State of Louisiana

EXECUTIVE DEPARTMENT

PROCLAMATION NUMBER 37 JBE 2020

ADDITIONAL MEASURES FOR COVID-19 PROVISIONS FOR FIRST-RESPONDER RULEMAKING, LAW ENFORCEMENT REHIRING, REHIRING OF RETIRED PUBLIC EMPLOYEES, INSURANCE COMMISSIONER EMERGENCY AUTHORITY, SHAREHOLDER MEETINGS, AND REMOTE NOTARIZATION

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, *et seq.,* the Governor declared a public health emergency in Proclamation Number 25 JBE 2020 in response to the threat posed by COVID-19;

WHEREAS, on March 11, 2020, in Emergency Proclamation Number 25 JBE 2020, the Governor declared that a statewide public health emergency existed in the State of Louisiana because of COVID-19 and expressly empowered the Governor's Office of Homeland Security and Emergency Preparedness and the Secretary of the Department of Health and/or the State Health Officer to take all actions authorized under state law;

WHEREAS, on March 13, 2020, in Emergency Proclamation Number 27 JBE 2020, the Governor supplemented the measures taken in his declaration of a Public Health Emergency with additional restrictions and suspensions of deadlines and regulations in order to protect the health and safety of the public because of COVID-19;

WHEREAS, on March 13, 2020, in Emergency Proclamation Number 27 JBE 2020 and Emergency Proclamation 28 JBE 2020, the Governor supplemented the measures taken in his declaration of a public health emergency with additional restrictions and suspensions of deadlines and regulations in order to protect the health and safety of the public because of COVID-19;

WHEREAS, the order was further supplemented on March 14, 2020, March 16, 2020, March 19, 2020 and March 22, 2020 in order to protect the health and safety of the public because of the extraordinary threat posed by COVID-19;

WHEREAS, on March 16, 2020, in Emergency Proclamation Number 30 JBE 2020, the Governor supplemented the measures taken in his declaration of Public Health Emergency by providing all state agencies, boards and commissions, and local political subdivisions of the state to provide for attendance at essential governmental meetings via teleconference or video conference and to allow such attendance during the pendency of this emergency;

WHEREAS, in the days since the declaration of public health emergency, the COVID-19 outbreak in Louisiana has expanded significantly;

WHEREAS, the first responders of Louisiana are coming into direct contact with citizens who have COVID-19 or may have been exposed to COVID-19;

WHEREAS, first responders exposed to COVID-19 in quarantine are being required to use their paid sick leave, paid annual leave or paid compensatory leave;

WHEREAS, a large portion of the first responders are subject to the Municipal Fire and Police Civil Service laws of Louisiana;

WHEREAS, In accordance with R.S. 33:2497 and R.S. 33:2557, local Municipal Fire and Police Civil Services Boards have the authority to adopt rules relative to leaves of absences;

WHEREAS, the spread of the COVID-19 virus has adversely affected a substantial number of public safety personnel in the performance of their missions;

WHEREAS, in addition, the limitations on compensation for re-hiring retired deputies and corrections officers on a full-time basis have made filling the depleted ranks of law enforcement difficult;

WHEREAS, the various sheriffs of Louisiana have expressed an urgent need to re-hire retired deputies on a full-time basis to maintain their law enforcement missions;

WHEREAS, the spread of the COVID-19 virus has adversely affected a substantial number of public employers, including but not limited to public health and safety agencies, in the performance of their missions;

WHEREAS, the limitations on hiring separated public employees on a contractual basis have made filling the depleted ranks of state agencies, including health and law enforcement impossible;

WHEREAS, the various state agencies have expressed an urgent need to utilize separated public employees to maintain and fulfill their missions;

WHEREAS, after declaration of a public health emergency, the Governor is authorized by La. R.S. 29:766(D)(1) to suspend the provisions of any regulatory statute prescribing procedures for the conducting of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

WHEREAS, after declaration of a public health emergency, the Governor is authorized by La. R.S. 29:766(D)(3) to transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

WHEREAS, to aid businesses of this state in navigating the crisis in a prompt manner, reducing their insurance premiums, and accounting for volatility in projections in a time of crisis, it is necessary to grant the Commissioner of Insurance authority to suspend provisions Title 22 of the Louisiana Revised Statutes of 1950 concerning commercial insurance policies;

WHEREAS, in addition to the restrictions previously ordered because of this emergency, it is necessary to temporarily suspend certain provisions of the Business Corporation Act to the extent they require meetings of shareholders to be noticed and/or held at a physical location;

WHEREAS, the suspension of certain provisions of the Business Corporation Act to the extent they require meetings of shareholders to be noticed and/or held at a physical location are necessary because of the propensity of the COVID-19 virus to spread via personal interactions and because of physical contamination of property due to its ability to attach to surfaces for prolonged periods of time;

WHEREAS, due to the extraordinary threat posed by COVID-19 and to further support the stay at home order, in order to provide Louisiana citizens and business with a secure and safe method by which to execute important legal documents, the highly contagious nature of this threat necessitates that a notary public commissioned under the laws of the State of Louisiana may perform notarization

for an individual not in the physical presence of the notary public, subject to certain safeguards to ensure the integrity of the notarial process; and

WHEREAS, these measures are necessary to protect the health and safety of the people of Louisiana.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1:

A) In an effort to preserve the health and safety of the first responders, specifically the firefighters and police officers subject to the Municipal Fire and Police Civil Service System, all local Municipal Fire and Police Civil Service Boards are to meet to adopt emergency rules to provide for special COVID-19 leave rules.

B) In order to quickly achieve these rule adoptions, the 30-day notice requirements for rule adoptions found in R.S. 33:2478 and R.S. 33:2538 are hereby suspended during the pendency of the declaration of public health emergency.

C) Municipal Fire and Police Civil Service Boards shall post notice of the proposed emergency rule with the 24-hour public meeting notice provided in R.S. 42:19.

D) Due to the Stay at Home Order issued by Proclamation Number 33 JBE 2020, all Municipal Fire and Police Civil Service Boards shall conduct a meeting by teleconference or video conference by Monday, March 30, 2020.

SECTION 2:

A) The limitation on receipt of full retirement benefits by rehired retirees assigned to road patrol or corrections function only, under La. R.S. 11:2175(E) shall be suspended for the duration of this emergency. Any sheriff may rehire on a full-time basis any otherwise qualified retirees to road patrol or corrections functions only, without loss or suspension of retirement benefits to those rehired deputies, for the duration of the emergency.

B) The Boards of Trustees of the Louisiana Sheriffs Pension and Relief Fund shall not be required to suspend benefits to retirees rehired as full-time employees covered by this proclamation.

SECTION 3: Pursuant to La. R.S. 29:724(D)(1), the two-year limitation on public employees, following their separation from public service, contracting with their former agency as more fully set forth in La. R.S. 42:1121(B)(1) shall be suspended for the duration of this emergency. Any state agency may contract with any otherwise qualified separated employee to assist the state agency in the performance of their mission, as reasonably necessary, for the duration of the emergency.

SECTION 4:

A) Commissioner of Insurance James J. Donelon shall have limited transfer of authority from the Governor to suspend provisions of any regulatory statute of Title 22 of the Louisiana Revised Statutes of 1950 concerning the cancellation, termination. nonrenewal, and non-reinstatement provisions of Title 22, where such statutory or regulatory requirements prevent, hinder, or delay necessary action in coping with the current public health emergency, including providing additional time for policyholders to complete existing claims, providing additional time for policyholders to remit premium payments to avoid cancelation of policies, prohibiting cancelations where a policyholder is incapable of fulfilling requirements due to the current public health emergency, allowing for mid-term audit of auditable policies upon request of the insured and the recalculation of premium based on the mid-term audit

to account for the current operations of the insurer to properly reflect the risk during the current public health emergency, requiring that insurer refund any excess premium as determined by the mid-term audit during the pendency of the current public health emergency.

B) No provision in this proclamation shall relieve an insured who has a claim caused by this public health emergency, or its aftermath, from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to such claim. or to pay insurance premiums upon termination of these provisions.

SECTION 5: A) Subpart A of Part 7 of the Business Corporation Act, including without limitation, Subsection B of Section 1-701, subsection C of 1-702 and subsections A and E of Section 1-705 of the Business Corporation Act, is hereby suspended to the extent it requires meetings of shareholders to be noticed and held at a physical location in connection with any shareholder meeting that either (a) has a record date that falls during the Public Health emergency declared by Proclamation Number 25 JBE 2020 (or as extended by any subsequent Proclamation), (b) requires notice to be provided in connection therewith during the Public Health emergency declared by Proclamation Number 25 JBE 2020 (or as extended by any subsequent Proclamation) or (c) is scheduled to occur during the Public Health emergency declared by Proclamation Number 25 JBE 2020 (or as extended by any subsequent Proclamation).

B) This Proclamation shall remain in full force and effect with respect to any meeting duly called and convened in accordance with the Business Corporation Act and in reliance upon Section 1 hereof, notwithstanding the lapse or termination of this Proclamation.

SECTION 6: A) During this emergency, a regularly commissioned notary public who holds a valid notarial commission in the state of Louisiana, including a person who is licensed to practice law and commissioned by the Secretary of State, may perform notarization for an individual not in the physical presence of the notary public if:

1) the individual, any witnesses and the notary public can communicate simultaneously by sight and sound through an electronic device or process at the time of the notarization;
2) the notary public—
   a) has reasonably identified the individual; and
   b) either directly or through an agent:
      i) creates an audio and visual recording of the performance of the notarization, and
      ii) retains such recording as a notarial record for at least 10 years from the date of execution unless a law of the State requires a different period of retention, and if any laws of the State govern the content, retention, security, use, effect, and disclosure of such recording and any information contained therein such recording shall be subject thereto.
   c) The person appearing, all witnesses and the Notary Public can affix their digital signatures to the act in a manner that renders any subsequent change or modification of the remote online notarial act to be evident.

B) If a State law requires an individual to appear personally before or be in the physical presence of a notary public at the time of a notarization that requirement shall be satisfied if the individual and the notary public are not in the physical presence of each other but can communicate simultaneously by sight and sound through an electronic device or process at the time of the notarization; except for the laws pertaining to testaments, trust instruments,

donations inter vivos, matrimonial agreements, acts modifying, waiving or extinguishing an obligation of final spousal support and authentic acts.

C) During this emergency, the recorder (as used in La. C.C. Art 3344) shall not refuse to record a tangible copy of an electronic record on the ground that it does not bear the original signature of a person if a notary public or other officer before whom it was executed certifies that the tangible copy is an accurate copy of the electronic record.

SECTION 7: The Governor's Office of Homeland Security and Emergency Preparedness is directed to ensure compliance with this order, and is empowered to exercise all authorities pursuant to La. R.S. 29:721, et seq., and La. R.S. 29:760, et seq.

SECTION 8: Unless otherwise provided in this order, these provisions are effective retroactively to the beginning on this emergency on Wednesday, March 11, 2020 to Monday, April 13, 2020, or as extended by any subsequent Proclamation, unless terminated sooner.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 26th day of March, 2020.

GOVERNOR OF LOUISIANA

ATTEST BY THE SECRETARY OF STATE

SECRETARY OF STATE