

DECLARED EMERGENCY AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark B. Madsen

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of law relating to a state of emergency or a local emergency.

Highlighted Provisions:

This bill:

- ▶ provides that, notwithstanding an order to evacuate or leave real or personal property during a state of emergency or a local emergency, a person who owns the property, or an interest in the property, may remain on, in, or with the property, but the person assumes the risk that emergency responders may not provide, or may not timely provide, emergency services to the person or property during the state of emergency or the local emergency; and

- ▶ removes a provision making it a class B misdemeanor to refuse to comply with an order to evacuate.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63K-4-201, as last amended by Laws of Utah 2010, Chapter 370



28 **63K-4-202**, as renumbered and amended by Laws of Utah 2008, Chapter 382
29 **76-8-317**, as last amended by Laws of Utah 2010, Chapter 370



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **63K-4-201** is amended to read:

33 **63K-4-201. Authority of governor -- Federal assistance -- Fraud or willful**
34 **misstatement in application for financial assistance -- Penalty.**

35 (1) In addition to any other authorities conferred upon the governor, if the governor
36 issues an executive order declaring a state of emergency, the governor may:

37 (a) utilize all available resources of state government as reasonably necessary to cope
38 with a state of emergency;

39 (b) employ measures and give direction to state and local officers and agencies which
40 are reasonable and necessary for the purpose of securing compliance with the provisions of this
41 act and with orders, rules and regulations made pursuant to this act;

42 (c) recommend and advise the evacuation of all or part of the population from any
43 stricken or threatened area within the state if necessary for the preservation of life;

44 (d) recommend routes, modes of transportation, and destination in connection with
45 evacuation;

46 (e) in connection with evacuation, suspend or limit the sale, dispensing, or
47 transportation of alcoholic beverages, explosives, and combustibles, not to include the lawful
48 bearing of arms;

49 (f) control ingress and egress to and from a disaster area, the movement of persons
50 within the area, and recommend the occupancy or evacuation of premises in a disaster area;

51 (g) clear or remove from publicly or privately owned land or water debris or wreckage
52 that is an immediate threat to public health, public safety, or private property, including
53 allowing an employee of a state department or agency designated by the governor to enter upon
54 private land or waters and perform any tasks necessary for the removal or clearance operation if
55 the political subdivision, corporation, organization, or individual that is affected by the removal
56 of the debris or wreckage:

57 (i) presents an unconditional authorization for removal of the debris or wreckage from
58 private property; and

- 59 (ii) agrees to indemnify the state against any claim arising from the removal of the
- 60 debris or wreckage;
- 61 (h) enter into agreement with any agency of the United States:
- 62 (i) for temporary housing units to be occupied by victims of a state of emergency or
- 63 persons who assist victims of a state of emergency; and
- 64 (ii) to make the housing units described in Subsection (1)(h)(i) available to a political
- 65 subdivision of this state;
- 66 (i) assist any political subdivision of this state to acquire sites and utilities necessary for
- 67 temporary housing units described in Subsection (1)(h)(i) by passing through any funds made
- 68 available to the governor by an agency of the United States for this purpose;
- 69 (j) subject to Sections 63K-4-401 and 63K-4-406, temporarily suspend or modify by
- 70 executive order, during the state of emergency, any public health, safety, zoning, transportation,
- 71 or other requirement of a statute or administrative rule within this state if such action is
- 72 essential to provide temporary housing described in Subsection (1)(h)(i);
- 73 (k) upon determination that a political subdivision of the state will suffer a substantial
- 74 loss of tax and other revenues because of a state of emergency and the political subdivision so
- 75 affected has demonstrated a need for financial assistance to perform its governmental
- 76 functions, in accordance with Utah Constitution, Article XIV, Sections 3 and 4, and Section
- 77 10-8-6:
- 78 (i) apply to the federal government for a loan on behalf of the political subdivision if
- 79 the amount of the loan that the governor applies for does not exceed 25% of the annual
- 80 operating budget of the political subdivision for the fiscal year in which the state of emergency
- 81 occurs; and
- 82 (ii) receive and disburse the amount of the loan to the political subdivision;
- 83 (l) accept funds from the federal government and make grants to any political
- 84 subdivision for the purpose of removing debris or wreckage from publicly owned land or
- 85 water;
- 86 (m) upon determination that financial assistance is essential to meet expenses related to
- 87 a state of emergency of individuals or families adversely affected by the state of emergency that
- 88 cannot be sufficiently met from other means of assistance, apply for, accept, and expend a grant
- 89 by the federal government to fund the financial assistance, subject to the terms and conditions

90 imposed upon the grant; or

91 (n) recommend to the Legislature other actions the governor considers to be necessary
92 to address a state of emergency.

93 (2) A person who fraudulently or willfully makes a misstatement of fact in connection
94 with an application for financial assistance under this section shall, upon conviction of each
95 offense, be subject to a fine of not more than \$5,000 or imprisonment for not more than one
96 year, or both.

97 (3) (a) Notwithstanding an order to evacuate or leave real or personal property under
98 this section, a person who owns the property, or an interest in the property, may remain on, in,
99 or with the property.

100 (b) A person who chooses to remain on, in, or with property under Subsection (3)(a)
101 assumes the risk that emergency responders may not provide, or may not timely provide,
102 emergency services to the person or the property during a state of emergency.

103 Section 2. Section **63K-4-202** is amended to read:

104 **63K-4-202. Authority of chief executive officers of political subdivisions --**
105 **Ordering of evacuations.**

106 (1) (a) In order to protect life and property when a state of emergency or local
107 emergency has been declared, the chief executive officer of each political subdivision of the
108 state is authorized to:

109 (i) carry out, in the chief executive officer's jurisdiction, the measures as may be
110 ordered by the governor under this chapter; and

111 (ii) take any additional measures the chief executive officer may consider necessary,
112 subject to the limitations and provisions of this chapter.

113 (b) The chief executive officer may not take an action that is inconsistent with any
114 order, rule, regulation, or action of the governor.

115 (2) When a state of emergency or local emergency is declared, the authority of the chief
116 executive officer includes:

117 (a) utilizing all available resources of the political subdivision as reasonably necessary
118 to manage a state of emergency or local emergency;

119 (b) employing measures and giving direction to local officers and agencies which are
120 reasonable and necessary for the purpose of securing compliance with the provisions of this

121 chapter and with orders, rules, and regulations made under this chapter;

122 (c) if necessary for the preservation of life, issuing an order for the evacuation of all or
123 part of the population from any stricken or threatened area within the political subdivision;

124 (d) recommending routes, modes of transportation, and destinations in relation to an
125 evacuation;

126 (e) suspending or limiting the sale, dispensing, or transportation of alcoholic beverages,
127 explosives, and combustibles in relation to an evacuation, except that the chief executive
128 officer may not restrict the lawful bearing of arms;

129 (f) controlling ingress and egress to and from a disaster area, controlling the movement
130 of persons within a disaster area, and ordering the occupancy or evacuation of premises in a
131 disaster area;

132 (g) clearing or removing debris or wreckage that may threaten public health, public
133 safety, or private property from publicly or privately owned land or waters, except that where
134 there is no immediate threat to public health or safety, the chief executive officer shall not
135 exercise this authority in relation to privately owned land or waters unless:

136 (i) the owner authorizes the employees of designated local agencies to enter upon the
137 private land or waters to perform any tasks necessary for the removal or clearance; and

138 (ii) the owner provides an unconditional authorization for removal of the debris or
139 wreckage and agrees to indemnify the local and state government against any claim arising
140 from the removal; and

141 (h) invoking the provisions of any mutual aid agreement entered into by the political
142 subdivision.

143 (3) (a) If the chief executive is unavailable to issue an order for evacuation under
144 Subsection (2)(c), the chief law enforcement officer having jurisdiction for the area may issue
145 an urgent order for evacuation, for a period not to exceed 36 hours, if the order is necessary for
146 the preservation of life.

147 (b) The chief executive officer may ratify, modify, or revoke the chief law enforcement
148 officer's order.

149 (4) Notice of an order or the ratification, modification, or revocation of an order issued
150 under this section shall be:

151 (a) given to the persons within the jurisdiction by the most effective and reasonable

152 means available; and

153 (b) filed in accordance with Subsection 63K-4-401(1).

154 (5) (a) Notwithstanding an order to evacuate or leave real or personal property under
155 this section, a person who owns the property, or an interest in the property, may remain on, in,
156 or with the property.

157 (b) A person who chooses to remain on, in, or with property under Subsection (5)(a)
158 assumes the risk that emergency responders may not provide, or may not timely provide,
159 emergency services to the person or the property during a state of emergency or a local
160 emergency.

161 Section 3. Section **76-8-317** is amended to read:

162 **76-8-317. Refusal to comply with order issued in a local or state emergency --**
163 **Penalties.**

164 (1) [A] Except for refusal to comply with an order to evacuate, a person may not refuse
165 to comply with an order [to evacuate] issued under this chapter [or refuse to comply with any
166 other], an order issued by the governor in a state of an emergency under Section 63K-4-201, or
167 an order issued by a chief executive officer in a local emergency under Section 63K-4-202, if
168 notice of the order has been given to that person.

169 (2) A person who violates this section is guilty of a class B misdemeanor.

Legislative Review Note
as of 2-18-13 9:56 AM

Office of Legislative Research and General Counsel