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HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 411

AN ACT TO AMEND TITLE 10 AND TITLE 29 OF THE DELAWARE CODE RELATING TO CONTINUITY OF GOVERNMENT OPERATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

1 Section 1. Amend § 1801, Title 10 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 1801. Short title.

4 This chapter ~~shall be~~ is known and may be cited as the "Emergency Interim Judicial Succession Act."

5 Section 2. Amend § 1802, Title 10 of the Delaware Code by making deletions as shown by strike through and
6 insertions as shown by underline as follows:

7 § 1802. Statement of policy.

8 ~~Because of the possibility of an attack upon the United States of unprecedented size and destructiveness, and in~~
9 ~~order, in the event of such attack, The General Assembly finds and declares that in the event of an emergency event, it is~~
10 ~~necessary to provide for special emergency judges who can exercise the powers and discharge the duties of judicial offices~~
11 ~~if regular judges are unavailable. The General Assembly finds and declares that the creation of special emergency judges~~
12 ~~does all of the following:~~

13 (1) ~~to assure~~ Assures continuity of government through legally constituted leadership, ~~authority~~ authority, and
14 responsibility in offices of the government of the ~~State~~; State.

15 (2) ~~to provide~~ Provides for the effective operation of ~~governments~~ government during an ~~emergency~~;
16 emergency.

17 (3) ~~and to facilitate~~ Facilitates the early resumption of functions temporarily ~~suspended, it is found and~~
18 ~~declared to be necessary to provide for special emergency judges who can exercise the powers and discharge the duties~~
19 ~~of judicial offices in the event regular judges are unavailable~~ suspended.

Section 3. Amend § 1803, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1803. Definitions.

~~Unless otherwise clearly required by the context, as~~ As used in this chapter:

(1) ~~"Attack" means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means or other weapons or processes.~~ means any action or series of actions causing, or which may cause, substantial damage or injury to persons or property by any means, including through biological, chemical, radiological, or nuclear means or through the use of other weapons, technologies, or processes.

(2) "Emergency event" means an impending or existing attack, act of terrorism, disease, accident, or other natural or man-made disaster that does one or more of the following:

a. Threatens the life, health, or safety of the public.

b. Has, or has the potential to, damage or destroy property or disrupt service, commerce, or other economic activities.

c. Makes the continuation of normal government operations difficult or impossible.

(3) "Regular judge" means the individual holding an office under this chapter before the emergency event.

(2) (4) ~~"Emergency interim successor~~ Special emergency judge" means ~~a person~~ an individual designated pursuant to under this chapter, ~~in the event the officer is unavailable, chapter~~ to exercise the powers and discharge the duties of an office held by another individual who is unavailable until a successor is ~~appointed and qualified~~ qualified and appointed as may be provided by the ~~Constitution, statutes, charters and ordinances~~ Delaware Constitution or other law of this State or until the ~~lawful incumbent~~ other individual who is unavailable is able to resume the exercise of the powers and discharge the duties of the office.

(3) (5) "Unavailable" means either that a vacancy in an office exists, under this chapter exists or that the ~~lawful incumbent of the office~~ regular judge is absent or unable to exercise the powers and discharge the duties of the office.

Section 4. Amend § 1804, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1804. Special emergency judges.

49 (a) A special emergency judge may exercise the powers and discharge the duties of an office under this chapter if
50 both of the following apply:

51 (1) ~~In the event that any~~ If a judge of any court of record the Supreme Court and the Superior Court is
52 unavailable to exercise the powers and discharge the duties of his or her the judge's office, and office.

53 (2) ~~in the event If~~ no other judge authorized to act in the event of absence, disability disability, or vacancy or
54 no special judge appointed in accordance with the provisions of the Delaware Constitution or statutes other law of this
55 State is available to exercise the powers and discharge the duties of such office, the duties of the office shall be
56 discharged and the powers exercised by the special emergency judges provided for by this section office.

57 (b) The Each Governor shall do all of the following:

58 (1) designate Designate for each member of the Supreme Court and the Superior Court not less than 3 nor
59 more than 7 special emergency judges in the number of not less than 3 nor more than 7 for each member of the said
60 courts, and judges.

61 (2) shall specify Specify the order of ~~their succession~~ succession of the individuals selected under paragraph
62 (b)(1) of this section.

63 (3) Review and revise, as necessary, designations made under this subsection to ensure that at all times there
64 are at least 3 qualified special emergency judges for each member of the Supreme Court and the Superior Court.

65 (c) ~~Such A~~ A special emergency judges judge designated under subsection (b) of this section shall, in the order
66 specified, exercise the powers and discharge the duties of ~~such an office under this chapter in case of the unavailability of~~
67 ~~the if a regular judge or judges or persons or another special emergency judge immediately preceding them the special~~
68 emergency judge in the designation order of designation is unavailable. The designation authority shall review and revise,
69 as necessary, designations made pursuant to this chapter to insure their current status.

70 (d) ~~Said A~~ A special emergency judges judge shall exercise the powers and discharge the duties and exercise the
71 powers of such of an office under this chapter until such time as a vacancy ~~which may exist shall be~~ that exists is filled in
72 accordance with the ~~Constitution and statutes the~~ Delaware Constitution or other law of this State, or until the regular judge
73 or ~~one~~ another special emergency judge preceding the ~~designee~~ the special emergency judge in the order of succession
74 becomes available to exercise the powers and discharge the duties of the office.

75 (e) ~~No person shall~~ An individual may not be designated or serve as a special emergency judge unless ~~he or she~~
76 may the individual may, under the Delaware Constitution and laws of this State or other law of this State, hold the office of
77 the judge to whose powers and duties ~~he or she~~ the individual is designated to succeed.

Section 5. Amend § 1805, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1805. Formalities of taking office.

(a) ~~At the time of their designation, an individual's designation as a special emergency judges judge, the individual~~ shall take such oath as may be required for ~~them~~ the individual to exercise the powers and discharge the duties of the office to which ~~they~~ the individual may succeed.

(b) Notwithstanding any other provision of law, no ~~person~~ individual, as a prerequisite to the exercise of the powers or discharge of the duties of an office under this chapter to which ~~he or she~~ the individual succeeds, ~~shall be~~ is required to comply with any other provision of law relative to taking office.

Section 6. Amend § 1806, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1806. Period in which authority may be exercised.

(a) ~~Officials~~ An individual authorized to act as a special emergency ~~judges are empowered to~~ judge may exercise the powers and discharge the duties of an office under this chapter as authorized in this chapter only after ~~an attack upon the United States, as defined in § 1803 of this title,~~ an emergency event has occurred.

(b) The General Assembly may, by concurrent resolution, ~~may at any time~~ terminate the authority of ~~said~~ special emergency judges to exercise the powers and discharge the duties of office as provided in this chapter.

Section 7. Amend § 1807, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1807. Removal of designees.

~~Until such time as the persons~~ Until an individual who is designated as a special emergency judges are judge is authorized to exercise the powers and discharge the duties of an office under this chapter, ~~in accordance with this chapter including § 1806 of this title, said persons shall serve in their designated capacities~~ the individual serves at the pleasure of ~~the designating authority~~ the Governor and may be removed or replaced by ~~said designating authority~~ the Governor at any time, with or without cause.

Section 8. Amend § 1701, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1701. Short title.

This chapter ~~shall be~~ is known as and may be cited as the "Emergency Interim Legislative Succession Act."

Section 9. Amend § 1702, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1702. Declaration of policy.

The General Assembly declares all of the following:

(1) ~~That recent technological developments make possible an enemy attack of unprecedented destructiveness, which~~ The possibility of an emergency event exists that may result in the death or inability to act of a large proportion of the membership of the General ~~Assembly~~; Assembly.

(2) ~~That to conform in time of attack to~~ To comply with existing legal requirements pertaining to the General Assembly during an emergency event would be impracticable, would ~~admit of undue delay~~ cause undue delay, and would jeopardize continuity of operation of a legally constituted General ~~Assembly~~; and Assembly.

(3) ~~That it is therefore~~ It is necessary to adopt special provisions as set out in this chapter for the effective operation of the General Assembly.

Section 10. Amend § 1703, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1703. Definitions.

As used in this chapter:

(1) "Attack" ~~means any action or series of actions taken by an enemy of the United States resulting in substantial damage or injury to persons or property in this State, whether through sabotage, bombs, missiles, shellfire or atomic, radiological, chemical, bacteriological or biological means or other weapons or methods~~ means any action or series of actions causing, or which may cause, substantial damage or injury to persons or property by any means, including through biological, chemical, radiological, or nuclear means or through the use of other weapons, technologies, or processes.

(2) "Emergency event" means an impending or existing attack, act of terrorism, disease, accident, or other natural or man-made disaster that does one or more of the following:

a. Threatens the life, health, or safety of the public.

b. Has, or has the potential to, damage or destroy property or disrupt service, commerce, or other economic activities.

c. Makes the continuation of normal government operations difficult or impossible.

(3) "Incumbent member" means the individual holding an office under this chapter before the emergency event.

(2) (4) "Member" means a member of the General Assembly ~~as set forth in article~~ under Article II of the Delaware Constitution ~~of the State~~.

(3) (5) "Unavailable" means absent from the place of session other than on official business of the General Assembly or unable, for physical, ~~mental~~ mental, or legal reasons, to exercise the powers and discharge the duties of a member of the General Assembly, whether or not such absence or inability would give rise to a vacancy under ~~existing constitutional or statutory provisions~~ the Delaware Constitution or other law of this State.

Section 11. Amend § 1704, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1704. Designation of emergency interim successors to members.

Each member shall do all of the following:

(1) ~~designate~~ Designate not fewer than 3 nor more than 7 emergency interim successors to the member's powers and ~~duties and~~ duties.

(2) ~~specify their~~ Specify the order of succession of the individuals selected under paragraph (1) of this section.

(3) ~~Each member shall review and, as necessary, promptly revise~~ Review and revise the designations of emergency interim successors to the member's powers and duties to ~~insure~~ ensure that at all times there are at least 3 ~~such~~ qualified emergency interim successors.

Section 12. Amend § 1705, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1705. Status, ~~qualifications~~ qualifications, and term of emergency interim successors.

(a) An emergency interim successor is ~~+~~ an individual who is designated for possible temporary succession to the powers and duties, but not the office, of a member.

(b) ~~No person shall~~ An individual may not be designated or serve as an emergency interim successor unless the ~~person may~~ individual may, under the ~~Constitution and statutes~~ Delaware Constitution or other law of this State, hold the office of the member to whose powers and duties the ~~person~~ individual is designated to ~~succeed, but no constitutional or statutory provision~~ succeed. However, no provision of the Delaware Constitution or other law of this State prohibiting a member from holding another office or prohibiting the holder of another office from being a member ~~shall be~~ is applicable to an emergency interim successor.

(c) An emergency interim successor ~~shall serve~~ serves at the pleasure of the member designating the ~~person~~ individual or of any subsequent incumbent of the legislative office.

Section 13. Amend § 1706, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1706. Contingent method of designating emergency interim successors.

(a) ~~Prior to an attack~~ Before an emergency event, if a member fails to designate the required minimum number of emergency interim successors within 30 days ~~following July 11, 1961~~ of the member's taking of the oath of office, or, after such period, if for any reason the number of emergency interim successors for any member falls below the required minimum and remains below such minimum for a period of 30 days, then the required minimum number of emergency interim successors ~~shall be designated as follows~~ must be designated under the following procedures:

(1) The President Pro Tempore of the Senate shall designate as many emergency interim successors for the members of the majority party in the Senate as are required to achieve such minimum number.

(2) The Minority Leader of the Senate shall designate as many emergency interim successors for the ~~remaining~~ members of the minority party in the Senate as are required to achieve such minimum number.

(3) The Speaker of the House of Representatives shall designate as many emergency interim successors for the members of the majority party in the House of Representatives as are required to achieve such minimum number.

(4) The Minority Leader of the House of Representatives shall designate as many emergency interim successors for the ~~remaining~~ members of the minority party in the House of Representatives as are required to achieve such minimum number.

(b) The President Pro Tempore of the Senate, the Minority Leader of the Senate, the Speaker of the House of ~~Representatives~~ Representatives, and the Minority Leader of the House of Representatives ~~shall~~ may not assign to any of their designees a rank in order of succession higher than that of any remaining emergency interim successor previously designated by a member for succession to the member's own powers and duties.

(c)(1) Each emergency interim successor designated ~~by the President Pro Tempore of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives and the Minority Leader of the House of Representatives~~ shall serve under subsection (a) of this section serves at the pleasure of the ~~person~~ individual designating the ~~successor~~, successor.

(2) ~~but~~ Notwithstanding paragraph (c)(1) of this section, the member for whom the emergency interim successor is designated ~~or any subsequent incumbent of the member's office~~ may change the rank in order of ~~succession~~ succession, or replace at the member's ~~pleasure~~ pleasure, any emergency interim successor ~~so designated~~ designated under subsection (a) of this section.

Section 14. Amend § 1707, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1707. Recording and publication.

(a) Following a member's election, the Secretary of the Senate or the Chief Clerk of the House of Representatives, whichever is appropriate, shall distribute to the member information regarding the member's responsibilities under this chapter and a form to make the designation under § 1704 of this title.

(b) Each ~~The~~ designation of an emergency interim successor ~~shall become~~ becomes effective when the member ~~or President Pro Tempore of the Senate or Minority Leader of the Senate or Speaker of the House or Minority Leader of the House~~ making the designation under § 1704 or § 1706 of this title files with the Secretary of State and the Director of the General Assembly's Division of Research all of the following information:

(1) the successor's name; ~~The successor's name.~~

(2) address; ~~Contact information, including address, home and mobile phone number, and electronic mail address.~~

(3) and rank ~~Rank~~ in order of succession.

(c) The removal of an emergency interim successor or change in order of succession shall become ~~becomes~~ effective when the member ~~or President Pro Tempore or Minority Leader of the Senate or the Speaker of the House of Representatives or Minority Leader of the House of Representatives~~ so acting files this information with the Secretary of State and the Director of the General Assembly's Division of Research. ~~All such data shall be open to public inspection.~~

(d) The Secretary of State shall inform the Governor, the State Office of Civil Defense Delaware Emergency Management Agency, the Clerk of the House concerned and all emergency interim successors of all such designations, ~~removals~~ removals, and changes in order of succession.

~~The Clerk of each House shall enter all information regarding emergency interim successors for the House in its public journal at the beginning of each General Assembly and shall enter all changes in membership or order of succession as soon as possible after their occurrence.~~

Section 15. Amend § 1708, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1708. Oath of emergency interim successors.

~~Promptly after designation each~~ At the time of an individual's designation as a member's emergency interim ~~succesor~~ successor, the individual shall take the oath required for the member to whose powers and duties the successor is designated to succeed. No other oath ~~shall be~~ is required.

Section 16. Amend § 1709, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1709. Duty of emergency interim successors and members.

(a) Each emergency interim successor shall keep generally informed as to the duties, procedures, ~~practices~~ practices, and current business of the General ~~Assembly~~, and Assembly.

(b) ~~each~~ Each member shall assist the member's emergency interim successors to keep ~~themselves so~~ informed as required under subsection (a) of this section.

Section 17. Amend § 1710, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1710. Place of meeting of the General Assembly.

~~Whenever, in the event of an attack or upon finding that an attack may be imminent~~ If in anticipation of, during, or after an emergency event, the Governor deems the place of session of the General Assembly then prescribed to be unsafe, the Governor may change it to any place within or without the State which the Governor deems safer and convenient.

Section 18. Amend § 1711, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1711. Convening of General Assembly in event of ~~attack~~ an emergency event.

(a) ~~In the event of an attack~~ If an emergency event requiring action by the General Assembly occurs, the Governor shall call the General Assembly into session as soon as practicable ~~and, in any case, or~~ within 90 days following the inception of the ~~attack~~ emergency event, whichever occurs first.

(b) If the Governor fails to issue ~~such~~ the call under subsection (a) of this section, the General Assembly shall, on the ninetieth day from the date of inception of the ~~attack~~ emergency event, automatically convene at the place where the Governor then has an office.

(c) Each member and each emergency interim successor, unless the ~~person~~ emergency interim successor is certain that the member to whose powers and duties the ~~person~~ emergency interim successor is designated to succeed or an emergency interim successor higher in order of succession ~~will be~~ is available, shall proceed to the place of holding the General Assembly as expeditiously as practicable.

(d) ~~At such session or at any sessions, in operation at the inception of the attack and at any subsequent sessions, limitations on the length of session and on the subjects which may be acted upon shall be suspended~~ Limitations on the length of legislative session and the subjects that may be acted upon during legislative session that are contained in the

Delaware Constitution do not apply to any legislative session convened under this section, in session at the inception of the emergency event, or in session after the emergency event and during the application of this chapter.

Section 19. Amend § 1712, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1712. Assumption of powers and duties of member of emergency interim successor.

(a) If, in the event of an ~~attack~~ emergency event, a member is unavailable, the member's emergency interim successor highest in order of succession who is not unavailable ~~shall, except for the power and duty to appoint emergency interim successors,~~ shall exercise the powers and assume the duties of such member the member, except for the power and duty to appoint emergency interim successors under this chapter.

(b) An emergency interim successor shall exercise ~~these~~ the powers and assume ~~these~~ the duties under subsection (a) of this section until one of the following can act:

(1) ~~the incumbent member,~~ The incumbent member.

(2) ~~an~~ An emergency interim successor higher in order of ~~succession or,~~ succession.

(3) ~~a~~ A member appointed or elected and legally qualified ~~can act.~~

(c) Each House of the General Assembly shall, in accordance with its own rules, determine who is entitled under this chapter to exercise the powers and assume the duties of its members.

(d) ~~All constitutional and statutory provisions~~ provisions of the Delaware Constitution and other laws of this State pertaining to the ouster of a member ~~shall be~~ are applicable to an emergency interim successor who is exercising the powers and assuming the duties of a member.

Section 20. Amend § 1713, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1713. Privileges, ~~immunities~~ immunities, and compensation of emergency interim successors.

(a) ~~When~~ If an emergency interim successor exercises the powers and assumes the duties of a member, the successor ~~shall~~ must be accorded the privileges and immunities, compensation, ~~allowances~~ allowances, and other perquisites of office to which a member is entitled.

(b) In the event of an ~~attack~~ emergency event, each emergency interim successor, whether or not called upon to exercise the powers and assume the duties of a member, ~~shall~~ must be accorded the privileges and immunities of a member while traveling to and from a place of session and ~~shall~~ must be compensated for such travel in the same manner and amount as a member.

(c) This section ~~shall not in any way~~ does not affect the ~~privileges, privileges and~~ immunities, compensation, ~~allowances~~ allowances, or other perquisites of office of an incumbent member.

Section 21. Amend § 1714, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1714. Quorum and vote requirements.

In the event of an ~~attack~~ emergency event, all of the following apply:

(1) Quorum requirements for the General Assembly ~~shall be suspended; and~~ are suspended.

(2) ~~Where~~ If the affirmative vote of a specified proportion of members for approval of a bill, ~~resolution~~ resolution, or other action would otherwise be required, the same proportion of those ~~voting thereon shall be~~ present to vote on the bill, resolution, or other action is sufficient.

Section 22. Amend § 1715, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1715. Termination of operation of this chapter.

(a) The following expires 2 years following the inception of an emergency event:

(1) The authority of emergency interim successors to succeed to the powers and duties of ~~members and~~ members under § 1712 of this title.

(2) ~~the~~ The operation of this chapter relating to ~~quorum; quorum and~~ quorum and the number of affirmative votes required for General Assembly ~~action~~ action under § 1714 of this title.

(3) ~~and limitations~~ Limitations on the length of sessions and the subjects which may be acted ~~upon shall~~ expire 2 years following the inception of an attack; upon under § 1711(d) of this section.

(b) Notwithstanding subsection (a) of this section, but nothing in this chapter ~~shall prevent~~ prevents the resumption before ~~such time~~ the time limit under subsection (a) of this section of the filling of legislative vacancies in the General Assembly and the calling of elections for the General Assembly in accordance with applicable ~~constitutional and statutory~~ provisions provisions of the Delaware Constitution or other law of this State.

(c) The Governor, acting by proclamation, or the General Assembly, acting by concurrent resolution, may ~~from~~ time to time extend or restore ~~such authority or the operation of any of such provisions~~ the operation of this chapter upon a finding that ~~events~~ the emergency event or its effects render the extension or restoration ~~necessary; necessary. but no~~ An extension or restoration under this subsection shall be may not be established for a period of more than 1 year.

Section 23. Amend § 7701, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7701. Proclamation of ~~emergency~~, emergency temporary location of the seat of government.

(a) For purposes of this subchapter:

(1) "Attack" means any action or series of actions causing, or which may cause, substantial damage or injury to persons or property by any means, including through biological, chemical, radiological, or nuclear means or through the use of other weapons, technologies, or processes.

(3) "Emergency event" means an impending or existing attack, act of terrorism, disease, accident, or other natural or man-made disaster that does one or more of the following:

a. Threatens the life, health, or safety of the public.

b. Has, or has the potential to, damage or destroy property or disrupt service, commerce, or other economic activities.

c. Makes the continuation of normal government operations difficult or impossible.

(b) ~~Whenever If the Governor determines that, due to an emergency resulting from the effects of enemy attack an emergency event, or the anticipated effects of a threatened enemy attack threatened, perceived, or imminent emergency event, it becomes is imprudent, inexpedient inexpedient, or impossible to conduct the affairs of state government at the normal location of the seat thereof in Dover, the Governor shall, as often as the exigencies of the situation require, shall, by proclamation, do all of the following:~~

~~(1) declare an emergency temporary location, or locations, for the seat of government at such place, or places, within or without this State as the Governor may deem advisable under the circumstances and Declare an emergency temporary location of the seat of government.~~

~~(2) shall take such Take any action and or issue such orders any order as may be necessary for an orderly transition of the affairs of state government to such emergency temporary location, or locations location.~~

~~(c) Such The emergency temporary location, or locations, shall remain location remains as the seat of government until one of the following occurs:~~

~~(1) the General Assembly shall by law establish The General Assembly, by law, establishes a new location, or locations, or location.~~

~~(2) until the emergency is declared to be ended by the Governor The Governor, by proclamation, determines that the affairs of state government may be conducted in Dover and returns the seat of government is returned to its normal location to Dover.~~

Section 24. Amend § 7702, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7702. Legality of acts.

~~During such time as~~ While the seat of government remains at ~~such the~~ emergency temporary ~~location, or locations,~~
location established under § 7701(b) of this title, all official acts ~~which may be~~ that are required by law to be performed at
~~the seat of government in Dover~~ by any officer, agency, ~~department~~ department, or authority of this State, including the
convening and meeting of the General Assembly in regular, ~~extraordinary~~ extraordinary, or emergency session, ~~shall be~~ are
as valid and binding when performed at such emergency temporary ~~location, or locations,~~ location as if performed at ~~the~~
~~normal location of the seat of government in Dover.~~

Section 25. Amend § 7703, Title 29 of the Delaware Code by making deletions as shown by strike through and
insertions as shown by underline as follows:

§ 7703. Conflict with other laws.

Notwithstanding any other law to the contrary or in conflict with this subchapter, ~~This subchapter shall control and~~
~~be this subchapter controls and is supreme in the event it shall be~~ if it is employed as provided in this subchapter
~~notwithstanding any other law to the contrary or in conflict with this subchapter.~~

Section 26. Amend § 7721, Title 29 of the Delaware Code by making deletions as shown by strike through and
insertions as shown by underline as follows:

§ 7721. Purpose; establishment of new location.

(a) For purposes of this subchapter:

(1) "Attack" means any action or series of actions causing, or which may cause, substantial damage or injury
to persons or property by any means, including through biological, chemical, radiological, or nuclear means or through
the use of other weapons, technologies, or processes.

(2) "Emergency event" means an impending or existing attack, act of terrorism, disease, accident, or other
natural or man-made disaster that does one or more of the following:

a. Threatens the life, health, or safety of the public.

b. Has, or has the potential to, damage or destroy property or disrupt service, commerce, or other
economic activities.

c. Makes the continuation of normal government operations difficult or impossible.

(3) "Political subdivision of this State" or "political subdivision" means a county or municipality of this State.

(b) Whenever ~~If the presiding officer or 2 members of a governing body of a political subdivision of this State~~
~~determines that,~~ due to ~~an emergency resulting from the effects of enemy attack~~ an emergency event, or the anticipated
effects of a ~~threatened enemy attack~~ threatened, perceived, or imminent emergency event, it ~~becomes~~ is imprudent,

~~inexpedient~~ inexpedient, or impossible to conduct the political subdivision's affairs of ~~local government~~ at the regular or usual ~~place or places thereof, the place,~~ the political subdivision's governing body of ~~each political subdivision of this State~~ may meet at any place within or without the territorial limits of such political subdivision ~~on the call of the presiding officer or any 2 members of such governing body~~ and do all of the following:

(1) ~~and shall proceed to establish and designate~~ Designate by ordinance, ~~resolution~~ resolution, or other manner, ~~alternate or substitute sites or places as the an~~ emergency temporary ~~location, or locations, of~~ location of the political subdivision's government where all, or any part, of the public business may be transacted and conducted during the emergency. ~~Such sites or places~~ The location designated may be within or without the territorial limits of ~~such political subdivisions~~ the political subdivision and may be within or without this State.

(2) Take any action or enact any ordinance, resolution, or other measure as may be necessary for an orderly transition of the affairs of the political subdivision's government to such emergency temporary location.

Section 27. Amend § 7722, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7722. Legality of acts.

~~During the period when the~~ While the political subdivision's public business is being conducted at the emergency temporary ~~location, or locations,~~ location established under § 7721(b) of this section, the governing body and other officers of a political subdivision ~~of this State~~ shall have and possess and shall exercise, at such location, ~~or locations,~~ all of the executive, ~~legislative~~ legislative, and judicial powers and functions conferred upon ~~such~~ the governing body and officers by or under the laws of this State.

(1) All acts of the political subdivision's governing body and its officers are as valid and binding as if performed within the territorial limits of the political subdivision.

(2) ~~Such~~ The political subdivision's powers and functions may be exercised in the light of the exigencies of the emergency ~~situation~~ situation, without regard to or compliance with time consuming procedures and formalities ordinarily prescribed by law and pertaining ~~thereto, and all acts of such body and officers shall be as valid and binding as if performed within the territorial limits of their political subdivision~~ to the political subdivision.

Section 28. Amend § 7723, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7723. Conflict with other laws.

Notwithstanding any law of this State, municipal charter, or ordinance of a political subdivision of this State to the contrary or in conflict with this subchapter, ~~This subchapter shall control and be~~ this subchapter controls and is supreme ~~in~~

~~the event it shall be if it is~~ employed as provided in this subchapter notwithstanding any statutory, charter or ordinance to the contrary or in conflict with this subchapter.

Section 29. Amend § 7801, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7801. Short title.

This chapter ~~shall be~~ is known and may be cited as the "Emergency Interim Executive Succession Act."

Section 30. Amend § 7802, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7802. Statement of policy.

~~Because of the existing possibility of attack upon the United States of unprecedented size and destructiveness, and in order, in the event of such an attack, The General Assembly finds and declares that in the event of an emergency event, it is necessary to provide for emergency interim succession to governmental offices of this State, and its political subdivisions, if the incumbents of these offices or the deputies of these incumbents are unavailable to perform the duties and functions of these offices. The General Assembly further finds and declares that this emergency interim succession process is intended to do all of the following:~~

(1) ~~to assure~~ Assure continuity of government through legally constituted leadership, ~~authority~~ authority, and responsibility in offices of the government of the State and its political ~~subdivisions~~; subdivisions.

(2) ~~to provide~~ Provide for the effective operation of governments during an ~~emergency~~; emergency.

(3) ~~and to facilitate~~ Facilitate the early resumption of functions temporarily ~~suspended, it is found and declared to be necessary to provide for emergency interim succession to governmental offices of this State and its political subdivisions in the event the incumbents thereof (and their deputies, assistants or other subordinate officers authorized, pursuant to law, to exercise all of the powers and discharge the duties of such offices hereinafter referred to as deputies) are unavailable to perform the duties and functions of such offices~~ suspended.

Section 31. Amend § 7803, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7803. Definitions.

~~Unless otherwise clearly required by the context, as~~ As used in this chapter:

(1) "Attack" ~~means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, missiles, shellfire or atomic, radiological, chemical, bacteriological or biological means or other~~

~~weapons or processes.~~ means any action or series of actions causing, or which may cause, substantial damage or injury to persons or property by any means, including through biological, chemical, radiological, or nuclear means or through the use of other weapons, technologies, or processes.

(2) "Deputy" means an assistant or other subordinate officer who is authorized by law to exercise the powers and discharge the duties of a state or political subdivision office.

(3) "Emergency event" means an impending or existing attack, act of terrorism, disease, accident, or other natural or man-made disaster that does one or more of the following:

a. Threatens the life, health, or safety of the public.

b. Has, or has the potential to, damage or destroy property or disrupt service, commerce, or other economic activities.

c. Makes the continuation of normal government operations difficult or impossible.

(2) (4) "Emergency interim successor" means ~~a person~~ an individual designated pursuant to this chapter, in the event the officer is unavailable, under this chapter to exercise the powers and discharge the duties of an office held by another individual who is unavailable until a successor is appointed or elected and qualified as may be provided by the Delaware Constitution, statutes, ~~charters and~~ charters, or ordinances or until the ~~lawful incumbent~~ other individual who is unavailable is able to resume the exercise of the powers and discharge the duties of the office.

(3) (5) "Office" includes all state and ~~local~~ political subdivision offices, the powers and duties of which are defined by the Delaware Constitution, statutes, ~~charters and ordinances~~, charters, or ordinances. ~~except "Office" does not include the office~~ Office of Governor and ~~except those in~~ members of the General Assembly and the ~~judiciary~~ Judiciary.

(4) (6) "Political subdivision" includes counties, ~~cities, towns,~~ municipalities, districts, ~~authorities~~ authorities, and other public corporations and entities whether organized and existing under a charter or general law.

(5) (7) "Unavailable" means either that a vacancy in an office exists and there is no deputy authorized to exercise all of the powers and discharge the duties of the office, or that the lawful incumbent of the ~~office~~ office, including any deputy exercising the powers and discharging the duties of an office because of a ~~vacaney~~ vacancy, and the lawful incumbent's duly authorized deputy are absent or unable to exercise the powers and discharge the duties of the office.

Section 32. Amend § 7804, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7804 Emergency interim successors for state officers.

~~(a) All state officers, subject to such regulations as the Governor (or other official authorized under the Constitution to exercise the powers and discharge the duties of the office of Governor) may issue, shall, upon approval of this chapter, in addition to any deputy authorized pursuant to law to exercise all of the powers and discharge the duties of the office, officers shall do all of the following:~~

~~(1) designate~~ Designate by title not less than 3 nor more than 7 emergency interim successors ~~and to the officer's powers and duties. The emergency interim successors under this paragraph (a)(1) of this section are in addition to the officer's deputy.~~

~~(2) specify their~~ Specify the order of succession of the individuals selected under paragraph (a)(1) of this section.

~~(3) The officer shall review and revise as necessary~~ Review and revise the designations of emergency interim successors made pursuant to under this chapter to insure their current status ensure that at all times there are at least 3 qualified emergency interim successors.

~~The officer will designate a sufficient number of such emergency interim successors so that there will be not less than 3 nor more than 7 such deputies or emergency interim successors or any combination thereof, at any time.~~

~~(b) The power granted to state officers under subsection (a) of this section is subject to such regulations as the Governor or other official authorized under the Delaware Constitution to exercise the powers and discharge the duties of the office of Governor may issue.~~

~~(c) In the event that any state officer is unavailable following an attack, and in the event the officer's deputy, if any, is also unavailable, the said powers of the officer's office shall be exercised and said duties of the officer's office shall be discharged by the officer's designated emergency interim successors in the order specified. A state officer's designated emergency interim successor shall exercise the powers and discharge the duties of the officer's office if all of the following apply:~~

~~(1) The officer is unavailable following an emergency event.~~

~~(2) The officer's deputy is unavailable following an emergency event.~~

~~(d) Such~~ An emergency interim ~~suecessors~~ successor shall exercise ~~said~~ the powers and discharge ~~said~~ the duties of a state officer's office ~~only until such time as~~ until one of the following occurs:

~~(1) the~~ The Governor under the Delaware Constitution or authority other than this ~~chapter (or chapter, or other official authorized under the Delaware Constitution to exercise the powers and discharge the duties of the office of Governor) may,~~ Governor, where a vacancy exists, appoint a successor to fill the ~~vacaney~~ vacancy.

~~(2) or until a~~ A successor is otherwise ~~appointed,~~ appointed or elected and qualified as provided by ~~law,~~ law.

~~(3) or an officer (or~~ An officer or the officer's deputy or a preceding named emergency interim ~~successor)~~
successor becomes available to exercise or resume the exercise of the powers and discharge the duties of the office.

Section 33. Amend § 7805, Title 29 of the Delaware Code by making deletions as shown by strike through and
insertions as shown by underline as follows:

§ 7805. Enabling authority for emergency interim successors for ~~local~~ certain political subdivision offices.

(a) With respect to ~~local~~ municipal and county offices for which the legislative bodies of cities, towns
municipalities and counties may enact resolutions or ordinances relative to the manner in which vacancies ~~will~~ are to be
filled or temporary appointments to office made, such legislative bodies are ~~hereby~~ authorized to enact resolutions or
ordinances providing for emergency interim successors to municipal and county offices ~~of the aforementioned~~
~~governmental units.~~

(b) ~~Such resolutions and ordinances shall not~~ A resolution or ordinance adopted under this section may not be
inconsistent with this chapter.

Section 34. Amend § 7806, Title 29 of the Delaware Code by making deletions as shown by strike through and
insertions as shown by underline as follows:

§ 7806. Emergency interim successors for ~~local officers~~ certain political subdivision officers.

(a) This section ~~shall be applicable~~ applies to officers of political subdivisions ~~(including, but not limited to, cities,~~
~~towns and counties, as well as school and drainage districts)~~ not included in § 7805 of this title.

(b) ~~Such officers, subject to such regulations as the executive head of the political subdivision may issue, shall~~
~~upon the enactment of this chapter, designate by title (if feasible) or by named person, emergency interim successors and~~
~~specify their order of succession.~~ All officers governed by this section shall do all of the following:

(1) Designate by title not less than 3 nor more than 7 emergency interim successors to the officer's powers
and duties. The emergency interim successors under this paragraph (b)(1) of this section are in addition to the officer's
deputy.

(2) Specify the order of succession of the individuals selected under paragraph (b)(1) of this section.

(3) The officer shall review and revise, as necessary, Review and revise the designations of emergency interim
successors made pursuant to under this chapter ~~to insure their current status~~ ensure that at all times there are at least 3
qualified emergency interim successors.

~~The officer will designate a sufficient number of persons so that there will be not less than 3, nor more than 7,~~
~~deputies or emergency interim successors or any combination thereof, at any time.~~

(b) The power granted to officers governed by this section under subsection (b) of this section is subject to such regulations as the chief executive officer of the political subdivision may issue.

~~(c) In the event that any officer of any political subdivision (or the officer's deputy provided for pursuant to law) is unavailable, the powers of the office shall be exercised and duties shall be discharged by the officer's designated emergency interim successors in the order specified.~~ An emergency interim successor of an officer governed by this section shall exercise the powers and discharge the duties of the officer's office if all of the following apply:

(1) The officer is unavailable following an emergency event.

(2) The officer's deputy is unavailable following an emergency event.

~~(d) The~~ An emergency interim successor of an officer governed by this section shall exercise the powers and discharge the duties of the office to which designated until such time as until 1 of the following occurs:

~~(1) a vacancy which may exist shall be~~ If a vacancy exists, it is filled in accordance with the Delaware Constitution or statutes, or or other law of this State.

~~(2) until the officer (or~~ An officer or the officer's deputy or a preceding emergency interim successor) successor again becomes available to exercise the powers and discharge the duties of the office.

Section 35. Amend § 7807, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7807. Formalities of taking office.

~~(a) At the time of their designation, an individual's designation as an emergency interim successors~~ successor, the individual shall take such oath as may be required for them the individual to exercise the powers and discharge the duties of the office to which they the individual may succeed.

~~(b) Notwithstanding any other law, no person individual, as a prerequisite to the exercise of the powers or discharge of the duties of an office to which such person the individual succeeds, shall be~~ is required to comply with any other law relative to taking office.

Section 36. Amend § 7808, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7808. Period in which authority may be exercised.

~~(a) Officials~~ An individual authorized to act as an emergency interim successors are empowered to successor may exercise the powers and discharge the duties of an office as herein as authorized by this chapter only after an attack upon the United States, as defined herein, emergency event has occurred.

551 (b) The General Assembly may, by concurrent resolution, ~~may at any time~~ terminate the authority of said
552 emergency interim successors to exercise the powers and discharge the duties of office as ~~herein~~ provided in this chapter.

553 Section 37. Amend § 7809, Title 29 of the Delaware Code by making deletions as shown by strike through and
554 insertions as shown by underline as follows:

555 § 7809. Removal of designees.

556 ~~Until such time as the persons~~ Until an individual who is designated as an emergency interim ~~successors are~~
557 successor is authorized to exercise the powers and discharge the duties of an ~~office in accordance with this chapter,~~
558 ~~including § 7808 of this title, said persons shall serve in their designated capacities~~ office, the individual serves at the
559 pleasure of the designating authority and may be removed or replaced by ~~said~~ the designating authority at any time, with or
560 without cause.

561 Section 38. Amend § 7810, Title 29 of the Delaware Code by making deletions as shown by strike through and
562 insertions as shown by underline as follows:

563 § 7810. Disputes.

564 The Governor or other official authorized under the Delaware Constitution to exercise the powers and discharge
565 the duties of the office of Governor shall settle ~~Any any~~ dispute concerning a question of fact arising under this chapter
566 with respect to an office in the executive branch of the state ~~government shall be adjudicated by the Governor (or other~~
567 ~~official authorized under the Constitution to exercise the powers and discharge the duties of the office of Governor) and the~~
568 government. The Governor's decision shall be is final.

SYNOPSIS

This Act amends Delaware's existing continuity of government laws as required in conjunction with the adoption of House Bill No. 410, which completes the process to amend Article II, § 5 and Article XVII, § 1 of the Delaware Constitution to adopt an "all hazards" approach to continuity of government planning.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.