

1 IN THE HOUSE

BY MR. TAYLOR

2 HOUSE BILL NO. 367

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act to provide, in the event of attack
7 upon the United States, for the continuity
8 of the executive and judicial functions of
9 the government of the state and the govern-
10 ments of political subdivisions of the
11 state by providing for additional officers
12 who can act as governor, emergency interi
13 succession to other executive offices of
14 the state and its political subdivisions,
15 and special emergency judges; and providing
16 for an effective date."

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

18 Section 1. SHORT TITLE. This Act shall be known and may be
19 cited as the "Emergency Interim Executive and Judicial Succession
20 Act."

21 Sec. 2. STATEMENT OF POLICY. Because of the existing possi-
22 bility of attack upon the United States of unprecedented size and
23 destructiveness, and in order, in the event of such an attack, to
24 assure continuity of government through legally constituted
25 leadership, authority and responsibility in offices of the govern-
26 ment of the state and its political subdivisions; to provide for
27 the effective operation of governments during an emergency; and
28 to facilitate the early resumption of functions temporarily sus-
29 pended, it is found and declared to be necessary to provide for

1 additional officers who can exercise the powers and discharge the
2 duties of governor; to provide for emergency interim succession
3 to governmental offices of this state and its political sub-
4 divisions in the event the incumbents thereof (and their deputies,
5 assistants or other subordinate officers authorized, pursuant to
6 law, to exercise all of the powers and discharge the duties of
7 such offices, hereinafter referred to as deputies) are unavailable
8 to perform the duties and functions of such offices; and to pro-
9 vide for special emergency judges who can exercise the powers and
10 discharge the duties of judicial offices in the event regular
11 judges are unavailable.

12 Sec. 3. DEFINITIONS. Unless otherwise clearly required by
13 the context, as used in this Act:

14 (1) "unavailable" means either that a vacancy in office
15 exists and there is no deputy authorized to exercise all of the
16 powers and discharge the duties of the office, or that the lawful
17 incumbent of the office (including any deputy exercising the
18 powers and discharging the duties of an office because of a
19 vacancy) and his duly authorized deputy are absent or unable to
20 exercise the powers and discharge the duties of the office;

21 (2) "emergency interim successor" means a person
22 designated pursuant to this Act, in the event the officer is un-
23 available, to exercise the powers and discharge the duties of an
24 office until a successor is appointed or elected and qualified as
25 may be provided by the constitution, statutes, charters and
26 ordinances or until the lawful incumbent is able to resume the
27 exercise of the powers and discharge the duties of the office;

28 (3) "office" includes all state and local offices, the
29 powers and duties of which are defined by the constitution,

1 statutes, charters, and ordinances, except the office of governor,
2 and except those in the legislature and the judiciary;

3 (4) "attack" means any attack or series of attacks by
4 an enemy of the United States causing, or which may cause, sub-
5 stantial damage or injury to civilian property or persons in the
6 United States in any manner by sabotage or by the use of bombs,
7 missiles, shellfire, or atomic, radiological, chemical, bacteri-
8 ological, or biological means or other weapons or processes;

9 (5) "political subdivision" includes boroughs, cities,
10 towns, and villages, and other public corporations and entities
11 whether organized and existing under charter or general law.

12 Sec. 4. SUCCESSORS TO OFFICE OF GOVERNOR. In the event that
13 the governor, for any reasons specific in the constitution or by
14 statute, is not able to exercise the powers and discharge the
15 duties of his office, or is unavailable, and the secretary of
16 state and the designee of the governor to succeed the secretary
17 of state pursuant to provisions of Ch. 74, SLA 1959, are unable
18 or unavailable to exercise the powers and discharge the duties
19 of the office of governor, the speaker of the house of representa-
20 tives and the president of the senate shall, in the order named,
21 if the preceding officers be unavailable, exercise the powers and
22 discharge the duties of the office of governor until a new
23 governor is elected and qualified, or until a preceding named
24 officer becomes available. No emergency interim successor to the
25 aforementioned offices may serve as governor.

26 Sec. 5. EMERGENCY INTERIM SUCCESSORS FOR STATE OFFICERS.
27 All state officers, subject to such regulations as the governor,
28 or other official authorized under the constitution and this Act
29 to exercise the powers and discharge the duties of the office of

1 governor, may issue, shall, upon approval of this Act, in addition
2 to any deputy authorized pursuant to law to exercise all of the
3 powers and discharge the duties of the office, designate by title
4 emergency interim successors and specify their order of succes-
5 sion. The officer shall review and revise, as necessary, designa-
6 tions made pursuant to this Act to insure their current status.
7 The officer will designate a sufficient number of such emergency
8 interim successors so that there will be not less than three nor
9 more than five such deputies or emergency interim successors or
10 any combination thereof, at any time. In the event that any
11 state officer is unavailable following an attack, and in the event
12 his deputy, if any, is also unavailable, the powers of his office
13 shall be exercised and said duties of his office shall be dis-
14 charged by his designated emergency interim successors in the
15 order specified. Such emergency interim successors shall exercise
16 the powers and discharge the duties only until such time as the
17 governor under the constitution or authority other than this Act,
18 or other official authorized under the constitution or this Act
19 to exercise the powers and discharge the duties of the office of
20 governor, may, where a vacancy exists, appoint a successor to fill
21 the vacancy or until a successor is otherwise appointed and quali-
22 fied as provided by law; or an officer, or his deputy or a pre-
23 ceding named emergency interim successor, becomes available to
24 exercise or resume the exercise of the powers and discharge the
25 duties of his office.

26 Sec. 6. ENABLING AUTHORITY FOR EMERGENCY INTERIM SUCCESSORS
27 FOR LOCAL OFFICES. With respect to local offices for which the
28 legislative bodies of boroughs, cities, towns, and villages may
29 enact resolutions or ordinances relative to the manner in which

1 vacancies will be filled or temporary appointments to office made,
2 such legislative bodies are hereby authorized to enact resolu-
3 tions or ordinances providing for emergency interim successors
4 to offices of the aforementioned governmental units. Such reso-
5 lutions and ordinances shall not be inconsistent with the
6 provisions of the Act.

7 Sec. 7. EMERGENCY INTERIM SUCCESSORS FOR LOCAL OFFICERS.
8 The provisions of this section shall be applicable to officers of
9 political subdivisions (including, but not limited to, boroughs,
10 cities, towns, and villages). Such officers, subject to such
11 regulations as the executive head of the political subdivision
12 may issue, shall upon approval of this Act, designate by title
13 or by named person, emergency interim successors and specify their
14 order of succession. The officer shall review and revise, as
15 necessary, designations made pursuant to this Act to insure their
16 current status. The officer will designate a sufficient number
17 of persons so that there will be not less than three, nor more
18 than seven, deputies or emergency interim successors or any com-
19 bination thereof, at any time. In the event that any officer of
20 any political subdivision, or his deputy provided for pursuant
21 to law, is unavailable, the powers of the office shall be exer-
22 cised and duties shall be discharged by his designated emergency
23 interim successors in the order specified. The emergency interim
24 successor shall exercise the powers and discharge the duties of
25 the office to which designated until such time as a vacancy which
26 may exist shall be filled in accordance with the constitution or
27 statutes; or until the officer, or his deputy or a preceding
28 emergency interim successor, again becomes available to exercise
29 the powers and discharge the duties of his office.

1 Sec. 8. SPECIAL EMERGENCY JUDGES. In the event that any
2 judge of any court is unavailable to exercise the powers and dis-
3 charge the duties of his office, and in the event no other judge
4 authorized to act in the event of absence, disability or vacancy
5 or no special judge appointed in accordance with the provisions
6 of the constitution or statutes is available to exercise the
7 powers and discharge the duties of such office, the duties of the
8 office shall be discharged and the powers exercised by the special
9 emergency judges hereinafter provided for:

10 (1) the governor, upon approval of this Act, and upon
11 nominations submitted to him by the judicial council, shall
12 designate for each member of the supreme court and the superior
13 court, not less than three nor more than five emergency judges
14 for each member of the supreme and superior courts, and shall
15 specify the order of their succession;

16 (2) the presiding judge of each district of the
17 superior court shall, upon approval of this Act, designate for
18 each magistrate court special emergency magistrates and deputy
19 magistrates in the number of not less than two nor more than four
20 for each magistrate and deputy magistrate authorized by law for
21 the district and specify their order of succession.

22 Sec. 9. EMERGENCY JUDGES: POWERS AND DUTIES. The special
23 emergency judges shall, in the order specified, exercise the
24 powers and discharge the duties of such office in case of the
25 unavailability of the regular judge or judges or persons immedi-
26 ately preceding them in the designation. The designating author-
27 ity shall review and revise, as necessary, designations made
28 pursuant to this Act to insure their current status. The special
29 emergency judges shall discharge the duties and exercise the

1 powers of such office until such time as a vacancy which may
2 exist shall be filled in accordance with the constitution and
3 statutes or until the regular judge or one preceding the designee
4 in the order of succession becomes available to exercise the
5 powers and discharge the duties of the office.

6 Sec. 10. FORMALITIES OF TAKING OFFICE. At the time of their
7 designation, emergency interim successors and special emergency
8 judges shall take such oath as may be required for them to exer-
9 cise the powers and discharge the duties of the office to which
10 they may succeed. Notwithstanding any other provision of law,
11 no person, as a prerequisite to the exercise of the powers or
12 discharge of the duties of an office to which he succeeds, shall
13 be required to comply with any other provision of law relative to
14 taking office.

15 Sec. 11. PERIOD IN WHICH AUTHORITY MAY BE EXERCISED. Offi-
16 cials authorized to act as governor pursuant to this Act,
17 emergency interim successors and special emergency judges are
18 empowered to exercise the powers and discharge the duties of an
19 office as herein authorized only after an attack upon the United
20 States, as defined herein, has occurred. The legislature by
21 joint resolution, may at any time terminate the authority of
22 said emergency interim successors and special emergency judges
23 to exercise the powers and discharge the duties of office as
24 herein provided.

25 Sec. 12. REMOVAL OF DESIGNEES. Until such time as the
26 persons designated as emergency interim successors or special
27 emergency judges are authorized to exercise the powers and
28 discharge the duties of an office in accordance with this Act,
29 including Sec. 11 hereof, said persons shall serve in their

1 designated capacities at the pleasure of the designating author-
2 ity and may be removed or replaced by said designating authority
3 at any time, with or without cause.

4 Sec. 13. DISPUTES. Any dispute concerning a question of
5 fact arising under this Act with respect to an office in the
6 executive branch of the state government (except a dispute of
7 fact relative to the office of governor) shall be adjudicated by
8 the governor, or other official authorized under the constitution
9 and this Act to exercise the powers and discharge the duties of
10 the office of governor, and his decision shall be final.

11 Sec. 14. EFFECTIVE DATE. This Act takes effect on the
12 day after its passage and approval or on the day it becomes
13 law without such approval.

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