

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 951
94TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, February 14, 2008, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

4030S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 44.100, 361.240, and 362.048, RSMo, and to enact in lieu thereof three new sections relating to emergency response within financial institutions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 44.100, 361.240, and 362.048, RSMo, are repealed and
2 three new sections enacted in lieu thereof, to be known as sections 44.100,
3 361.240, and 362.048, to read as follows:

44.100. 1. The emergency powers of the governor shall be as follows:

2 (1) The provisions of this section shall be operative only during the
3 existence of a state of emergency (referred to in this section as "emergency"). The
4 existence of an emergency may be proclaimed by the governor or by resolution of
5 the legislature, if the governor in his proclamation, or the legislature in its
6 resolution, finds that a natural or man-made disaster of major proportions has
7 actually occurred within this state, and that the safety and welfare of the
8 inhabitants of this state require an invocation of the provisions of this section.

9 (2) Any emergency, whether proclaimed by the governor or by the
10 legislature, shall terminate upon the proclamation thereof by the governor, or the
11 passage by the legislature, of a resolution terminating such emergency.

12 (3) During the period that the state of emergency exists or continues, the
13 governor shall:

14 (a) Enforce and put into operation all plans, rules and regulations relating
15 to disasters and emergency management of resources adopted under this law and
16 to assume direct operational control of all emergency forces and volunteers in the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 state;

18 (b) Take action and give directions to state and local law enforcement
19 officers and agencies as may be reasonable and necessary for the purpose of
20 securing compliance with the provisions of this law and with the orders, rules and
21 regulations made pursuant thereof;

22 (c) Seize, take or requisition to the extent necessary to bring about the
23 most effective protection of the public:

24 a. Any means of transportation, other than railroads and railroad
25 equipment and fuel, and all fuel necessary for the propulsion thereof;

26 b. Any communication system or part thereof necessary to the prompt and
27 efficient functioning of the emergency management of the state;

28 c. All stocks of fuel;

29 d. Facilities for housing, feeding and hospitalization of persons, including
30 buildings and plants;

31 (d) Control, restrict and regulate by rationing, freezing, use of quotas,
32 prohibitions on shipments, price fixing, allocation or other means the use, sale or
33 distribution of food, feed, fuel, clothing and other commodities, materials, goods
34 or services;

35 (e) Prescribe and direct activities in connection with but not limited to
36 use, conservation, salvage and prevention of waste of materials, services and
37 facilities, including production, transportation, power and communication
38 facilities, training and supply of labor, utilization of industrial plants, health and
39 medical care, nutrition, housing, including the use of existing and private
40 facilities, rehabilitation, education, welfare, child care, recreation, consumer
41 protection and other essential civil needs;

42 (f) [To] Use or distribute all or any of this property among the inhabitants
43 of the state in any area adversely affected by a natural or man-made disaster and
44 to account to the state treasurer for any funds received thereof;

45 (g) [To] Waive or suspend the operation of any statutory requirement or
46 administrative rule regarding the licensing, certification or issuance of permits
47 evidencing professional, mechanical or other skills;

48 (h) [To] Waive or suspend the operation of any statutory requirement or
49 administrative rule prescribing procedures for conducting state business, where
50 strict compliance with such requirements and rules would prevent, hinder, or
51 delay necessary action by the department of health and senior services to respond
52 to a declared emergency or increased health threat to the population;

53 (i) In accordance with rules or regulations, [to] provide that all law
54 enforcement authorities and other emergency response workers and agencies of
55 other states who may be within this state at the request of the governor or
56 pursuant to state or local mutual-aid agreements or compacts shall have the same
57 authority and possess the same powers, duties, rights, privileges and immunities
58 as are possessed by like law enforcement authorities and emergency response
59 workers and agencies of this state;

60 (j) [To] Perform and exercise such other functions, powers and duties as
61 may be necessary to promote and secure the safety and protection of the civilian
62 population;

63 **(k) Authorize the director of finance and the director of credit**
64 **unions to waive or suspend the operation of any statutory requirement**
65 **or administrative rule applicable to the division of finance, banking,**
66 **financial services, or the division of credit unions and take action and**
67 **give direction to banks, credit unions, and financial institutions,**
68 **including coordinating actions with emergency responders, federal**
69 **agencies, and state banking and credit union associations as may be**
70 **reasonable and necessary to preserve the safety and soundness of**
71 **banks, credit unions, and financial institutions; and facilitate disaster**
72 **response and recovery efforts to serve essential civil needs and protect**
73 **the public interest.**

74 2. When any property is seized, taken or requisitioned under this section,
75 the circuit court of the county in which the property was taken may on the
76 application of the owner thereof or on the application of the governor in cases
77 where numerous claims may be filed, appoint three disinterested commissioners
78 in the manner provided by section 523.040, RSMo, to assess the damages which
79 the owners may have sustained by reason of the appropriation thereof. Upon the
80 application the amount due because of the seizure of property shall be determined
81 in the manner provided in chapter 523, RSMo, for the determination of damages
82 in case of the exercise of the power of eminent domain.

361.240. 1. In any case in which the law makes the approval of the
2 director a condition precedent to the doing of any act, unless otherwise provided
3 by law, it shall lie within his sound discretion to grant or refuse his approval.

4 2. Such approval, if granted, shall be in writing and a copy thereof shall
5 be filed in the office of the director.

6 **3. Whenever the director of finance or the director of credit**

7 **unions takes any action during a state of emergency authorized under**
8 **section 44.100, RSMo, the director or his or her designee shall as soon**
9 **as practicable, file written waivers, suspensions, actions, and directives**
10 **in the office of the director.**

362.048. 1. The board of directors of any bank or trust company may
2 adopt emergency bylaws, subject to repeal or change by action of the stockholders
3 or directors as may be provided in the articles of agreement, which shall,
4 notwithstanding any different provision elsewhere in this chapter or in the
5 articles of agreement or bylaws, be operative during any emergency resulting
6 from an attack on the United States or any nuclear or atomic disaster, **or during**
7 **an emergency authorized under section 44.100, RSMo. As soon as**
8 **practicable, the board of directors or president of the financial**
9 **institution shall notify the director of finance of the implementation of**
10 **emergency bylaws and the status of the financial institution's**
11 **operations and emergency response.** The emergency bylaws may make any
12 provision that may be practical and necessary for the circumstances of the
13 emergency, including provisions that:

14 (1) A meeting of the board of directors may be called by any officer or
15 director in such manner and under such conditions as shall be prescribed in the
16 emergency bylaws;

17 (2) The director or directors in attendance at the meeting, or any greater
18 number fixed by the emergency bylaws, shall constitute a quorum; and

19 (3) The officers or other persons designated on a list approved by the
20 board of directors before the emergency, all in such order of priority and subject
21 to such conditions and for such period of time (not longer than reasonably
22 necessary after the termination of the emergency) as may be provided in the
23 emergency bylaws or in the resolution approving the list, shall, to the extent
24 required to provide a quorum at any meeting of the board of directors, be deemed
25 directors for such meeting.

26 2. The board of directors, either before or during any such emergency, may
27 provide, and from time to time modify, lines of succession in the event that during
28 such an emergency any or all officers or agents of the corporation shall for any
29 reason be rendered incapable of discharging their duties.

30 3. The board of directors, either before or during any such emergency,
31 may, effective in the emergency, change the office or designate several alternative
32 officers, or authorize the officers so to do.

33 4. No officer, director, or employee acting in accordance with any
34 emergency bylaws shall be liable except for willful misconduct.

35 5. To the extent not inconsistent with any emergency bylaws so adopted,
36 the bylaws of the bank or trust company shall remain in effect during any
37 emergency and upon its termination the emergency bylaws shall cease to be
38 operative.

39 6. Unless otherwise provided in emergency bylaws, notice of any meeting
40 of the board of directors during such an emergency may be given only to such of
41 the directors as it may be feasible to reach at the time and by such means as may
42 be feasible at the time, including publication or radio.

43 7. To the extent required to constitute a quorum at any meeting of the
44 board of directors during such an emergency, the officers of the bank or trust
45 company who are present shall, unless otherwise provided in emergency bylaws,
46 be deemed, in order of rank and within the same rank in order of seniority,
47 directors for such meeting.

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