

**39D.040 Emergency interim successors -- Order of successions -- Vacancies -- Applicability of statute to all special districts and political subdivisions.**

- (1) As used in this section, unless the context clearly requires otherwise:
  - (a) "Emergency interim successor" means a person designated under this section, if an officer is unavailable, to exercise the powers and discharge the duties of that office until a successor is appointed or elected and qualified as provided by law, or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office.
  - (b) "Office" includes all state and local offices, the powers and duties of which are defined by law, except the office of Governor, and except those in the General Assembly and the judiciary. An "officer" is a person who holds an office.
  - (c) "Political subdivision" includes counties, urban-counties, charter counties, cities, special districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.
  - (d) "Unavailable" means that during a state of emergency either:
    1. 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
    2. That the lawful incumbent of the office and any duly authorized deputy are absent or unable to exercise the powers and discharge the duties of the office.
- (2) Subject to administrative regulations of the Governor, all state officers, shall, in addition to any deputy authorized 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 section to ensure their current status. The officer shall designate a sufficient number of emergency interim successors so that there will be not fewer than three (3) nor more than seven (7) deputies or emergency interim successors or any combination thereof, at any time. If any state officer is unavailable following an emergency, and if a deputy, if any, is also unavailable, the powers of office shall be exercised and the duties of office shall be discharged by any designated emergency interim successors in the order specified. The emergency interim successors shall exercise the powers and discharge the duties only until such time as the Governor under the Constitution or authority other than this section, or other official authorized under the Constitution or this section to exercise the powers and discharge the duties of the office of Governor has, where a vacancy exists, appointed a successor to fill the vacancy, or until a successor is otherwise appointed, or elected and qualified as provided by law, or until an officer or any deputy or a preceding named emergency interim successor becomes available to exercise, or resume the exercise and discharge of, the powers and duties of the office.
- (3) Each cabinet and each department of state government, and each agency of state government shall appoint not fewer than three (3) nor more than seven (7)

emergency interim successors for each position specified in the Kentucky Emergency Operations Plan and the internal emergency operations procedures for that department or agency. Emergency interim successors in the order of the succession shall have the full power to exercise all powers of their department or agency and to commit its resources during a time of emergency or disaster if the person normally exercising the position becomes unavailable. If the preceding emergency successor becomes unavailable he or she shall resume all duties from the emergency interim successor, unless he or she chooses to permit the emergency interim successor to remain in the position until relieved.

- (4) The local legislative bodies of cities, counties, urban-counties, and charter counties shall enact ordinances or orders governing the manner in which vacancies in offices and employment shall be filled, and for the prompt filling thereof during times of disaster and emergency, if the filling of these vacancies is not otherwise provided for by law. The legislative bodies shall enact ordinances providing for the appointment of not fewer than three (3) nor more than seven (7) emergency interim successors for each local office, department, and agency specified in the Kentucky Emergency Operations Plan and local emergency operations plans and annexes thereto. Emergency interim successors, in the order of their successions, shall have the full power to exercise all powers of the office, department, or agency and to commit its resources during a time of emergency or disaster if the person normally exercising the position is unavailable. If the preceding emergency successor becomes available, he or she shall resume the duties being performed by the emergency interim successor, unless he or she chooses to permit the emergency interim successor to remain in the position until relieved. The administrative orders and ordinances shall not be inconsistent with this section.
- (5) This section applies to officers of all special districts and political subdivisions not included in subsection (4) of this section. The officers, subject to such administrative regulations as the executive head of the political subdivision promulgates, shall 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 section to ensure their current status. The officer shall designate a sufficient number of persons so that there will be not fewer than three (3) nor more than seven (7) deputies or emergency interim successors or any combination thereof at any time. If any officer of any political subdivision or any deputy provided for pursuant to law is unavailable, the powers of the office shall be exercised and duties shall be discharged by the 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 the time a vacancy which exists is filled in accordance with the Constitution or the KRS, or until the officer, a deputy, or a preceding emergency interim successor again becomes available to exercise the powers and discharge the duties of the office.
- (6) No person shall be designated or serve as an emergency interim successor unless he or she is eligible under the Constitution and statutes to hold the office to which he or she is designated to succeed, but no statutory provision prohibiting local or state

officials from holding another office shall be applicable to an emergency interim successor.

- (7) Emergency interim successors shall take the oath required to exercise the powers and discharge the duties of the office to which they may succeed. No person, as a prerequisite to the exercise of the powers or discharge of the duties of an office to which he or she succeeds, shall be required to comply with any other provision of law relative to taking office.
- (8) Officials authorized to act as Governor pursuant to this section, and emergency interim successors are empowered to exercise the powers and discharge the duties of an office only during the continuance of an emergency. The General Assembly, by joint resolution, may at any time terminate the authority of the emergency interim successors to exercise the powers and discharge the duties of office.
- (9) Until the persons designated as emergency interim successors shall exercise the powers and discharge the duties of an office in accordance with this section, the persons shall serve in their designated capacities at the pleasure of the designating authority.
- (10) Any dispute concerning a question of fact arising under this section with respect to an office in the executive division 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 to exercise the powers and discharge the duties of the office of Governor, and the decision reached shall be final.

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