

2023 Kansas Statutes

48-932. States of local disaster emergency; effect; powers and duties of county and city officials; civil action for relief from action by local unit of government. (a) A state of local disaster emergency may be declared by the chairperson of the board of county commissioners of any county, or by the mayor or other principal executive officer of each city of this state having a disaster emergency plan, upon a finding by such officer that a disaster has occurred or the threat thereof is imminent within such county or city. No state of local disaster emergency shall be continued for a period in excess of seven days or renewed, except with the consent of the board of county commissioners of such county or the governing body of such city. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed with the county clerk or city clerk. Any such declaration may be reviewed, amended or revoked by the board of county commissioners or the governing body of the city, respectively, at a meeting of such governing body.

(b) In the event of the absence of the chairperson of the board of county commissioners from the county or the incapacity of such chairperson, the board of county commissioners, by majority action of the remaining members thereof, may declare a state of local disaster emergency in the manner provided in and subject to the provisions of subsection (a). In the event of the absence of the mayor or other principal executive officer of a city from the city or the incapacity of such mayor or officer, the governing body of the city, by majority action of the remaining members thereof, may declare a state of local disaster emergency in the manner provided in and subject to the provisions of subsection (a). Any state of local disaster emergency and any actions taken pursuant to applicable local and interjurisdictional disaster emergency plans, under this subsection shall continue and have full force and effect as authorized by law unless modified or terminated in the manner prescribed by law.

(c) The declaration of a local disaster emergency shall activate the response and recovery aspects of any and all local and interjurisdictional disaster emergency plans which are applicable to such county or city, and shall initiate the rendering of aid and assistance thereunder.

(d) No interjurisdictional disaster agency or any official thereof may declare a local disaster emergency, unless expressly authorized by the agreement pursuant to which the agency functions. However, an interjurisdictional disaster agency shall provide aid and services in accordance with the agreement pursuant to which it functions in the case of a state of local disaster emergency declared under subsection (a).

(e) (1) Any party aggrieved by an action taken by a local unit of government pursuant to this section that has the effect of substantially burdening or inhibiting the gathering or movement of individuals or the operation of any religious, civic, business or commercial activity, whether for-profit or not-for-profit, may file a civil action in the district court of the county in which such action was taken within 30 days after such action is taken. Notwithstanding any order issued pursuant to K.S.A. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after receipt of a petition in any such action. The court shall grant the request for relief unless the court finds such action is narrowly tailored to respond to the state of local disaster emergency and uses the least restrictive means to achieve such purpose. The court shall issue an order on such petition within seven days after the hearing is conducted. If the court does not issue an order on such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this section shall not include a stay or injunction concerning the contested action that applies beyond the county in which the action was taken.

(3) The supreme court may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

History: L. 1975, ch. 283, § 12; L. 2020, ch. 1, § 35 (Special Session); L. 2021, ch. 7, § 8; March 25.