

HB3009



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3009

Introduced 2/19/2021, by Rep. Tim Ozinga

SYNOPSIS AS INTRODUCED:

20 ILCS 3305/7

from Ch. 127, par. 1057

Amends the Illinois Emergency Management Agency Act. Provides that nothing in provisions regarding emergency powers of the Governor shall be construed to allow the Governor to order any business to cease operation or to prohibit customers from traveling to a business.

LRB102 13560 CPF 18908 b

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Emergency Management Agency Act is
5 amended by changing Section 7 as follows:

6 (20 ILCS 3305/7) (from Ch. 127, par. 1057)

7 Sec. 7. Emergency Powers of the Governor. In the event of a
8 disaster, as defined in Section 4, the Governor may, by
9 proclamation declare that a disaster exists. Upon such
10 proclamation, the Governor shall have and may exercise for a
11 period not to exceed 30 days the following emergency powers;
12 provided, however, that the lapse of the emergency powers
13 shall not, as regards any act or acts occurring or committed
14 within the 30-day period, deprive any person, firm,
15 corporation, political subdivision, or body politic of any
16 right or rights to compensation or reimbursement which he,
17 she, it, or they may have under the provisions of this Act:

18 (1) To suspend the provisions of any regulatory
19 statute prescribing procedures for conduct of State
20 business, or the orders, rules and regulations of any
21 State agency, if strict compliance with the provisions of
22 any statute, order, rule, or regulation would in any way
23 prevent, hinder or delay necessary action, including

1 emergency purchases, by the Illinois Emergency Management
2 Agency, in coping with the disaster.

3 (2) To utilize all available resources of the State
4 government as reasonably necessary to cope with the
5 disaster and of each political subdivision of the State.

6 (3) To transfer the direction, personnel or functions
7 of State departments and agencies or units thereof for the
8 purpose of performing or facilitating disaster response
9 and recovery programs.

10 (4) On behalf of this State to take possession of, and
11 to acquire full title or a lesser specified interest in,
12 any personal property as may be necessary to accomplish
13 the objectives set forth in Section 2 of this Act,
14 including: airplanes, automobiles, trucks, trailers,
15 buses, and other vehicles; coal, oils, gasoline, and other
16 fuels and means of propulsion; explosives, materials,
17 equipment, and supplies; animals and livestock; feed and
18 seed; food and provisions for humans and animals; clothing
19 and bedding; and medicines and medical and surgical
20 supplies; and to take possession of and for a limited
21 period occupy and use any real estate necessary to
22 accomplish those objectives; but only upon the undertaking
23 by the State to pay just compensation therefor as in this
24 Act provided, and then only under the following
25 provisions:

26 a. The Governor, or the person or persons as the

1 Governor may authorize so to do, may forthwith take
2 possession of property for and on behalf of the State;
3 provided, however, that the Governor or persons shall
4 simultaneously with the taking, deliver to the owner
5 or his or her agent, if the identity of the owner or
6 agency is known or readily ascertainable, a signed
7 statement in writing, that shall include the name and
8 address of the owner, the date and place of the taking,
9 description of the property sufficient to identify it,
10 a statement of interest in the property that is being
11 so taken, and, if possible, a statement in writing,
12 signed by the owner, setting forth the sum that he or
13 she is willing to accept as just compensation for the
14 property or use. Whether or not the owner or agent is
15 known or readily ascertainable, a true copy of the
16 statement shall promptly be filed by the Governor or
17 the person with the Director, who shall keep the
18 docket of the statements. In cases where the sum that
19 the owner is willing to accept as just compensation is
20 less than \$1,000, copies of the statements shall also
21 be filed by the Director with, and shall be passed upon
22 by an Emergency Management Claims Commission,
23 consisting of 3 disinterested citizens who shall be
24 appointed by the Governor, by and with the advice and
25 consent of the Senate, within 20 days after the
26 Governor's declaration of a disaster, and if the sum

1 fixed by them as just compensation be less than \$1,000
2 and is accepted in writing by the owner, then the State
3 Treasurer out of funds appropriated for these
4 purposes, shall, upon certification thereof by the
5 Emergency Management Claims Commission, cause the sum
6 so certified forthwith to be paid to the owner. The
7 Emergency Management Claims Commission is hereby given
8 the power to issue appropriate subpoenas and to
9 administer oaths to witnesses and shall keep
10 appropriate minutes and other records of its actions
11 upon and the disposition made of all claims.

12 b. When the compensation to be paid for the taking
13 or use of property or interest therein is not or cannot
14 be determined and paid under item a of this paragraph
15 (4), a petition in the name of The People of the State
16 of Illinois shall be promptly filed by the Director,
17 which filing may be enforced by mandamus, in the
18 circuit court of the county where the property or any
19 part thereof was located when initially taken or used
20 under the provisions of this Act praying that the
21 amount of compensation to be paid to the person or
22 persons interested therein be fixed and determined.
23 The petition shall include a description of the
24 property that has been taken, shall state the physical
25 condition of the property when taken, shall name as
26 defendants all interested parties, shall set forth the

1 sum of money estimated to be just compensation for the
2 property or interest therein taken or used, and shall
3 be signed by the Director. The litigation shall be
4 handled by the Attorney General for and on behalf of
5 the State.

6 c. Just compensation for the taking or use of
7 property or interest therein shall be promptly
8 ascertained in proceedings and established by judgment
9 against the State, that shall include, as part of the
10 just compensation so awarded, interest at the rate of
11 6% per annum on the fair market value of the property
12 or interest therein from the date of the taking or use
13 to the date of the judgment; and the court may order
14 the payment of delinquent taxes and special
15 assessments out of the amount so awarded as just
16 compensation and may make any other orders with
17 respect to encumbrances, rents, insurance, and other
18 charges, if any, as shall be just and equitable.

19 (5) When required by the exigencies of the disaster,
20 to sell, lend, rent, give, or distribute all or any part of
21 property so or otherwise acquired to the inhabitants of
22 this State, or to political subdivisions of this State,
23 or, under the interstate mutual aid agreements or compacts
24 as are entered into under the provisions of subparagraph
25 (5) of paragraph (c) of Section 6 to other states, and to
26 account for and transmit to the State Treasurer all funds,

1 if any, received therefor.

2 (6) To recommend the evacuation of all or part of the
3 population from any stricken or threatened area within the
4 State if the Governor deems this action necessary.

5 (7) To prescribe routes, modes of transportation, and
6 destinations in connection with evacuation.

7 (8) To control ingress and egress to and from a
8 disaster area, the movement of persons within the area,
9 and the occupancy of premises therein.

10 (9) To suspend or limit the sale, dispensing, or
11 transportation of alcoholic beverages, firearms,
12 explosives, and combustibles.

13 (10) To make provision for the availability and use of
14 temporary emergency housing.

15 (11) A proclamation of a disaster shall activate the
16 State Emergency Operations Plan, and political subdivision
17 emergency operations plans applicable to the political
18 subdivision or area in question and be authority for the
19 deployment and use of any forces that the plan or plans
20 apply and for use or distribution of any supplies,
21 equipment, and materials and facilities assembled,
22 stockpiled or arranged to be made available under this Act
23 or any other provision of law relating to disasters.

24 (12) Control, restrict, and regulate by rationing,
25 freezing, use of quotas, prohibitions on shipments, price
26 fixing, allocation or other means, the use, sale or

1 distribution of food, feed, fuel, clothing and other
2 commodities, materials, goods, or services; and perform
3 and exercise any other functions, powers, and duties as
4 may be necessary to promote and secure the safety and
5 protection of the civilian population.

6 (13) During the continuance of any disaster the
7 Governor is commander-in-chief of the organized and
8 unorganized militia and of all other forces available for
9 emergency duty. To the greatest extent practicable, the
10 Governor shall delegate or assign command authority to do
11 so by orders issued at the time of the disaster.

12 (14) Prohibit increases in the prices of goods and
13 services during a disaster.

14 (15) Nothing in this Section shall be construed to
15 allow the Governor to order any business to cease
16 operation or to prohibit customers from traveling to a
17 business.

18 (Source: P.A. 100-863, eff. 8-14-18.)