

# STATE OF NEW YORK

3878

2021-2022 Regular Sessions

## IN SENATE

February 1, 2021

Introduced by Sens. GRIFFO, GALLIVAN, AKSHAR, BORRELLO, JORDAN, LANZA, O'MARA, RITCHIE, TEDISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the executive law, in relation to the length of time of a state disaster emergency declaration, requiring the governor to transmit a weekly report to the legislature during a state disaster emergency, and the communication between the governor and parties affected by a suspension of laws during a state disaster emergency

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 3 of section 28 of the executive law, as added by chapter 640 of the laws of 1978 and as renumbered by chapter 708 of the laws of 1981, is amended to read as follows:

3. The executive order shall include a description of the disaster, and the affected area. Such order or orders shall remain in effect for a period not to exceed [~~six months~~] thirty days or until rescinded by the governor, whichever occurs first, except in accordance with subdivision three of section twenty-eight-b of this article. The governor [~~may issue~~] shall request additional orders to extend the state disaster emergency for additional periods not to exceed [~~six months~~] thirty days.

§ 2. The executive law is amended by adding a new section 28-b to read as follows:

§ 28-b. Term of state disaster emergency declaration. 1. The period for which a declaration of a state disaster emergency, as defined in paragraph b of subdivision two of section twenty of this article, shall be for no more than thirty calendar days, except in accordance with subdivision three of this section. After the thirty day period, if the governor shall deem it necessary to continue the declaration, he or she shall seek the approval of the senate and the assembly to continue such declaration for an additional thirty days. The governor may seek the

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [~~-~~] is old law to be omitted.

LBD02213-01-1

1 approval of the senate and the assembly as many times as is necessary to  
2 address a state disaster emergency and to continue such a declaration.

3 2. The governor shall not issue a state disaster emergency declaration  
4 for more than thirty days, except in accordance with subdivision three  
5 of this section.

6 3. In the event that the governor requests the approval of the senate  
7 and the assembly to continue a declaration of a state disaster emergen-  
8 cy pursuant to subdivision one of this section, and the legislature is  
9 not in session, then the governor shall call upon the temporary presi-  
10 dent of the senate and the speaker of the assembly to convene a special  
11 session for the purpose of considering legislative authorization for the  
12 governor to extend the disaster declaration for an additional thirty  
13 days. In the event that the temporary president of the senate and the  
14 speaker of the assembly inform the governor that a quorum of both the  
15 senate and the assembly cannot be met, or in the event that the tempo-  
16 rary president of the senate and/or the speaker of the assembly, due to  
17 death or disability, are unable to respond to such request from the  
18 governor, then the governor shall have the authority to continue the  
19 declaration until such time as the senate and assembly can convene.

20 § 3. Subdivision 2 of section 29-a of the executive law, as amended by  
21 chapter 23 of the laws of 2020, is amended to read as follows:

22 2. Suspensions pursuant to subdivision one of this section shall be  
23 subject to the following standards and limits, which shall apply to any  
24 directive where specifically indicated:

25 a. no suspension or directive shall be made for a period in excess of  
26 thirty days, provided, however, that upon reconsideration of all of the  
27 relevant facts and circumstances, by and with the approval of the senate  
28 and the assembly in accordance with the provisions of subdivisions one  
29 and three of section twenty-eight-b of this article, the governor may  
30 extend the suspension for additional periods not to exceed thirty days  
31 each;

32 b. no suspension or directive shall be made which is not in the inter-  
33 est of the health or welfare of the public and which is not reasonably  
34 necessary to aid the disaster effort;

35 c. any such suspension order shall specify the statute, local law,  
36 ordinance, order, rule or regulation or part thereof to be suspended and  
37 the terms and conditions of the suspension;

38 d. the order may provide for such suspension only under particular  
39 circumstances, and may provide for the alteration or modification of the  
40 requirements of such statute, local law, ordinance, order, rule or regu-  
41 lation suspended, and may include other terms and conditions;

42 e. any such suspension order or directive shall provide for the mini-  
43 mum deviation from the requirements of the statute, local law, ordi-  
44 nance, order, rule or regulation suspended consistent with the goals of  
45 the disaster action deemed necessary; [~~and~~]

46 f. when practicable, specialists shall be assigned to assist with the  
47 related emergency actions to avoid needless adverse effects resulting  
48 from such suspension[~~-~~]; and

49 g. the order may only be issued after the governor has solicited input  
50 from and communicated such action to the parties to be affected by such  
51 suspension, including but not limited to local governments, individuals,  
52 businesses, associations and others who are governed by the suspended  
53 law.

54 § 4. Subdivision 2 of section 29-a of the executive law, as added by  
55 chapter 640 of the laws of 1978, is amended to read as follows:

1 2. Suspensions pursuant to subdivision one of this section shall be  
2 subject to the following standards and limits:

3 a. no suspension shall be made for a period in excess of thirty days,  
4 provided, however, that upon reconsideration of all of the relevant  
5 facts and circumstances, the governor may extend the suspension for  
6 additional periods not to exceed thirty days each in accordance with the  
7 provisions of subdivisions one and three of section twenty-eight-b of  
8 this article;

9 b. no suspension shall be made which does not safeguard the health and  
10 welfare of the public and which is not reasonably necessary to the  
11 disaster effort;

12 c. any such suspension order shall specify the statute, local law,  
13 ordinance, order, rule or regulation or part thereof to be suspended and  
14 the terms and conditions of the suspension;

15 d. the order may provide for such suspension only under particular  
16 circumstances, and may provide for the alteration or modification of the  
17 requirements of such statute, local law, ordinance, order, rule or regu-  
18 lation suspended, and may include other terms and conditions;

19 e. any such suspension order shall provide for the minimum deviation  
20 from the requirements of the statute, local law, ordinance, order, rule  
21 or regulation suspended consistent with the disaster action deemed  
22 necessary; [~~and~~]

23 f. when practicable, specialists shall be assigned to assist with the  
24 related emergency actions to avoid needless adverse effects resulting  
25 from such suspension[~~;~~]; and

26 g. the order may only be issued after the governor has solicited input  
27 from and communicated such action to the parties to be affected by such  
28 suspension, including but not limited to local governments, individuals,  
29 businesses, associations and others who are governed by the suspended  
30 law.

31 § 5. The executive law is amended by adding a new section 29-1 to read  
32 as follows:

33 § 29-1. Weekly report of governor to the legislature. The governor  
34 shall transmit a weekly report on all suspension of laws, all executive  
35 actions, all executive decisions, and all communications of the gover-  
36 nor, his agencies and affected parties in relation to the state disaster  
37 emergency declaration, on a weekly basis. Such report, including all  
38 information included in such report, shall be transmitted both electron-  
39 ically and by mail or courier to each individual member of the senate  
40 and assembly weekly.

41 § 6. This act shall take effect immediately; provided, however, that  
42 the amendments to subdivision 2 of section 29-a of the executive law  
43 made by section three of this act shall be subject to the expiration and  
44 reversion of such section pursuant to section 4 of chapter 23 of the  
45 laws of 2020, as amended, when upon such date the provisions of section  
46 four of this act shall take effect.