



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB0843

Introduced 2/10/2021, 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.

LRB102 10917 CPF 16248 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  
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 \$25,000 ~~\$1,000~~, copies of the statements  
21 shall also be filed by the Director with, and shall be  
22 passed upon by an Emergency Management Claims  
23 Commission, consisting of 3 disinterested citizens who  
24 shall be appointed by the Governor, by and with the  
25 advice and consent of the Senate, within 20 days after  
26 the Governor's declaration of a disaster, and if the

1           sum fixed by them as just compensation be less than  
2           \$25,000 ~~\$1,000~~ and is accepted in writing by the  
3           owner, then the State Treasurer out of funds  
4           appropriated for these purposes, shall, upon  
5           certification thereof by the Emergency Management  
6           Claims Commission, cause the sum so certified  
7           forthwith to be paid to the owner. The Emergency  
8           Management Claims Commission is hereby given the power  
9           to issue appropriate subpoenas and to administer oaths  
10          to witnesses and shall keep appropriate minutes and  
11          other records of its actions upon and the disposition  
12          made of all claims.

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

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

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

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

1 account for and transmit to the State Treasurer all funds,  
2 if any, received therefor.

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

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

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

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

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

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

25 (12) Control, restrict, and regulate by rationing,  
26 freezing, use of quotas, prohibitions on shipments, price

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

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

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

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

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

25 (i) the Speaker of the House of  
26 Representatives;



1                   (ii) the Minority Leader of the House of  
2                   Representatives;

3                   (iii) the President of the Senate; and

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

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

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

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

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