

CHAPTER 7**Disaster Relief Assistance Act of 1989****SECTIONS**

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§ 701. Short title.

This chapter is known and may be cited as the “Disaster Relief Assistance Act of 1989.”

Source: PL 6-38 § 1.

Editor’s note: The previous chapter 7 on Disaster Relief was repealed in its entirety by PL 6-38 § 11.

§ 702. Findings and intent.

- (1) The Congress of the Federated States of Micronesia finds and declares that:
 - (a) Natural and man-made disasters kill and injure people, disrupt communities and the workings of government, destroy and damage property, cut off income and cause suffering of other kinds; and
 - (b) Due to the severe impact of disasters, the resources of the States are oftentimes inadequate to cope with them so that the States require the assistance of the National Government and other sources of available aid to restore devastated areas.
- (2) Therefore the Congress of the Federated States of Micronesia intends by this chapter to:

(a) Provide for a permanent, orderly program of National Government assistance to the States and local governments in carrying out their responsibilities to alleviate suffering and damage which result from disasters by:

- (i) Upgrading and broadening the scope of existing disaster relief programs;
- (ii) Encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and local governments;
- (iii) Encouraging the adoption of hazard mitigation measures to minimize losses from disasters, including development of land use and construction regulations;
- (iv) Achieving greater coordination and responsiveness of disaster preparedness and relief programs; and
- (v) Providing National Government assistance for losses sustained as a result of a disaster.

(b) Authorize the President to establish a program of disaster preparedness, assistance and relief that utilizes the services of all appropriate agencies, including the assistance from the United States Federal agencies, and other foreign governments and agencies providing assistance during disasters to provide for:

- (i) Preparation of disaster preparedness plans for mitigation, warning, emergency operations, rehabilitation, and recovery;
- (ii) Training and exercise;
- (iii) Post-disaster critique and evaluation; and
- (iv) Coordination of the National, States and local preparedness programs.

Source: PL 6-38 § 2, modified.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

§ 703. Definitions.

As used in this chapter, the following definitions shall apply:

- (1) “Disaster” means the imminent threat or the occurrence of widespread injury or death to persons, or severe widespread injury to, or destruction of, property caused by a natural or man-made catastrophe;
- (2) “Hazardous facility” means any material, equipment, or facility, public or private, which threatens loss of

life or injury to persons or property substantially worse, in the event of a disaster, than that expected under normal conditions;

(3) “Man-made” means any event or activity which may cause, or causes, a disaster which is the result of man's actions and not through natural occurrences;

(4) “National Government” means the Government of the Federated States of Micronesia;

(5) “State of Emergency” means a formal declaration by the President in a situation where it is required to preserve public peace, health, or safety, at a time of extreme emergency caused by a disaster, and where the States need National and possibly international aid to prevent, prepare for, or recover from the disaster; and

(6) “States” means the government of the States of the Federated States of Micronesia.

Source: PL 6-38 § 3.

§ 704. Limitations.

Except as otherwise provided in this chapter, its language shall not be construed to:

(1) Impair a civil right during a state of emergency except to the extent actually required for the preservation of peace, health, or safety;

(2) Interfere with normal programming or the dissemination of news or comment on public affairs; but any communications facility or organization, including, but not limited to, radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster;

(3) Impair the power of the judiciary except that the declaration of a state of emergency shall be free from judicial interference for 30 days after it is first issued;

(4) Affect the jurisdiction or responsibilities of State, municipal, or local police forces, and fire fighting forces; or

(5) Limit, modify, or abridge the authority of the President to assist the States in responding to disasters or to exercise any other powers vested in him by the laws of the Federated States of Micronesia, independent of, or in conjunction with, any provisions of this chapter.

Source: PL 6-38 § 4.

Cross-reference: The statutory provisions on the President and Executive are found in title 2 of this code.

§ 705. Presidential authority.

(1) In situations where it is required to preserve public peace, health, or safety, at a time of extreme emergency caused by disaster, the President may declare a state of emergency. Within 30 days after the declaration of

emergency, the Congress of the Federated States of Micronesia shall convene at the call of its Presiding Officer or the President to consider revocation, amendment, or extension of the declaration. Unless it expires by its own terms, is revoked or extended, the declaration of emergency is effective for 30 days.

(2) The President shall also have the power to issue Presidential orders as needed in a state of emergency.

(3) Any Presidential order issued under subsection (2) of this section shall be disseminated promptly and brought to the attention of both the general public and government officials responsible for acting during and after any state of emergency.

(4) During a state of emergency, the President is authorized to suspend any regulatory statutes, or any order, rule, or regulation of an executive agency of the National Government. The President shall exercise this authority only if strict adherence to the provisions of the regulatory statute, order, rule, or regulation would substantially prevent, hinder, or delay actions needed to prevent, prepare for, or recover from a disaster.

(5) The President or his designee shall coordinate National Government activities to assist the States to prevent, prepare for, and recover from disasters.

(6) The President may request aid from the United States Government and from other foreign public and private entities providing disaster assistance. The President shall coordinate such foreign aid with assistance provided by the National Government.

(7) In the event of a threatened or existing disaster, the President may provide immediate assistance from the Disaster Relief Fund, Public Law No. 2-64 (subchapter II, chapter 6 of title 55 of this code), to save lives, preserve property, and protect public health and safety. The President may provide such assistance by directing National Government agencies to:

(a) Give technical assistance and provide advisors to affected states;

(b) Lend equipment, supplies, facilities, and personnel to affected States; and

(c) Perform on public or private lands or waters emergency services needed to save lives, preserve property, and protect public health and safety.

Source: PL 6-38 § 5.

Cross-reference: The provisions of the Disaster Relief Fund are found in subchapter II (§§ 608 to 612) of chapter 6 of title 55 (Government Finance and Contracts) of this code.

The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

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FSM Const., art. IX, § 2(r), as amended, states as follows:

Section 2. The following powers are expressly delegated to Congress:

...

(r) to promote education and health by setting minimum standards, coordinating state activities relating to foreign assistance, providing training and assistance to the states and providing support for post-secondary educational programs and projects.

...

FSM Const., art. XIII, § 1 states as follows:

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

The provisions of the Constitution are found in Part I of this code.

§ 706. State responsibilities.

(1) To be eligible for National assistance pursuant to this chapter, a State shall:

(a) Prepare a disaster plan meeting the standards set forth in subsection (2) of section 707 of this chapter and the implementing regulations required by that section;

(b) Appoint a State officer to develop and maintain the State disaster plan, and recommend to the Governor measures appropriate and necessary to prevent, prepare for, and recover from disasters; and

(c) In the event of a threatened or existing disaster, regularly broadcast warnings and information concerning any disaster. The broadcasts shall be in both the predominant native languages of the State and English. The President or his designee may study the need for broadcasts in other languages and accommodate such need in the regulations required by subsection (2) of section 707 of this chapter.

(2) If the Governor of a State determines that the State needs National assistance to prevent, prepare for, or recover from disasters, he may request such aid from the President. The President shall assess the State's need and may render such aid as needed, subject to available funds. Any State desiring to obtain disaster assistance from a foreign government or organization must submit such request to the President for transmission.

Source: PL 6-38 § 6.

Cross-reference: The statutory provisions on the President and Executive are found in title 2 of this code.

§ 707. National Government responsibilities.

The President or his designee shall:

- (1) Assist the States in preparing and maintaining their disaster plans and review the disaster plan prepared by each State to ensure Federated States of Micronesia eligibility for funding under the United States Federal Emergency Management Act.
- (2) Promulgate rules and regulations setting forth minimum requirements for the State disaster plans, in accordance with the requirements of chapter 1 of title 17 of this code. Such rules and regulations shall have the force and effect of law. The regulations may include, but are not limited to:
 - (a) General requirements for preventing injury and damage, for speedy action in response to a disaster, and for other measures of emergency relief that may be necessary;
 - (b) A requirement that particularly vulnerable areas, including, but not limited to, outlying islands, be identified and accorded special consideration;
 - (c) Guidelines for land use regulations and building standards that promote safety; and
 - (d) Requirements that appropriate measures be taken to prevent injury and damage, such as the construction of seawalls and emergency shelters.
- (3) Create a National disaster plan incorporating features of the State disaster plans. After approval by the President, the National plan shall be promulgated by Presidential order.
- (4) Survey industries, facilities, and other public and private resources within the Federated States of Micronesia that may be useful for carrying out the purposes of this chapter. The President or his designee shall inform the States of the results of the survey and, as needed, assist in preparing legislation to ensure governmental control of such resources in the event of a threatened or existing disaster. The President may, by regulation, authorize National assistance to the States in compensating the owners of private resources and facilities used or destroyed in the event of a threatened or existing disaster, pursuant to and subject to the conditions of section 709 of this chapter.
- (5) Compose and maintain a register of persons in the Federated States of Micronesia with training and expertise useful in preventing, preparing for, and recovering from disasters. Copies of the revised register shall be distributed annually to the States.
- (6) Prepare and distribute to the States a list of foreign public and private assistance programs available to them.
- (7) Locate hazardous facilities publicly or privately owned, and, as needed, assist the States in drafting provisions of State disaster plans applicable to such facilities.
- (8) Determine what means exist for speedy and efficient communications in the event of a threatened or existing disaster and pursue improvements as necessary to integrate or supplement such communications.
- (9) Keep abreast of weather conditions which could potentially develop into a natural disaster.

Source: PL 6-38 § 7, modified.

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Cross-reference: Chapter 1 of title 17 of this code is on FSM Administrative Procedures. The statutory provisions on the President and Executive are found in title 2 of this code. The statutory provisions on FSM Congress are found in title 3 of this code.

§ 708. Restoration of National facilities.

(1) The President may authorize repair, restoration, or replacement of any National Government facility that has been destroyed or damaged by disaster, subject to availability of funds. The authorization shall be based on a determination that the repair, restoration, or replacement is so urgent that it cannot await specific legislation to redress the problem.

(2) National Government departments and offices shall assess the natural and man-made hazards that threaten their facilities and shall take appropriate action to reduce or eliminate such hazards.

Source: PL 6-38 § 8.

Cross-reference: The statutory provisions on the President and Executive are found in title 2 of this code.

§ 709. Compensation for property used or destroyed by order of a State Governor.

(1) The National Government shall provide no aid to the States to compensate persons who volunteer their services to prevent, prepare for, or recover from disasters.

(2) If State resources are inadequate to compensate the owners of private land, facilities, and other resources which the Governor of the State orders used or destroyed to prepare for, prevent the spread of, or recover from a disaster, National assistance may be provided from the Disaster Relief Fund, Public Law No. 2-64 (subchapter II, chapter 6 of title 55 of this code), at the discretion of the President. The Governor of the affected State may submit such claims for compensation, calculated according to fair market value, to the President for approval.

(3) The President, in reviewing a State Governor's requests for compensation pursuant to this section, shall ensure that no claimant receives compensation for any part of a claim for which the claimant has received financial aid from other sources, including insurance. Partial compensation for the claimant's loss, received prior to the State Governor's request, shall not preclude National aid for the remainder.

(4) If the President finds that National aid has duplicated any part of aid otherwise received by a claimant, he shall direct such claimant to pay to the Treasurer of the Federated States of Micronesia the amount of such superfluous aid for deposit to the Disaster Relief Fund, Public Law No. 2-64 (subchapter II, chapter 6 of title 55 of this code).

(5) The President is authorized to promulgate rules and regulations to implement the purposes of this section, in accordance with the requirements of chapter 1 of title 17 of this code. Such rules and regulations shall have the force and effect of law.

Source: PL 6-38 § 9, modified.

Cross-reference: The provisions of the Disaster Relief Fund are found in subchapter II (§§ 608 to 612) of chapter 6 of title 55 (Government Finance and Contracts) of this code. Chapter 1 of title 17 of this code is on Administrative Procedures.

§ 710. No cause of action created.

Nothing in this chapter shall be construed to create or authorize any cause of action against the National Government, its officials or employees for failure to prevent or mitigate the effects of a disaster.

Source: PL 6-38 § 10.

Cross-reference: The statutory provisions on the FSM Supreme Court are found in title 4 of this code.