



SPONSOR: Rep. Collins & Sen. Richardson
Reps. Gray, Postles, Ramone, D. Short, Smyk,
Spiegelman, Vanderwende, Yearick; Sens. Hocker,
Lawson, Pettyjohn, Wilson

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 49

AN ACT TO AMEND TITLE 20 OF THE DELAWARE CODE RELATING TO EMERGENCY MANAGEMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 3115, Title 20 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 3115. General authority of the Governor.

4 (a) The Governor shall be responsible for addressing the dangers to life, health, environment, property or public
5 peace within the State presented by emergencies or disasters, and to this end shall have general direction and control of
6 DEMA and shall be responsible for carrying out this chapter. In the event of an emergency or disaster beyond local control,
7 the Governor may assume direct operational control over all or any part of the emergency management functions within the
8 State.

9 (b) Except as provided in § 3115(c), ~~in performing the duties of the Governor under this chapter,~~ only the
10 Governor, in performing the duties in this chapter, may issue, amend and rescind all necessary executive orders, emergency
11 orders, proclamations and regulations, which shall have the force and effect of law.

12 (c) In addition to the powers conferred upon the Governor by this chapter, a state of emergency may be proclaimed
13 by emergency order of the Governor upon a finding that an emergency or disaster has occurred or that such occurrence or
14 threat of that occurrence is imminent.

15 1. The state of emergency ~~shall~~ may continue ~~until~~ for 30 days unless the Governor finds that the threat or danger
16 has passed or the emergency or disaster has been dealt with to the extent that conditions necessitating a state of emergency
17 no longer exist and terminates the state of emergency by subsequent order.

18 2. ~~No state of emergency can continue for more than 30 days without being renewed by the Governor.~~ A state of
19 emergency order may not exceed 30 days without a finding from the Governor that a renewal order is required by an
20 ongoing emergency or disaster and requires approval of the renewal order by the General Assembly. Amendments to any
21 renewal order or subsequent renewal order also require approval by the General Assembly.

22 3. The General Assembly shall meet at least 1 day per month and additionally may meet at the mutual call of both
23 Houses to consider any renewal order or amendment to any renewal order for as long as the state of emergency order
24 continues. The General Assembly may approve a renewal order for not more than 30 days, or such shorter period as
25 required by an ongoing emergency or disaster. Subsequent renewal orders require approval by the General Assembly and
26 may be extended for such periods of time as necessitated by the ongoing emergency or disaster. The General Assembly
27 shall make findings as to the necessity of any renewal order and any amendment thereto, and the circumstances
28 necessitating the period of such approvals. Denial of any renewal order shall also include the reasons for such action.

29 4. With consent of Senator Pro Tempore and the Speaker of the House, approval of renewal orders by the General
30 Assembly may be suspended under such dire emergency or disasters where it is not possible to convene a quorum of both
31 Houses of the General Assembly.

32 5. All orders and requests for renewal orders and amendments to such orders issued under this chapter shall
33 indicate the nature of the emergency or disaster, the geographical area or areas threatened, and the conditions which have
34 brought the emergency or disaster about or which make possible termination of the state of emergency.

35 6. An order terminating a state of emergency shall describe the reasons for termination, and shall be disseminated
36 as promptly as is practicable by means calculated to bring its contents to the attention of the general public and, unless the
37 circumstances attendant upon the emergency or disaster prevent or impede, shall be promptly logged with DEMA.
38 Emergency action ordered by the Governor in accordance with the Governor's constitutional and statutory authority shall
39 not be invalidated because of any failure to comply with the technical requirements for the logging or filing of emergency
40 orders.

41 7. Any non-weather related emergency order issued within 6 months of the termination of a prior emergency order
42 and based upon substantially similar reasons shall be invalid unless such new emergency order is approved by the General
43 Assembly.

44 8. Any non-weather related emergency order that requires the closure of any business, religious facility, or non-
45 profit facility must specifically delineate which type of entities and facilities are to be closed.

SYNOPSIS

This Act recognizes the statutory authority of the Governor to act in the event of an emergency or disaster. During protracted emergencies and disasters, particularly those lasting more than 30 days, good governance requires participation by the General Assembly to approve renewal of Emergency Orders. This approval requirement may be waived only when it is not possible for both houses of the General Assembly to convene a quorum. The Governor retains the authority to terminate Emergency Orders without approval when the emergency or disaster has passed. Any new non-weather related emergency order issued within 6 months of the termination of a prior order and based upon substantially similar reasons shall be invalid unless approved by the General Assembly. Additionally, any non-weather related emergency order that requires the closure of any business, industry, religious, or non-profit facility must specifically delineate which type of business or facilities are to be closed.