

SECOND REGULAR SESSION

# HOUSE BILL NO. 2331

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES SPRENG (Sponsor), CUNNINGHAM (145), VOGT, VILLA,  
LOWE (44), DARROUGH, ZIMMERMAN, LeVOTA AND ZWEIFEL (Co-sponsors).

Read 1st time March 3, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5306L.01I

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### AN ACT

To repeal sections 44.100, 361.240, and 362.048, RSMo, and to enact in lieu thereof three new sections relating to emergency response within financial institutions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 44.100, 361.240, and 362.048, RSMo, are repealed and three new  
2 sections enacted in lieu thereof, to be known as sections 44.100, 361.240, and 362.048, to read  
3 as follows:

44.100. 1. The emergency powers of the governor shall be as follows:

2 (1) The provisions of this section shall be operative only during the existence of a state  
3 of emergency (referred to in this section as "emergency"). The existence of an emergency may  
4 be proclaimed by the governor or by resolution of the legislature, if the governor in his  
5 proclamation, or the legislature in its resolution, finds that a natural or man-made disaster of  
6 major proportions has actually occurred within this state, and that the safety and welfare of the  
7 inhabitants of this state require an invocation of the provisions of this section.

8 (2) Any emergency, whether proclaimed by the governor or by the legislature, shall  
9 terminate upon the proclamation thereof by the governor, or the passage by the legislature, of a  
10 resolution terminating such emergency.

11 (3) During the period that the state of emergency exists or continues, the governor shall:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 12 (a) Enforce and put into operation all plans, rules and regulations relating to disasters and  
13 emergency management of resources adopted under this law and to assume direct operational  
14 control of all emergency forces and volunteers in the state;
- 15 (b) Take action and give directions to state and local law enforcement officers and  
16 agencies as may be reasonable and necessary for the purpose of securing compliance with the  
17 provisions of this law and with the orders, rules and regulations made pursuant thereof;
- 18 (c) Seize, take or requisition to the extent necessary to bring about the most effective  
19 protection of the public:
- 20 a. Any means of transportation, other than railroads and railroad equipment and fuel, and  
21 all fuel necessary for the propulsion thereof;
- 22 b. Any communication system or part thereof necessary to the prompt and efficient  
23 functioning of the emergency management of the state;
- 24 c. All stocks of fuel;
- 25 d. Facilities for housing, feeding and hospitalization of persons, including buildings and  
26 plants;
- 27 (d) Control, restrict and regulate by rationing, freezing, use of quotas, prohibitions on  
28 shipments, price fixing, allocation or other means the use, sale or distribution of food, feed, fuel,  
29 clothing and other commodities, materials, goods or services;
- 30 (e) Prescribe and direct activities in connection with but not limited to use, conservation,  
31 salvage and prevention of waste of materials, services and facilities, including production,  
32 transportation, power and communication facilities, training and supply of labor, utilization of  
33 industrial plants, health and medical care, nutrition, housing, including the use of existing and  
34 private facilities, rehabilitation, education, welfare, child care, recreation, consumer protection  
35 and other essential civil needs;
- 36 (f) [To] Use or distribute all or any of this property among the inhabitants of the state in  
37 any area adversely affected by a natural or man-made disaster and to account to the state treasurer  
38 for any funds received thereof;
- 39 (g) [To] Waive or suspend the operation of any statutory requirement or administrative  
40 rule regarding the licensing, certification or issuance of permits evidencing professional,  
41 mechanical or other skills;
- 42 (h) [To] Waive or suspend the operation of any statutory requirement or administrative  
43 rule prescribing procedures for conducting state business, where strict compliance with such  
44 requirements and rules would prevent, hinder, or delay necessary action by the department of  
45 health and senior services to respond to a declared emergency or increased health threat to the  
46 population;

47 (i) In accordance with rules or regulations, [to] provide that all law enforcement  
48 authorities and other emergency response workers and agencies of other states who may be  
49 within this state at the request of the governor or pursuant to state or local mutual-aid agreements  
50 or compacts shall have the same authority and possess the same powers, duties, rights, privileges  
51 and immunities as are possessed by like law enforcement authorities and emergency response  
52 workers and agencies of this state;

53 (j) [To] Perform and exercise such other functions, powers and duties as may be  
54 necessary to promote and secure the safety and protection of the civilian population;

55 **(k) Authorize the director of finance to waive or suspend the operation of any**  
56 **statutory requirement or administrative rule applicable to the division of finance, banking,**  
57 **and financial services and take action and give direction to banks and financial institutions,**  
58 **including coordinating actions with emergency responders, federal banking agencies, and**  
59 **state banking associations as may be reasonable and necessary to preserve the safety and**  
60 **soundness of banks and financial institutions; and facilitate disaster response and recovery**  
61 **efforts to serve essential civil needs and protect the public interest.**

62 2. When any property is seized, taken or requisitioned under this section, the circuit court  
63 of the county in which the property was taken may on the application of the owner thereof or on  
64 the application of the governor in cases where numerous claims may be filed, appoint three  
65 disinterested commissioners in the manner provided by section 523.040, RSMo, to assess the  
66 damages which the owners may have sustained by reason of the appropriation thereof. Upon the  
67 application the amount due because of the seizure of property shall be determined in the manner  
68 provided in chapter 523, RSMo, for the determination of damages in case of the exercise of the  
69 power of eminent domain.

361.240. 1. In any case in which the law makes the approval of the director a condition  
2 precedent to the doing of any act, unless otherwise provided by law, it shall lie within his sound  
3 discretion to grant or refuse his approval.

4 2. Such approval, if granted, shall be in writing and a copy thereof shall be filed in the  
5 office of the director.

6 **3. Whenever the director takes any action during a state of emergency authorized**  
7 **under section 44.100, RSMo, the director or his or her designee shall as soon as practicable,**  
8 **file written waivers, suspensions, actions, and directives in the office of the director.**

362.048. 1. The board of directors of any bank or trust company may adopt emergency  
2 bylaws, subject to repeal or change by action of the stockholders or directors as may be provided  
3 in the articles of agreement, which shall, notwithstanding any different provision elsewhere in  
4 this chapter or in the articles of agreement or bylaws, be operative during any emergency  
5 resulting from an attack on the United States or any nuclear or atomic disaster, **or during an**

6 **emergency authorized under section 44.100, RSMo. As soon as practicable, the board of**  
7 **directors or president of the bank or trust company shall notify the director of finance of**  
8 **the implementation of emergency bylaws and the status of the bank or trust company's**  
9 **operations and emergency response.** The emergency bylaws may make any provision that may  
10 be practical and necessary for the circumstances of the emergency, including provisions that:

11 (1) A meeting of the board of directors may be called by any officer or director in such  
12 manner and under such conditions as shall be prescribed in the emergency bylaws;

13 (2) The director or directors in attendance at the meeting, or any greater number fixed  
14 by the emergency bylaws, shall constitute a quorum; and

15 (3) The officers or other persons designated on a list approved by the board of directors  
16 before the emergency, all in such order of priority and subject to such conditions and for such  
17 period of time (not longer than reasonably necessary after the termination of the emergency) as  
18 may be provided in the emergency bylaws or in the resolution approving the list, shall, to the  
19 extent required to provide a quorum at any meeting of the board of directors, be deemed directors  
20 for such meeting.

21 2. The board of directors, either before or during any such emergency, may provide, and  
22 from time to time modify, lines of succession in the event that during such an emergency any or  
23 all officers or agents of the corporation shall for any reason be rendered incapable of discharging  
24 their duties.

25 3. The board of directors, either before or during any such emergency, may, effective in  
26 the emergency, change the office or designate several alternative officers, or authorize the  
27 officers so to do.

28 4. No officer, director, or employee acting in accordance with any emergency bylaws  
29 shall be liable except for willful misconduct.

30 5. To the extent not inconsistent with any emergency bylaws so adopted, the bylaws of  
31 the bank or trust company shall remain in effect during any emergency and upon its termination  
32 the emergency bylaws shall cease to be operative.

33 6. Unless otherwise provided in emergency bylaws, notice of any meeting of the board  
34 of directors during such an emergency may be given only to such of the directors as it may be  
35 feasible to reach at the time and by such means as may be feasible at the time, including  
36 publication or radio.

37 7. To the extent required to constitute a quorum at any meeting of the board of directors  
38 during such an emergency, the officers of the bank or trust company who are present shall, unless  
39 otherwise provided in emergency bylaws, be deemed, in order of rank and within the same rank  
40 in order of seniority, directors for such meeting.

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