



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5790

by Rep. Dan Ugaste

SYNOPSIS AS INTRODUCED:

20 ILCS 3305/7

from Ch. 127, par. 1057

Amends the Illinois Emergency Management Agency Act. Provides that procedural requirements regarding the Governor taking possession of property for and on behalf of the State must take place in cases where the sum that the owner is willing to accept as just compensation is less than \$25,000 (currently, \$1,000). Provides that if the Governor issues a proclamation declaring a disaster, the Governor may extend the proclamation or make an additional proclamation regarding the same disaster, but the extension or additional proclamation shall be void and have no legal effect unless within 5 days of the extension or additional proclamation (i) he or she receives written approval to extend the proclamation or make an additional proclamation from 3 legislative leaders or (ii) the General Assembly adopts a joint resolution approving the extension or additional proclamation. Provides that a disaster proclamation issued, or a disaster proclamation regarding the same disaster, shall be void and have no legal effect if at any time the General Assembly adopts a joint resolution declaring the proclamation to be void. Provides that after a disaster proclamation is issued a member of the General Assembly may at any time file a request with the Clerk of the House of Representatives and the Secretary of the Senate for a session to consider the proclamation if the request is signed by no fewer than 20 members of the General Assembly. Provides that upon such a filing, the House of Representatives and Senate shall convene within 5 calendar days and vote on a resolution declaring the proclamation void.

LRB101 21370 CPF 72339 b

FISCAL NOTE ACT
MAY APPLY

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 shall
13 not, as regards any act or acts occurring or committed within
14 the 30-day period, deprive any person, firm, corporation,
15 political subdivision, or body politic of any right or rights
16 to compensation or reimbursement which he, she, it, or they may
17 have under the provisions of this Act:

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

1 by the Illinois Emergency Management Agency, in coping with
2 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 the
13 objectives set forth in Section 2 of this Act, including:
14 airplanes, automobiles, trucks, trailers, buses, and other
15 vehicles; coal, oils, gasoline, and other fuels and means
16 of propulsion; explosives, materials, equipment, and
17 supplies; animals and livestock; feed and seed; food and
18 provisions for humans and animals; clothing and bedding;
19 and medicines and medical and surgical supplies; and to
20 take possession of and for a limited period occupy and use
21 any real estate necessary to accomplish those objectives;
22 but only upon the undertaking by the State to pay just
23 compensation therefor as in this Act provided, and then
24 only under the following provisions:

25 a. The Governor, or the person or persons as the
26 Governor may authorize so to do, may forthwith take

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (15) After a proclamation is issued under this Section
14 declaring that a disaster exists, the Governor may extend
15 that declaration or make additional proclamations
16 regarding the same disaster. However, any such extension or
17 additional proclamation shall be void and have no legal
18 effect unless within 5 days of the extension or additional
19 proclamation:

20 (A) the Governor has received written approval for
21 the extension or additional proclamation from 3 of the
22 following:

23 (i) the Speaker of the House of
24 Representatives;

25 (ii) the Minority Leader of the House of
26 Representatives;

1 (iii) the President of the Senate; and

2 (iv) the Minority Leader of the Senate; or

3 (B) the General Assembly adopts a joint resolution
4 approving the extension or additional proclamation.

5 (16) A proclamation declaring a disaster issued under
6 this Section shall be void and have no legal effect if at
7 any time the General Assembly adopts a joint resolution
8 declaring the proclamation to be void and having no legal
9 effect. The General Assembly may by joint resolution
10 declare that any proclamation regarding the same disaster
11 is void and has no legal effect. In the event of such a
12 resolution, any proclamation declaring a disaster issued
13 under this Section regarding that same disaster shall be
14 void and have no legal effect.

15 (17) After a disaster proclamation is issued under this
16 Section, a member of the General Assembly may at any time
17 file a request with the Clerk of the House of
18 Representatives and the Secretary of the Senate for a
19 session to consider the proclamation if the request is
20 signed by no fewer than 20 members of the General Assembly.
21 Upon such a filing, the House of Representatives and Senate
22 shall convene within 5 calendar days and vote on a
23 resolution declaring the proclamation void.

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