE XI -- IMPLEMENTATION

(a) This compact shall become operative immediately upon its enactment into law by any two states and when Congress has given consent thereto; thereafter, this compact shall become effective as to any other state upon its enactment by such state.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 30 days after the governor of the withdrawing state has given

notice in writing of such withdrawal to the governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

(c) Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States Government.

ARTICLE XII -- VALIDITY This compact shall be construed to effectuate the purposes stated in Article I hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected thereby.

ARTICLE XIII -- ADDITIONAL PROVISIONS

Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under Section 1385 of Title 18, United States Code."

ARTICLE 6. DISASTER VOLUNTEER LEAVE ACT

§ 38-3-90. Short title

This article shall be known and may be cited as the "Disaster Volunteer Leave Act."

§ 38-3-91. Definitions

As used in this article, the term:

(1) "Disaster" means a presidentially declared disaster or a state of emergency disaster declared by the Governor of a state.

(2) "State agency" means any department, officer, commission, board, or institution of this state, including the several courts of this state and the General Assembly and its committees or commissions.

§ 38-3-92. Legislative finding

It is the finding of the General Assembly that natural disasters and disasters created by human agency often arise suddenly and that cooperation among government agencies and volunteer service agencies is vital in coping with such emergencies. The General Assembly further finds that dedicated service by trained and experienced volunteers can help prevent loss and destruction of life and property and that it is in the interest of the state and the citizens of the state to allow certain state employees who are trained and experienced in disaster relief to provide such service for brief periods without loss of pay and benefits.

§ 38-3-93. Authorization for certain employees of state agencies to be granted leave from work with pay in order to participate in specialized disaster relief services

An employee of a state agency who is a certified disaster service volunteer of the American Red Cross may be granted leave from his or her work with pay for not to exceed 15 workdays in any 12 month period to participate in specialized disaster relief services for the American Red Cross, upon the request of the American Red Cross for the services of that employee and upon the approval of that employee's agency and coordinated through the director of emergency management, without loss of seniority, pay, vacation time, compensatory time, sick time, or earned overtime accumulation. The state agency shall compensate an employee granted leave under this Code section at his or her regular rate of pay for those regular hours during which the employee is absent from work. Leave under this article shall be granted only for the services related to a disaster occurring within this state or in a contiguous state which has a reciprocal statutory provision.

ARTICLE 7. STATE-WIDE ALERT SYSTEM FOR MISSING DISABLED ADULTS

§§ 38-3-110 through 38-3-119. Redesignated

ARTICLE 8. ALERT SYSTEM FOR UNAPPREHENDED MURDER OR RAPE SUSPECTS

§ 38-3-120. Redesignated

§ 38-3-130. Redesignated

ARTICLE 9. GEORGIA EMERGENCY MANAGEMENT AND HOMELAND SECURITY AGENCY NOMENCLATURE ACT

§ 38-3-140. Short title

This article shall be known and may be cited as the "Georgia Emergency Management and Homeland Security Agency Nomenclature Act of 2008."

§ 38-3-141. Definitions

As used in this article, the term:

(1) "Badge" means any official badge, identification card, or security pass used by members of the Georgia Emergency Management and Homeland Security Agency, either in the past or currently.

(2) "Director" means the director of the Georgia Emergency Management and Homeland Security Agency.

(3) "Emblem" means any official patch or other emblem worn currently or formerly or used by the Georgia Emergency Management and Homeland Security Agency to identify the agency, a division of the agency, or employees of the agency.

(4) "Person" means any person, corporation, organization, or political subdivision of the State of Georgia.

(5) "Seal" means any official symbol, mark, or abbreviation which represents and is used, currently or in the past, by the Georgia Emergency Management and Homeland Security Agency or any other division or operation under the command of the Georgia Emergency Management and Homeland Security Agency to identify the agency, a division of the agency, or employees of the agency.

(6) "Willful violator" means any person who knowingly violates the provisions of this article. Any person who violates this article after being advised in writing by the director that such person's activity is in violation of this article shall be considered a willful violator and shall be considered in willful violation of this article. Any person whose agent or representative is a willful violator and who has knowledge of the violation by the agent or representative shall also be considered a willful violator and in willful violation of this article unless, upon learning of the violation, he or she immediately terminates the agency or other relationship with such violator.

§ 38-3-142. Use of agency name without written permission prohibited in certain circumstances

Whoever, except with the written permission of the director, knowingly uses the words "Georgia Emergency Management Agency," "Georgia Homeland Security Agency," "Emergency Management Agency," "Homeland Security Agency," "GEMA," "GEMHSA," or "GEMA/HS" in referring to Georgia's Emergency Management and Homeland Security Agency in connection with any advertisement, circular, book, pamphlet, or other publication, play, motion picture, broadcast, telecast, or other production in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by or associated with the Georgia Emergency Management and Homeland Security Agency shall be in violation of this article.

§ 38-3-143. Use or display of agency symbols without written permission prohibited

Any person who uses or displays any symbol, including any emblem, seal, or badge, current or historical, used by the Georgia Emergency Management and Homeland Security Agency without written permission from the director shall be in violation of this article.

§ 38-3-144. Requests for permission; grants of permission at director's discretion

Any person seeking permission to use or display the nomenclature or symbols of the Georgia Emergency Management and Homeland Security Agency may request such permission in writing to the director. The director shall serve notice on the requesting party within 15 calendar days after receipt of the request of his or her decision on whether the person may use the nomenclature or the symbol. If the director does not respond within the 15 day time period, then the request is presumed to have been denied. The grant of permission under this article shall be at the discretion of the director and under such conditions as the director may impose.

§ 38-3-145. Injunctions to restrain violations

Whenever there shall be an actual or threatened violation of this article, the director shall have the right to apply to the Superior Court of Fulton County or to the superior court of the county of residence of the violator for an injunction to restrain the violation.

§ 38-3-146. Civil penalties for willful violators

In addition to any other relief or sanction for a violation of this article, the director shall be entitled to collect a civil penalty in the amount of \$1,000.00 for each violation from a willful violator. Further, the director shall be entitled to recover reasonable attorney's fees for bringing any action against a willful violator.

§ 38-3-147. Private cause of action; recovery of treble damages, punitive damages, and attorney's fees

Any person who has given money or any other item of value to another person due in part to such person's use of agency nomenclature or symbols in violation of this article may maintain a suit for damages against the violator. Where it is proven that the violation was willful, the victim shall be entitled to recover treble damages, punitive damages, and reasonable attorney's fees.

§ 38-3-148. Criminal penalties for willful violators

Any willful violator shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$5,000.00 or to imprisonment for not more than 12 months, or both. Each violation shall constitute a separate offense.

ARTICLE 10. STATE-WIDE FIRST RESPONDER BUILDING MAPPING INFORMATION SYSTEM

§ 38-3-150. Legislative findings

The General Assembly recognizes the extreme dangers present when the safety of our citizens requires first responders such as police and firefighters to evacuate or secure a building. To better prepare for responding to disasters, criminal acts, and acts of terrorism, the General Assembly intends to create a state-wide first responder building mapping information system that will provide first responders with information they need to be successful when disaster strikes. The first responder building mapping information system shall be developed for this limited and specific purpose and does not impose standards or system requirements on any other mapping systems used for any other purpose.

§ 38-3-151. Definitions

As used in this article, the term:

(1) "Agency" means the Georgia Emergency Management and Homeland Security Agency established by Code Section 38-3-20.

(2) "Building mapping information system" means a state-wide informational system containing maps of designated public buildings.

(3) "Director" means the director of the agency.

§ 38-3-152. Creation and operation of building mapping information system; availability to government agencies; rules and regulations; federal funding sources; exemption of information from public disclosure; recommendations for training guidelines; limitations

(a) Subject to availability of funds for such purposes, the agency may be authorized to create and operate a building mapping information system and may make grants to local governments for purposes of this article. Once the building mapping information system is operational, the agency shall make the building mapping information available electronically to all state, local, and federal public safety agencies.

(b) Once the building mapping information system is operational, it shall be within the discretion of state and local agencies to determine which government owned or leased buildings, if any, should be mapped, with special consideration given to schools, courthouses, and larger public structures utilized by large numbers of employees or private citizens. Nothing in this article shall require any state or local agency to map any building.

(c) State and local agencies electing to participate in the building mapping information system once such system is operational shall forward to the agency the building mapping information as provided in subsection (d) of this Code section. Any private entity or department or agency of the federal government that desires to participate in such system may also voluntarily forward its building mapping information to the agency. The agency may refuse any information that does not comply with the agency's specifications and requirements.

(d) The agency shall be authorized to develop rules and regulations for the purpose of implementing the provisions of this Code section. Such rules and regulations shall specify:

(1) The type of information to be included in the building mapping information system which shall at a minimum include floor plans, fire protection information, evacuation plans, utility information, known hazards, and text and digital images showing emergency personnel contact information;

(2) The building mapping software standards that shall be utilized by all entities participating in the building mapping information system; and

(3) Security procedures to ensure that the information shall only be made available to the government entity that either owns or operates the building or is responding to an emergency incident at the building.

(e) The agency may be authorized to pursue federal funds or other sources of funding for the creation and operation of the building mapping information system and shall be further authorized to seek or assist state and local agencies in obtaining grants or donations for the mapping of government owned or leased buildings.

(f) Information provided to the agency under this article shall be exempt from public disclosure to the extent provided in paragraph (31) of subsection (a) of Code Section 50-18-72.

(g) The agency may recommend training guidelines regarding use of the building mapping information system for law enforcement officers, firefighters, and other authorized emergency first responders.

(h) Nothing in this Code section supersedes the authority of state departments and agencies and local governments to control and maintain access to information within their independent systems.

§ 38-3-153. Immunity from civil liability

Local governments and agencies and their employees shall be immune from civil liability for any damages arising out of the creation and use of the building mapping information system unless it is shown that an employee acted with gross negligence or bad faith.

ARTICLE 11. UNIFORM EMERGENCY VOLUNTEER HEALTH PRACTITIONERS

§ 38-3-160. Uniform Emergency Volunteer Health Practitioners Act

This article shall be known and may be cited as the "Uniform Emergency Volunteer Health Practitioners Act."

§ 38-3-161. Definitions

As used in this article, the term:

(1) "Credentialing" means obtaining, verifying, and assessing the qualifications of a health practitioner to provide treatment, care, or services in or for a health facility.

(2) "Disaster relief organization" means an entity that provides emergency or disaster relief services that include health services or veterinary services provided by volunteer health practitioners and that:

(A) Is designated or recognized as a provider of those services pursuant to a disaster response and recovery plan adopted by an agency of the federal government or the Georgia Emergency Management and Homeland Security Agency; or

(B) Regularly plans and conducts its activities in coordination with an agency of the federal government, the Department of Public Health, a local emergency management agency, a local public health district, or the Georgia Emergency Management and Homeland Security Agency.

(3) "Emergency" means an event or condition that is deemed a state of emergency or disaster under Code Section 38-3-51, a public health emergency under Code Section 31-12-1.1, a local emergency under Code Section 36-69-2, or an emergency declared by a state entity or official or by a federal entity or official, if such emergency includes the State of Georgia, under any other provision of Georgia or federal law.

(4) "Emergency declaration" means a state of emergency or disaster declared by the Governor pursuant to Code Section 38-3-51 or other applicable law or laws.

(5) "Emergency Management Assistance Compact" means the interstate compact approved by the United States Congress by Public Law No. 104-321, 110 Stat. 3877 and enacted in this state as Article 5 of this chapter.

(6) "Entity" means a person other than an individual.

(7) "Health facility" means a hospital or other health facility licensed under Chapter 7 of Title 31, a veterinary facility as defined in Code Section 43-50-3, or any other similar entity licensed under the laws of another state to provide health services or veterinary services.

(8) "Health practitioner" means an individual licensed under the laws of this or another state to provide health services or veterinary services.

(9) "Health services" means the provision of treatment, care, advice, or guidance, or other services or supplies, related to the health or death of individuals or human populations to the extent necessary to respond to an emergency, including:

(A) The following, concerning the physical or mental condition or functional status of an individual or affecting the structure or function of the body:

(i) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; and

(ii) Counseling, assessment, procedures, or other services;

(B) The sale or dispensing of a drug, a device, equipment, or another item to an individual in accordance with a prescription; and

(C) Funeral, cremation, cemetery, or other mortuary services.

(10) "Host entity" means an entity operating in this state which uses volunteer health practitioners to respond to an emergency.

(11) "License" means authorization by a state to engage in health services or veterinary services that are unlawful without such authorization. The term includes authorization under the laws of this state to an individual to provide health services or veterinary services based upon a national certification issued by a public or private entity.

(12) "Person" means an individual, corporation, business trust, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(13) "Privileging" means the authorizing by an appropriate authority, such as a governing body, of a health practitioner to provide specific treatment, care, or services at a health facility subject to limits based on factors that include license, education, training, experience, competence, health status, and specialized skill.

(14) "Scope of practice" means the extent of the authorization to provide health services or veterinary services granted to a health practitioner by a license issued to such health practitioner in the state in which

the principal part of such health practitioner's services are rendered, including any conditions imposed by the licensing authority.

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(16) "Veterinary services" means the provision of treatment, care, advice, or guidance, or other services or supplies, related to the health or death of an animal or to animal populations to the extent necessary to respond to an emergency, including:

(A) The diagnosis, treatment, or prevention of an animal disease, injury, or other physical or mental condition by the prescription, administration, or dispensing of vaccines, medicine, surgery, or therapy;

(B) The use of a procedure for reproductive management; and

(C) The monitoring and treatment of animal populations for diseases that have spread or demonstrate the potential to spread to humans.

(17) "Volunteer health practitioner" means a health practitioner who provides health services or veterinary services pursuant to this article at no charge to the patients receiving such services, so long as such health practitioner does not receive compensation in direct relation to those specific services. The term "volunteer health practitioner" shall not include a health practitioner who receives compensation pursuant to a preexisting employment relationship with a host entity or affiliate which requires such health practitioner to provide such health services to patients of such host entity or affiliate, unless such health practitioner is not a resident of this state and is employed by a disaster relief organization providing health services in this state while an emergency declaration is in effect.

§ 38-3-162. Applicability to volunteer health practitioners

This article shall only apply to volunteer health practitioners registered with a registration system that complies with Code Section 38-3-164 and who provide health services or veterinary services in this state for a host entity while an emergency declaration is in effect.

§ 38-3-163. Regulation of volunteer health practitioners during an emergency

(a) For health services and veterinary services provided by volunteer health practitioners pursuant to this article while an emergency declaration is in effect, the Governor may waive, limit, restrict, or otherwise regulate:

(1) The duration of practice by such volunteer health practitioners with respect to such services;

(2) The geographical areas in which such volunteer health practitioners may practice with respect to such services;

(3) The types of volunteer health practitioners who may practice with respect to such services; and

(4) Any other matters necessary

to coordinate effectively the provision of health services or veterinary services during the emergency.

(b) An order issued pursuant to subsection (a) of this Code section may take effect immediately, without prior notice or comment, and shall not be a rule within the meaning of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(c) A host entity that uses volunteer health practitioners to provide health services or veterinary services in this state shall:

(1) Consult and coordinate its activities with the Georgia Emergency Management and Homeland Security Agency, consistent with the Georgia Emergency Operations Plan, to provide for the efficient and effective use of volunteer health practitioners; and

(2) Comply with the laws of this state relating to the management of emergency health services or veterinary services.

§ 38-3-164. Registration systems

(a) To qualify as a volunteer health practitioner registration system, a system shall:

(1) Accept applications for the registration of volunteer health practitioners before or during an emergency;

(2) Include information about the licensure and good standing of health practitioners which is accessible by authorized persons;

(3) Be capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services or veterinary services are provided under this article; and

(4) Meet one of the following conditions:

(A) Be an emergency system for advance registration of volunteer health care practitioners established by a state and funded through the United States Department of Health and Human Services under Section 319I of the Public Health Services Act, 42 U.S.C. Section 247d-7b;

(B) Be a local unit consisting of trained and equipped emergency response, public health, and medical personnel formed pursuant to Section 2801 of the Public Health Services Act, 42 U.S.C. Section 300hh;

(B.1) Be a member of an approved medical reserve corps;

(C) Be operated by a:

(i) Disaster relief organization;

(ii) Licensing board;

(iii) National or regional association of licensing boards or health practitioners;

(iv) Health facility that provides comprehensive inpatient and outpatient health care services, including a tertiary care and teaching hospital; or

(v) Governmental entity; or

(D) Be designated by the Georgia Emergency Management and Homeland Security Agency as a registration system for purposes of this article.

(b) While an emergency declaration is in effect, the Georgia Emergency Management and Homeland Security Agency, consistent with the Georgia Emergency Operations Plan; a person authorized to act on behalf of the Georgia Emergency Management and Homeland Security Agency; or a host entity may confirm whether volunteer health practitioners utilized in this state are registered with a registration system that complies with subsection (a) of this Code section. Confirmation shall be limited to obtaining the identities of the volunteer health practitioners from the system and determining whether the system indicates that the volunteer health practitioners are licensed and in good standing.

(c) Upon request of a person in this state authorized under subsection (b) of this Code section, or a similarly authorized person in another state, a registration system located in this state shall notify the person of the identities of volunteer health practitioners and whether the volunteer health practitioners are licensed and in good standing.

(d) A host entity shall not be required to use the services of a volunteer health practitioner even if such volunteer health practitioner is registered with a registration system that indicates that such volunteer health practitioner is licensed and in good standing.

§ 38-3-165. Recognition of volunteer health practitioners licensed in other states

(a) While an emergency declaration is in effect, a volunteer health practitioner registered with a registration system that complies with Code Section 38-3-164 and who is licensed and in good standing in the state upon which such volunteer health practitioner's registration is based may practice in this state to the extent authorized by this article as if such volunteer health practitioner were licensed in this state.

(b) A volunteer health practitioner qualified under subsection (a) of this Code section shall not be entitled to the protections of this article if such volunteer health practitioner is licensed in more than one state and any license of such volunteer health practitioner is suspended, revoked, or subject to an agency order limiting or restricting practice privileges or has been voluntarily terminated under threat of sanction.

§ 38-3-166. Credentialing or privileging standards of health facilities

This article shall not affect credentialing or privileging standards of a health facility and shall not preclude a health facility from waiving or modifying those standards while an emergency declaration is in effect.

§ 38-3-167. Limitation on services provided

(a) Except as otherwise provided in this Code section, a volunteer health practitioner shall adhere to the scope of practice for a similarly licensed volunteer health practitioner established by the licensing provisions, practice acts, or other laws of this state.

(b) Except as otherwise provided in this article, this article shall not authorize a volunteer health practitioner to provide services that are outside such volunteer health practitioner's scope of practice, even if a similarly licensed volunteer health practitioner in this state would be permitted to provide such services.

(c) A host entity may restrict the health services or veterinary services that a volunteer health practitioner may provide pursuant to this article.

(d) A volunteer health practitioner shall not be considered to be engaging in unauthorized practice unless such volunteer health practitioner has reason to know of any limitation, modification, or restriction under this Code section or that a similarly licensed volunteer health practitioner in this state would not be permitted to provide such services. A volunteer health practitioner has reason to know of a limitation, modification, or restriction under this Code section or that a similarly licensed volunteer health practitioner in this state would not be permitted to provide a service if:

(1) The volunteer health practitioner knows the limitation, modification, or restriction exists or that a similarly licensed volunteer health practitioner in this state would not be permitted to provide such service; or

(2) From all the facts and circumstances known to the volunteer health practitioner at the relevant time, a reasonable person would conclude that the limitation, modification, or restriction exists or that a similarly licensed volunteer health practitioner in this state would not be permitted to provide such service.

(e) In addition to the authority granted by the laws of this state other than this article to regulate the conduct of health practitioners, a licensing board or other disciplinary authority in this state:

(1) May impose administrative sanctions upon a health practitioner licensed in this state for conduct outside of this state in response to an out-of-state emergency;

(2) May impose administrative sanctions upon a health practitioner not licensed in this state for conduct in this state in response to an in-state emergency; and

(3) Shall report any administrative sanctions imposed upon a health practitioner licensed in another state to the appropriate licensing board or other disciplinary authority in any other state in which such health practitioner is known to be licensed.

(f) In determining whether to impose administrative sanctions under subsection (e) of this Code section, a licensing board or other disciplinary authority shall consider the circumstances in which the conduct took place, including any exigent circumstances, and the health practitioner's scope of practice, education, training, experience, and specialized skill.

§ 38-3-168. Construction with other provisions; inclusion

(a) This article shall not limit rights, privileges, or immunities provided to volunteer health practitioners by laws other than this article. Except as otherwise provided in subsection (b) of this Code section, this article shall not affect requirements for the use of health practitioners pursuant to the Emergency Management Assistance Compact.

(b) The Georgia Emergency Management and Homeland Security Agency, pursuant to the Emergency Management Assistance Compact, may incorporate into the emergency forces of this state volunteer health practitioners who are not officers or employees of this state, a political subdivision of this state, or a municipality or other local government within this state.

§ 38-3-169. Regulatory authority

The Department of Public Health may promulgate rules and regulations to implement this article. In doing so, the Department of Public Health shall consult with and consider the recommendations of the Georgia Emergency Management and Homeland Security Agency, consistent with the Georgia Emergency Operations Plan, and shall also consult with and consider rules and regulations promulgated by similarly empowered agencies in other states to promote uniformity of application of this article and make the emergency response systems in the various states reasonably compatible.

§ 38-3-170. Liability of volunteer health practitioners

(a) Except as provided in subsection (c) of this Code section, a volunteer health practitioner who provides health services or veterinary services pursuant to this article shall not be liable for damages for his or her act or omission in providing such health services or veterinary services.

(b) No person shall be vicariously liable for damages for an act or omission of a volunteer health practitioner if such volunteer practitioner is not liable for the damages under subsection (a) of this Code section.

(c) This Code section shall not limit the liability of a volunteer health practitioner for:

(1) Willful misconduct or wanton, grossly negligent, reckless, or criminal conduct;

(2) An intentional tort;

(3) Breach of contract;

(4) A claim asserted by a host entity or by an entity located in this or another state which employs or uses the services of the volunteer health practitioner; or

(5) An act or omission relating to the operation of a motor vehicle, vessel, aircraft, or other vehicle.

(d) A person that, pursuant to this article, operates, uses, or relies upon information provided by a volunteer health practitioner registration system shall not be liable for damages for an act or omission relating to that operation, use, or reliance unless such act or omission is an intentional tort or is willful misconduct or wanton, grossly negligent, reckless, or criminal conduct.

(e) In addition to the protections provided in subsection (a) of this Code section, a volunteer health practitioner who provides health services or veterinary services pursuant to this article shall be entitled to all the rights, privileges, or immunities which may otherwise be provided by law.

§ 38-3-171. Uniformity

In applying and construing this uniform Act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

ARTICLE 12. EMERGENCY COMMUNICATIONS AUTHORITY

§ 38-3-180. Short title

This article shall be known and may be cited as the "Georgia Emergency Communications Authority Act."

§ 38-3-181. Definitions

As used in this article, the term:

- (1) "Authority" means the Georgia Emergency Communications Authority established pursuant to Code Section 38-3-182.
- (2) "Board of directors" or "board" means the governing body of the authority.
- (3) "Emergency 9-1-1 system" or "9-1-1 system" has the same meaning as provided in Code Section 46-5-122.
- (4) "Enhanced ZIP Code" has the same meaning as provided in Code Section 46-5-122.
- (5) "Local government" means a county, municipality, regional authority, or consolidated government in this state that operates or contracts for the operation of a public safety answering point and has adopted a resolution or ordinance pursuant to Code Section 46-5-133 to impose 9-1-1 charges under Code Section 46-5-134.
- (6) "Next Generation 9-1-1" or "NG911" is a secure, nationwide, interoperable, standards-based, all Internet protocol emergency communications infrastructure enabling end-to-end transmission of all types of data, including, but not limited to, voice and multimedia communications from the public to a public safety answering point.
- (7) "9-1-1 charge" has the same meaning as provided in Code Section 46-5-122.
- (8) "Public safety answering point" has the same meaning as provided in Code Section 46-5-122.
- (9) "Service supplier" has the same meaning as provided in Code Section 46-5-122.
- (10) "Telephone subscriber" has the same meaning as provided in Code Section 46-5-122.
- (11) "Wireless enhanced 9-1-1 charge" has the same meaning as provided in Code Section 46-5-122.

§ 38-3-182. Establishment of Georgia Emergency Communications Authority; purpose; duties and responsibilities; board of directors; perpetual existence; power and authority; operation; regulation

(a)

(1) There is established the Georgia Emergency Communications Authority as a body corporate and politic, an instrumentality of the state, and a public corporation, and by that name the authority may contract and be contracted with and defend and bring actions, including, but not limited to, a private right of action to enforce this article. The authority shall be an entity within the Georgia Emergency Management and Homeland Security Agency and attached to said agency for all operational purposes.

(2) All local governments as of July 1, 2018, shall be members of the authority. Additional local governments shall become members upon adoption of a resolution or ordinance to impose the monthly 9-1-1 charge as authorized by Code Section 46-5-133 and contingent upon approval by the authority which shall not be unreasonably withheld. Any local government member of the authority that ceases operating or contracting for the operation of a public safety answering point shall withdraw from the authority subject to the terms of any contract, obligation, or agreement with the authority.

(b) The primary purpose of the authority shall be to administer, collect, audit, and remit 9-1-1 revenues for the benefit of local governments, as specified in this article, and on such terms and conditions as may be determined to be in the best interest of the operation of local governments in light of the following factors:

(1) The public interest in providing cost-efficient collection of revenues;

(2) Increasing compliance in collection of revenues;

(3) Easing the administrative burden on vendors and service suppliers; and

(4) Such other factors as are in the public interest and welfare of the citizens of Georgia.

(c) In addition to the purposes specified in subsection (b) of this Code section, the authority shall have the duties and responsibilities to:

(1) Apply for, receive, and use federal grants or state grants or both;

(2) Study, evaluate, and recommend technology standards for the regional and state-wide provision of a public safety communications network and 9-1-1 system;

(3) Identify any changes necessary to accomplish more effective and efficient 9-1-1 service across this state including consolidation and interoperability of 9-1-1 systems;

(4) Identify any changes necessary in the assessment and collection of fees under Part 4 of Article 2 of Chapter 5 of Title 46;

(5) Develop, offer, or make recommendations to the Georgia Public Safety Training Center, Georgia Peace Officer Standards and Training Council, and other state agencies as to training that should be provided to telecommunicators, trainers, supervisors, and directors of public safety answering points;

- (6)** Recommend minimum standards for operation of public safety answering points;
 - (7)** Collect data and statistics regarding the performance of public safety answering points; and
 - (8)** Identify any necessary changes or enhancements to develop and deploy NG911 statewide.
- (d)** (1) Control and management of the authority shall be vested in a board of directors which shall consist of the following:
- (A)** The commissioner of public safety or his or her designee;
 - (B)** The commissioner of revenue or his or her designee;
 - (C)** The director of the Georgia Public Safety Training Center or his or her designee;
 - (D)** Three members appointed by the Governor who shall be 9-1-1 directors, each of whom shall be currently employed by a public safety answering point. The Georgia 9-1-1 Directors Association, the Georgia Chapter of the Association of Public Safety Communications Officials, and the Georgia Chapter of the National Emergency Number Association may provide recommendations to the Governor for such appointments;
 - (E)** One member appointed by the Governor who shall be an elected member of a county governing authority that operates or contracts for the operation of a public safety answering point. The Association County Commissioners of Georgia may provide recommendations to the Governor for such appointment;
 - (F)** One member appointed by the Governor who shall be a county manager, county administrator, or finance officer from a county that operates or contracts for the operation of a public safety answering point. The Association County Commissioners of Georgia may provide recommendations to the Governor for such appointment;
 - (G)** One member appointed by the Governor who shall be an elected member of a city governing authority that operates or contracts for the operation of a public safety answering point. The Georgia Municipal Association may provide recommendations to the Governor for such appointment;
 - (H)** One member appointed by the Governor who shall be a city manager, city administrator, or finance officer from a city that operates or contracts for the operation of a public safety answering point. The Georgia Municipal Association may provide recommendations to the Governor for such appointment;
 - (I)** Two members from the telecommunications industry who shall be appointed by the Governor;
 - (J)** One member appointed by the Governor who is a sheriff responsible for managing a public safety answering point. The Georgia Sheriffs' Association may provide recommendations to the Governor for such appointment;
 - (K)** One police chief appointed by the Governor who is serving a local government. The Georgia Association of Chiefs of Police may provide recommendations to the Governor for such appointment; and
 - (L)** One fire chief appointed by the Governor who is serving a local government. The Georgia Association of Fire Chiefs may provide recommendations to the Governor for such appointment.

(2) The initial term for appointments made pursuant to subparagraphs (D), (E), (F), (G), and (H) of paragraph (1) of this subsection shall be from July 1, 2018, until June 30, 2021. The initial term for appointments made pursuant to subparagraphs (I), (J), (K), and (L) of paragraph (1) of this subsection shall be from July 1, 2018, until June 30, 2020. All subsequent terms shall be for three years. Any vacancies that occur prior to the end of a term shall be filled by appointment in the same manner as the original appointment and shall be for the remainder of the unexpired term.

(3) The board may appoint additional persons to serve in an advisory role to the board. Such advisers shall be nonvoting and shall not be counted in ascertaining if a quorum is present.

(4) Members of the board of directors shall receive no compensation for their services but may be authorized by the authority to receive an expense allowance and reimbursement from funds of the authority in the same manner as provided for in Code Section 45-7-21, but only in connection with the member's physical attendance at a meeting of the board.

(5) Nine members of the board of directors shall constitute a quorum, and the affirmative votes of a majority of a quorum shall be required for any action to be taken by the board.

(6) The executive director of the authority shall convene the initial meeting of the board of the authority no later than September 1, 2018, at which time the board shall elect one of its members as chairperson. In addition, the board shall elect from its membership a vice chairperson and a secretary/treasurer.

(7) The board of directors shall promulgate bylaws and may adopt other procedures for governing its affairs and for discharging its duties as may be permitted or required by law or applicable rules and regulations.

(e) The authority shall have perpetual existence.

(f) The authority through its board of directors shall have the power and authority to:

(1) Have a seal and alter the same at its pleasure;

(2) Make and execute contracts, lease agreements, and all other instruments necessary or convenient to exercise the powers of the authority or to further the public purpose for which the authority is created;

(3) Acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real or personal property of every kind and character, or any interest therein, in furtherance of the purpose of the authority;

(4) Apply for and to accept any gifts or grants, loan guarantees, loans of funds, property, or financial or other aid in any form from the federal government or any agency or instrumentality thereof, from the state government or any agency or instrumentality thereof, or from any other source for any or all purposes specified in this article and to comply, subject to the provisions of this article, with the terms and conditions thereof;

(5) Deposit or otherwise invest funds held by it in any state depository or in any investment that is authorized for the investment of proceeds of state general obligation bonds and to use for its corporate purposes or redeposit or reinvest interest earned on such funds;

(6) Exercise any powers granted by the laws of this state to public or private corporations that are not in conflict with the public purpose of the authority;

(7) Do all things necessary or convenient to carry out the powers conferred by this article and to carry out such duties and activities as are specifically imposed upon the authority by law;

(8) Bring and defend actions;

(9) Provide for the collection of moneys;

(10) Manage, control, and direct proceeds retained under subsection (a) of Code Section 38-3-188 and the expenditures made therefrom;

(11) Distribute the proceeds identified under subsection (b) of Code Section 38-3-188 in such manner and subject to such terms and limitations as provided by such Code section; and

(12) Exercise all other powers necessary for the development and implementation of the duties and responsibilities provided for in this article.

(g) The creation of the authority and the carrying out of its purpose under this article are in all respects for the benefit of the people of this state. The authority shall be carrying out an essential governmental function on behalf of local governments in the exercise of the powers conferred upon it by this article and is, therefore, given the same immunity from liability for carrying out its intended functions as other state officials and employees.

(h) The authority shall not be required to pay taxes or assessments upon any real or personal property acquired under its jurisdiction, control, possession, or supervision.

(i) All moneys received by the authority pursuant to this article shall be deemed to be trust funds to be held and applied solely as provided in this article.

(j) This article, being for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.

(k) Notwithstanding any provision of this Code section to the contrary, the authority shall have no jurisdiction concerning the setting of rates, terms, and conditions for the offering of telecommunications services, as defined in Code Section 46-5-162, or for the offering of broadband service, VoIP, or wireless service, as such terms are defined in Code Section 46-5-221.

(l) The board shall be subject to and shall comply with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," in the same manner as an agency as such term is defined in Code Section 50-13-2. The board may promulgate and amend, from time to time, such rules or regulations, consistent with this article and Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," as it deems consistent with or required for the public welfare, for the administration of any provision of this article, or for the orderly conduct of the board's affairs. Any claim by the authority that a service supplier has violated any provision of this article shall be adjudicated as a contested proceeding under Code Section 50-13-13 and be subject to judicial review under Code Section 50-13-19.

§ 38-3-183. Appointment of executive director; role; additional staffing

The director of the Georgia Emergency Management and Homeland Security Agency shall appoint an executive director, subject to approval by the board, who shall be the administrative head of the authority, and shall establish the salary of the executive director. The executive director shall serve at the pleasure of such director. The executive director, with the concurrence and approval of such director, shall hire officers, agents, and employees; prescribe their duties, responsibilities, and qualifications; set their salaries; and perform such other duties as may be prescribed by the authority. Such officers, agents, and employees shall serve at the pleasure of the executive director.

§ 38-3-184. Role of Attorney General

The Attorney General shall provide legal services for the authority and, in connection therewith, Code Sections 45-15-13 through 45-15-16 shall be fully applicable.

§ 38-3-185. Remission of 9-1-1 and enhanced 9-1-1 charges

(a) Beginning January 1, 2019, all 9-1-1 charges and all wireless enhanced 9-1-1 charges imposed by the governing authority of a local government pursuant to Code Section 46-5-133 and collected by a service supplier pursuant to Code Sections 46-5-134 and 46-5-134.1 shall be remitted monthly by each service supplier to the authority not later than the twentieth day of the month following the month in which they are collected. Any charges not remitted in a timely manner shall accrue interest at the rate specified in Code Section 48-2-40, until the date they are paid.

(b)

(1) Each service supplier collecting and remitting 9-1-1 and wireless enhanced 9-1-1 charges to the authority pursuant to subsection (a) of this Code section shall submit with the remitted charges a report identifying the amount of the charges being collected and remitted from telephone subscribers attributable to each county or municipality that operates a public safety answering point, including counties and municipalities that operate multijurisdictional or regional 9-1-1 systems or have created a joint authority pursuant to Code Section 46-5-138.

(2) For purposes of the monthly report required in paragraph (1) of this subsection, the service supplier shall attempt to utilize enhanced ZIP Codes. If an enhanced ZIP Code designation is not available for an address or if the service supplier is unable to determine the applicable enhanced ZIP Code designation after exercising due diligence to determine the designation, the service supplier may apply the five-digit ZIP Code to that address. For purposes of this subsection, there is a rebuttable presumption that a service supplier has exercised due diligence if the service supplier has attempted to determine the enhanced ZIP Code designation by utilizing software used by the Streamlined Sales Tax Governing Board pursuant to Code Section 48-8-70.

§ 38-3-186. Contracting with Department of Revenue for collection and disbursement of charges remitted and for collection and disbursement of prepaid wireless 9-1-1 charges

(a) The authority shall contract with the Department of Revenue for the collection and disbursement of charges remitted to the authority under subsection (a) of Code Section 38-3-185, other than prepaid wireless 9-1-1 charges under Code Section 46-5-134.2. Under such nonmonetary contract and to defray the cost of administering such collection and disbursement, the Department of Revenue shall receive payment equal to 1 percent of the total amount of the gross charges remitted to the authority under subsection (a) of Code Section 38-3-185, other than prepaid wireless 9-1-1 charges under Code Section 46-5-134.2.

(b) The authority shall also contract with the Department of Revenue for the collection and disbursement of prepaid wireless 9-1-1 charges remitted to counties and municipalities under Code Section 46-5-134.2. Under such nonmonetary contract and to defray the cost of administering such collection and disbursement, the Department of Revenue shall receive payment equal to 1 percent of the total amount of the gross charges remitted to the authority or Department of Revenue under Code Section 46-5-134.2.

§ 38-3-187. Planning and implementation of state-wide public safety communications network

The authority and telecommunications service suppliers shall work in cooperation with the state to plan for and implement a state-wide public safety communications network.

§ 38-3-188. Retention of funds by Department of Revenue; payments to local governments

(a) The Department of Revenue shall retain from the charges remitted to it pursuant to subsection (a) of Code Section 38-3-185 and pursuant to Code Section 46-5-134.2 an amount equal to 1 percent of the total amount of such charges and remit such amount to the authority.

(b) Except for the amounts retained by the authority, Department of Revenue, and service suppliers pursuant to Code Sections 38-3-186 and 46-5-134 and this Code section, the remainder of the charges remitted by service suppliers shall be paid by the Department of Revenue to each local government on a pro rata basis based on the remitted amounts attributable to each such local government reported by service suppliers in the reports required by subsection (b) of Code Section 38-3-185. Such payments shall be made by the Department of Revenue to such local governments not later than 30 days following the date charges must be remitted by service suppliers to the Department of Revenue pursuant to subsection (a) of Code Section 38-3-185. Under no circumstances shall such payments be, or be deemed to be, revenues of the state and such payments shall not be subject to or available for appropriation by the state for any purpose.

§ 38-3-189. Audit; penalties for noncompliance; approval of billing practices

(a)

(1) Beginning January 1, 2019, the authority is authorized to employ or contract with an independent auditor or the Department of Revenue to audit the financial and business records of any service supplier offering communication services capable of connecting 9-1-1 service to the extent necessary to ensure

proper collection and remittance of charges in accordance with this article and with Part 4 of Article 2 of Chapter 5 of Title 46. If the authority chooses to contract with the Department of Revenue to audit the financial and business records of any service supplier offering communication services capable of connecting 9-1-1 service, the contract shall be nonmonetary and any and all costs associated with the performance of such audits shall be considered paid for by the administrative fee retained by the Department of Revenue under Code Section 38-3-186. Under no circumstances shall the Department of Revenue retain any additional charges for the purpose of conducting such audits. Such audits shall apply only to charges required to be imposed and collected pursuant to Part 4 of Article 2 of Chapter 5 of Title 46 on or after January 1, 2019. Any audits other than those conducted by the Department of Revenue shall be conducted at the authority's sole expense. The Department of Revenue shall provide to the authority access to all of the department's collection data and records of monthly returns of service suppliers under this Code section. Except as provided by Code Section 38-3-190, such data and records shall not be used by the authority for any purpose other than audits under this Code section and shall otherwise retain any confidential status while in the possession of or use by the authority or others retained by the authority.

(2) The board shall develop a schedule for auditing service suppliers according to criteria adopted by the board. Such schedule shall provide for an audit of a service supplier not more than once every three years. Any such audit shall cover a representative sample of the service supplier's customer base in the state.

(3) Any claim by the authority seeking to adjust the amount of any billing, remittance, or charge reported by the service supplier as required under Code Section 38-3-185 or imposing any penalty shall be limited to a period of three years prior to the date of the initial notice to the service supplier of the audit.

(b) Failure of a service supplier to comply with any audit required under paragraph (2) of subsection (a) of this Code section, when notice of such audit has been duly served upon a service supplier's registered agent, shall result in a civil penalty of not more than \$1,000.00 per day for each day the service supplier refuses to comply, commencing on a date certain as stated in such notice, which in no case shall be less than 45 days, unless otherwise agreed in writing by the parties. A good faith attempt by a service supplier to comply with any such audit shall serve as a defense to a claim of failure to comply in any contested proceeding under Code Section 50-13-13 or judicial review under Code Section 50-13-19, and if upheld, there shall be no civil penalty.

(c) Willful failure of any service supplier to have billed the monthly charges under Code Section 38-3-185 or 46-5-134.2 or to have remitted such collected charges as required shall be subject to a civil penalty of not more than \$25,000.00 in the aggregate or 3 percent of the amount that should have been remitted, whichever is less. The civil penalty shall be in addition to the amount that should have been remitted and shall accrue interest at the rate specified in Code Section 48-2-40. The remedy set forth in this Code section shall be enforced solely by the authority and shall be the only remedy for any claim against a service supplier for failure to bill or remit the monthly charges under Code Section 38-3-185 or 46-5-134.2.

(d)

(1) A service supplier shall not incur any liability, including, but not limited to, liability for the payment of unbilled or unremitted charges, for any billing practice previously or subsequently approved in writing by the authority or otherwise approved pursuant to paragraph (2) of this subsection. A service supplier

may request that the authority approve a billing practice by a written request sent to the executive director of the authority by certified mail. The authority may request additional information from the service supplier regarding the billing practice.

(2) (A) The authority shall issue a written decision within 90 days of the executive director's receipt of the service supplier's written request for approval of the billing practice; provided, however, that the authority may, in its discretion, either request additional information or determine that it needs more time, in which case the authority shall provide notice of same to the service supplier and a single additional 90 day period shall commence.

(B) In the event the authority does not issue a written decision within the time period specified under subparagraph (A) of this paragraph, the billing practice shall be deemed approved pursuant to this subsection.

(3) The written approval of a billing practice under this subsection or the approval of a billing practice under subparagraph (B) of paragraph (2) of this subsection shall not impair or prohibit the board from adopting and implementing subsequently new requirements by rule or regulation that the board deems appropriate which supersede any such prior approved billing practices; provided, however, that in no case shall any approval of a billing practice by the authority be superseded for a period of at least three years following the date of approval.

§ 38-3-190. Confidential nature of information; aggregate complying of data and release; compliance with judicial orders

(a) Except as otherwise provided in this Code section, all information submitted by a service supplier to the authority or Department of Revenue pursuant to this article shall be presumed to be confidential, proprietary, a trade secret, or subject to exemption from disclosure under state or federal law and shall not be subject to disclosure under Article 4 of Chapter 18 of Title 50. Except as provided in this Code section, such information shall not be released to any person other than to the submitting service supplier, the authority, or auditors or attorneys employed by or under contract with the authority or the Georgia Emergency Management and Homeland Security Agency without the express permission of the submitting service supplier. Members of the authority shall also have access to information for the purpose of determining the accuracy of collections and remittances of individual service suppliers related to the member's jurisdiction. Such information shall be used solely for the purposes stated under this article.

(b) Information collected by the authority and Department of Revenue related to this article and Part 4 of Article 2 of Chapter 5 of Title 46 may be publicly released or published but only in aggregate amounts that do not identify or allow identification of numbers of subscribers or revenues attributable to an individual service supplier. All requests for information shall be submitted to the authority and not directly to the Department of Revenue.

(c) Nothing in this Code section shall prohibit the authority or Department of Revenue from complying with a court order or request of a state or federal grand jury, taxing or regulatory authority, law enforcement agency, or prosecuting attorney in conjunction with an ongoing administrative, criminal, or tax investigation.

§ 38-3-191. Limitation on use of funds, rights, and privileges

All funds, distributions, revenues, grants, appropriations, and rights and privileges of value of every nature accruing to the authority shall be used only for the purpose of developing, maintaining, administering, managing, and promoting the authority, state-wide 9-1-1 advancements, and state-wide public safety communications interoperability and may never be appropriated for any other purpose.