

SECOND REGULAR SESSION

# SENATE BILL NO. 951

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time January 15, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4030S.021

## 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Section A. Sections 44.100, 361.240, and 362.048, RSMo, are repealed and  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  
17 state;

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

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

72 2. When any property is seized, taken or requisitioned under this section,  
73 the circuit court of the county in which the property was taken may on the  
74 application of the owner thereof or on the application of the governor in cases  
75 where numerous claims may be filed, appoint three disinterested commissioners  
76 in the manner provided by section 523.040, RSMo, to assess the damages which  
77 the owners may have sustained by reason of the appropriation thereof. Upon the  
78 application the amount due because of the seizure of property shall be determined  
79 in the manner provided in chapter 523, RSMo, for the determination of damages  
80 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 takes any action during a state of**  
7 **emergency authorized under section 44.100, RSMo, the director or his**  
8 **or her designee shall as soon as practicable, file written waivers,**  
9 **suspensions, actions, and directives 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 bank or trust**  
9 **company shall notify the director of finance of the implementation of**  
10 **emergency bylaws and the status of the bank or trust company'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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Bill

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