WEST VIRGINIA CODE CHAPTER 6A ARTICLE 1

WV Legislature

§6A-1-1. Short title.

This article shall be known and may be cited as the "Emergency Interim Executive and Judicial Succession Act."

WV Legislature

§6A-1-2. 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, to assure continuity of government through legally constituted leadership, authority and responsibility in offices of the government of the state and its political subdivisions; to provide for the effective operation of government during such an emergency; and to facilitate the early resumption of functions temporarily suspended, it is found and declared to be necessary to provide for additional officers who can exercise the powers and discharge the duties of Governor; to provide for emergency interim succession to governmental offices of this state and its political subdivisions in the event of 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, assistants, or otherwise, are unavailable to perform the duties and functions of such offices; and to provide for special emergency judges who can exercise the powers and discharge the duties of judicial offices in the event regular judges are unavailable.

WV Legislature

§6A-1-3. Definitions.

Unless otherwise clearly required by the context, as used in this article:

(a) "Unavailable" means either that a vacancy in 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, including any deputy exercising the powers and discharging the duties of an office because of a vacancy and his duly authorized deputy, are absent or unable to exercise the powers and discharge the duties of the office.

(b) "Emergency interim successor" means a person designated pursuant to this article, in the event the officer is unavailable, to exercise the powers and discharge the duties of an office until a successor is appointed or elected and qualified as may be provided by the Constitution, statutes, charters and ordinances or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office.

(c) "Office" includes all state and local offices, the powers and duties of which are defined by the Constitution, statutes, charters, and ordinances, except the office of Governor, and except those in the Legislature and the judiciary.

(d) "Attack" means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damages 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.

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

WV Legislature

§6A-1-4. Additional successors to office of Governor.

(a) In the event that the Governor, for any of the reasons specified in the Constitution, is not able to exercise the powers and discharge the duties of his or her office, or is unavailable, then the President of the Senate shall act as Governor, and if the President of the Senate, for any of the reasons specified in the Constitution, is not able to exercise the powers and discharge the duties of the office of Governor, or is unavailable, then the Speaker of the House of Delegates shall act as Governor, and if the Speaker of the House of Delegates, for any of the reasons specified in the Constitution, is not able to exercise and discharge the duties of the office of Governor, or is unavailable, then the Attorney General, the State Auditor, and resident ex-Governors of this state, in inverse order of service, shall, in the order named, if the preceding named officers be unavailable, exercise the powers and discharge the duties of the office of Governor until a new Governor is elected and qualified, or until a preceding named officer becomes available.

(b) The Legislature recognizes that pursuant to the provisions of subsection (a) of this section, the President of the Senate is charged with the responsibility of first successor to the Governor in the event the Governor is unable to exercise the powers and discharge the duties of his or her office and in that regard, the President of the Senate is functioning similarly to a lieutenant Governor. Therefore, the Legislature determines that the President of the Senate shall be additionally designated the title of "lieutenant Governor" in acknowledgment of the president's responsibility as first successor to the Governor.

WV Legislature

§6A-1-5. Emergency interim successors for state officers.

All state officers, subject to such regulations as the Governor may issue, shall, upon approval of this article, in addition to any deputy authorized pursuant to law to exercise all of the powers and discharge the duties of the office, designate by title emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this article to insure their current status. The officer will designate a sufficient number of such emergency interim successors so that there will be not less than three nor more than seven such deputies or emergency interim successors or any combination thereof at any time. In the event of an attack, and in the event that any state officer or his deputy, if any, is unavailable following such an attack, the said powers of his office shall be exercised and said duties of his office shall be discharged by his designated emergency interim successors in the order specified. Such emergency interim successors shall exercise said powers and discharge said duties only until such time as the Governor under the Constitution or authority other than this article or other official authorized under the Constitution or this article to exercise the powers and discharge the duties of the office of Governor may, where a vacancy exists, appoint a successor to fill the vacancy or until a successor is otherwise appointed, or elected, and qualified as provided by law; or an officer or his deputy or a preceding named emergency interim successor becomes available to exercise or resume the exercise of the powers and discharge the duties of his office.

WV Legislature

§6A-1-6. Enabling authority for emergency interim successors for local offices.

With respect to local offices for which the governing bodies of cities, towns, and counties may enact resolutions or ordinances relative to the manner in which vacancies will be filled or temporary appointments to office made, such governing bodies are hereby authorized to enact resolutions or ordinances providing for emergency interim successors to offices of the aforementioned governmental units. Such resolutions and ordinances shall not be inconsistent with the provisions of this article or any other statute of this state.

WV Legislature

§6A-1-7. Emergency interim successors for local officers.

The provisions of this section shall be applicable to officers of political subdivisions, including, but not limited to, cities, towns, and counties, as well as fire, power and drainage and other types of districts not included in section six. Such officers, subject to such regulations as the governing body may issue, shall, upon approval of this article, designate by title, if feasible, or by named person, emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this article to insure their current status. The officer will designate a sufficient number of persons so that there will be not less than three, nor more than seven, deputies or emergency interim successors or any combination thereof at any time. In the event of an attack, and in the event that any officer of any political subdivision or his deputy provided for pursuant to law is unavailable, the powers of the office shall be exercised and duties shall be discharged by his designated emergency interim successors in the order specified. The emergency interim successor shall exercise the powers and discharge the duties of the office to which designated until such time as a vacancy which may exist shall be filled in accordance with the Constitution or statutes; or until the officer or his deputy or a preceding emergency interim successor again becomes available to exercise the powers and discharge the duties of his office.

WV Legislature

§6A-1-8. Special emergency judges.

In the event of an attack and in the event that any judge of any court of record is unavailable to exercise the powers and discharge the duties of his office, and in the event no other judge authorized to act in the event of absence, disability or vacancy or no special judge appointed in accordance with the provisions of the Constitution or statutes is available to exercise the powers and discharge the duties of such office, the duties of the office shall be discharged and the powers exercised by the special emergency judges hereinafter provided for:

(a) Each member of the state Supreme Court of Appeals shall designate special emergency judges in the number of not less than three nor more than seven to serve in the event that he becomes unavailable, and shall specify the order of their succession by order duly entered in the Supreme Court of Appeals.

(b) The special emergency interim judges of all other courts of record shall be elected by the attorneys practicing within the jurisdiction of said courts.

Such special emergency judges of the Supreme Court of Appeals shall, in the order specified, exercise the powers and discharge the duties of such office in case of the unavailability of the regular judge or judges or persons immediately preceding them in the designation. The designating authority shall review and revise, as necessary, designations made pursuant to this article to insure their current status.

Said special emergency judges shall discharge the duties and exercise the powers of such office until such time as a vacancy which may exist shall be filled in accordance with the Constitution and statutes or until the regular judge or one preceding the designee in the order of succession becomes available to exercise the powers and discharge the duties of the office.

WV Legislature

§6A-1-9. Formalities of taking office.

At the time of their designation, emergency interim successors and special emergency judges shall take such oath as may be required for them to exercise the powers and discharge the duties of the office to which they may succeed. Notwithstanding any other provision of law, no person, as a prerequisite to the exercise of the powers or discharge of the duties of an office to which he succeeds, shall be required to comply with any other provision of law relative to taking office.

WV Legislature

§6A-1-10. Period in which authority may be exercised.

Officials authorized to act as Governor pursuant to this article, emergency interim successors and special emergency judges are empowered to exercise the powers and discharge the duties of an office as herein authorized only after an attack upon the United States, as defined herein, has occurred. The Legislature, by concurrent resolution, may at any time terminate the authority of said emergency interim successors and special emergency judges to exercise the powers and discharge the duties of office as herein provided.

WV Legislature

§6A-1-11. Removal of designees.

Until such time as the persons designated as emergency interim successors or special emergency judges are authorized to exercise the powers and discharge the duties of an office in accordance with this article, including section ten hereof, said persons shall serve in their designated capacities at the pleasure of the designating authority and may be removed or replaced by said designating authority at any time, with or without cause.

WV Legislature

§6A-1-12. Disputes.

Any dispute concerning a question of fact arising under this article with respect to an office in the executive branch of the state government except a dispute of fact relative to the office of Governor shall be adjudicated by the Governor or other official authorized under the Constitution and this article to exercise the powers and discharge the duties of the office of Governor and his decision shall be final.

WV Legislature

§6A-1-13. Separability.

The various provisions of this article shall be construed as separable and severable, and should any of the provisions or parts thereof be construed or held unconstitutional or for any reason be invalid, the remaining provisions of this article shall not be thereby affected.

WV Legislature