

1 SECTION 2. Chapter 128, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 **"§128- Civil defense disaster preparedness special fund.**

5 (a) There is established in the state treasury the civil
6 defense disaster preparedness special fund, into which shall be
7 deposited:

8 (1) Moneys provided by the hurricane reserve trust fund
9 under section 431P-16; and

10 (2) Appropriations made by the legislature.

11 (b) The civil defense disaster preparedness special fund
12 shall be administered by the department of defense. All moneys
13 in the fund shall be expended by the director of civil defense
14 and are hereby appropriated for the following purposes:

15 (1) Adopting and implementing the recommendations of the
16 prepared emergency response plan commission, under
17 section -3;

18 (2) Loss mitigation or reduction efforts or programs,
19 including but not limited to deposits to the loss
20 mitigation grant fund under section 431:22-102;

21 (3) Providing around-the-clock alert staff for the civil
22 defense division of the department of defense; and



1 (4) Disaster or emergency response programs, including but
2 not limited to deposits to the major disaster fund
3 under section 127-11.

4 (c) Any amount to be deposited into the civil defense
5 disaster preparedness special fund pursuant to subsection (a)
6 that causes the special fund to exceed \$ shall be
7 deposited into the general fund. No further deposits shall be
8 made into the special fund until the balance of the special fund
9 drops below \$, in which event funds shall be deposited
10 into the special fund pursuant to subsection (a) until the
11 balance equals \$."

12 SECTION 3. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$ or so
14 much thereof as may be necessary for fiscal year 2006-2007 for
15 deposit into the civil defense disaster preparedness special
16 fund.

17 SECTION 4. There is appropriated out of the civil defense
18 disaster preparedness special fund the sum of \$ or so
19 much thereof as may be necessary for fiscal year 2006-2007 for
20 the purposes of the natural disaster preparedness special fund.



1 The sum appropriated shall be expended by the department of
2 defense for the purposes of the natural disaster preparedness
3 special fund.

4 Subpart IB. Preparedness Planning

5 SECTION 5. The Hawaii Revised Statutes is amended by
6 adding a new chapter to be appropriately designated and to read
7 as follows:

8 "CHAPTER

9 **PREPARED EMERGENCY RESPONSE PLAN COMMISSION**

10 "§ -1 **Definitions.** As used in this chapter, unless the
11 context otherwise requires:

12 "Commission" means the prepared emergency response plan
13 commission established under section -2.

14 "Mitigation" means any action taken to identify natural
15 hazards and to reduce or eliminate any long-term risk to human
16 life and property loss or damage from natural disasters and any
17 other event warranting major disaster assistance under the
18 Robert T. Stafford Disaster Relief and Emergency Assistance Act.

19 "Natural disaster" means the occurrence of any hurricane,
20 storm, flood, tsunami, wind-driven water, tidal wave,
21 earthquake, volcanic eruption, lava flow, rockslide, earthslide,



1 fire, or other natural catastrophe resulting in property damage,
2 hardship, suffering, or possible loss of life within the state.

3 "Natural hazard" means any hurricane, storm, flood,
4 tsunami, wind-driven water, tidal wave, earthquake, volcanic
5 activity, lava flow, rockslide, earthslide, fire, or other
6 natural catastrophe posing a risk to property or human life
7 within the state.

8 **§ -2 Prepared emergency response plan commission;**
9 **establishment.** (a) There is established a prepared emergency
10 response plan commission within the department of defense for
11 administrative purposes. The commission shall consist of a
12 minimum of eleven members and a maximum of seventeen members
13 appointed in the manner prescribed in section 26-34; provided
14 that the commission shall have at least one member from:

- 15 (1) Each of the counties of Hawaii, Honolulu, Kauai, and
16 Maui;
- 17 (2) The real estate industry;
- 18 (3) The insurance industry;
- 19 (4) The financial services industry;
- 20 (5) The house of representatives, to be appointed by the
21 speaker of the house of representatives; and



1 (6) The senate, to be appointed by the president of the
2 senate.

3 The term of office for each member shall be two years. The
4 director of civil defense shall serve as chairperson of the
5 commission.

6 (b) Each member of the commission shall have experience
7 and an interest in any of the following areas relating to the
8 mitigation of natural hazards:

9 (1) Environmental studies or protection;

10 (2) Risk analysis;

11 (3) Hazard analysis;

12 (4) Public awareness and education;

13 (5) Emergency management;

14 (6) Structural engineering;

15 (7) Seismology;

16 (8) Geology;

17 (9) Public works;

18 (10) Public utilities;

19 (11) Insurance;

20 (12) Planning;

21 (13) Flood control;

22 (14) Land utilization;



- 1 (15) Waste management;
- 2 (16) Sheltering;
- 3 (17) Energy;
- 4 (18) Construction;
- 5 (19) Communications;
- 6 (20) Building codes;
- 7 (21) Architecture; and
- 8 (22) Coastal zone management.

9 (c) The members of the commission shall serve without
10 compensation but shall be reimbursed for necessary expenses
11 incurred in the performance of their duties.

12 **§ -3 Duties of commission.** (a) The commission shall:

- 13 (1) Develop a unified management strategy with
14 recommendations concerning state, federal, and county
15 mitigation responsibilities and programs;
- 16 (2) Identify vulnerabilities to various natural hazards
17 and evaluate, prioritize, and recommend measures to
18 mitigate the risks associated with those hazards;
- 19 (3) Assist state and county governments in obtaining funds
20 to implement mitigation projects;
- 21 (4) Develop specific goals on a biennial basis and provide
22 status reports to state departments, county



1 governments, and private organizations represented on
2 the commission;

3 (5) Recommend policy and program changes to federal,
4 state, and county agencies that are involved in
5 mitigation activities;

6 (6) Develop and recommend a comprehensive public education
7 program on the activities of the commission, natural
8 hazards, and natural disaster preparedness, including
9 periodically updated evacuation maps in publicly
10 accessible print and electronic form;

11 (7) Provide reports to the governor and the legislature on
12 special mitigation activities addressed or completed
13 by the commission;

14 (8) Develop and maintain accurate information, including
15 maps, relating to natural hazards in the state in a
16 manageable and publicly accessible electronic form.
17 Such information shall include but not be limited to
18 detailed information on:

19 (A) Various types of natural hazards;

20 (B) The areas of the state that are vulnerable to
21 natural hazards and other potentially affected
22 locations;



1 (C) The probability of the occurrence of natural
2 disasters;

3 (D) The dangers created by the occurrence of natural
4 disasters; and

5 (E) Available options and measures that can be taken
6 to reduce and manage risk from natural hazards
7 and natural disasters;

8 The commission shall consult available knowledgeable
9 sources, in or out of state, including but not limited
10 to the Pacific Disaster Center and the University of
11 Hawaii, to develop and maintain this information, and
12 such information shall be updated at least annually by
13 the commission;

14 (9) Review the state building code within two years of its
15 adoption and recommend to the counties amendments to
16 the state building code that promote the health,
17 safety, and welfare of occupants and users and
18 mitigate the risk of property damage, injury, or loss
19 of life in the event of a natural disaster;

20 (10) Recommend the purchase of early warning systems;

21 (11) Develop and recommend statewide residential safe room
22 design standards and facilitating impact resistance



- 1 testing and certification of safe room design;
2 provided that safe room prototype models are developed
3 with private sector grants or investments;
- 4 (12) Recommend an inventory of emergency supplies to
5 provide immediate relief in the event of a natural
6 disaster, and to periodically review any existing
7 inventory of emergency supplies to maintain quality
8 and sufficiency;
- 9 (13) Develop and recommend a strategy for the distribution
10 of emergency supplies and relief services in the event
11 of a natural disaster;
- 12 (14) Review existing dams and appurtenant works,
13 reservoirs, drainage facilities, drainage measures,
14 and watercourses to identify risks to surrounding
15 areas and areas downstream, from flooding due to
16 failure, overflow, or spillage resulting from natural
17 hazards or natural disasters, and to recommend
18 measures to mitigate risk and damage; and
- 19 (15) Recommend improvements for the preparedness of the
20 State or its citizens to respond to a natural
21 disaster.



1 § -4 **Meetings.** All meetings of the commission shall be
2 conducted in accordance with chapter 92.

3 § -5 **Adoption of recommendations.** The department of
4 defense shall adopt and implement the recommendations of the
5 prepared emergency response plan commission."

6 SECTION 6. There is appropriated out of the civil defense
7 disaster preparedness special fund the sum of \$ or so much
8 thereof as may be necessary for fiscal year 2006-2007 for the
9 operations of the prepared emergency response plan commission.

10 The sum shall be expended by the department of defense for
11 the purposes of this Act.

12 Subpart IC. Preparing Structures, Infrastructure,
13 Shelter, and Supplies

14 SECTION 7. Chapter 201G, Hawaii Revised Statutes, is
15 amended by adding a new section to part IV to be appropriately
16 designated and to read as follows:

17 "§201G- Temporary emergency housing. (a) In addition
18 to any other duties prescribed by law, the administration shall
19 coordinate with the four counties and the prepared emergency
20 response plan commission to develop a procedure for identifying
21 locations that shall be used for temporary emergency shelters
22 for homeless individuals and families.



1 (b) Each county shall be responsible for locating,
2 designating, and maintaining the areas that shall be used for
3 temporary emergency shelters. The designated locations may
4 include public parks or established homeless facilities."

5 SECTION 8. Chapter 323D, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "**§323D- Disaster preparedness plans; health care**
9 **facilities; nursing homes.** (a) By January 1, 2007, any
10 existing health care facility that is operating according to a
11 certificate of need pursuant to section 323D-43 shall file with
12 the department of defense a disaster preparedness plan that
13 details the facility's plan to provide adequate emergency
14 shelter for patients and staff, as well as a plan to meet the
15 medical needs of its patients during a natural or manmade
16 disaster.

17 (b) No certificate of need shall be issued to any proposed
18 health care facility, or renewed for any existing facility,
19 unless the facility has submitted as part of its application a
20 copy of the disaster preparedness plan filed pursuant to
21 subsection (a).



1 (c) By January 1, 2007, any nursing home that is licensed
2 or certified by the department shall file with the department of
3 defense a disaster preparedness plan that details the facility's
4 plan to provide adequate emergency shelter for patients and
5 staff, as well as a plan to meet the medical needs of their
6 patients during a natural or manmade disaster.

7 (d) No license or certificate shall be issued to any
8 proposed nursing home, or renewed for an existing one, unless
9 the facility has also submitted as part of its application a
10 copy of the disaster preparedness plan filed pursuant to
11 subsection (c).

12 (e) Any facility subject to this section, as a part of its
13 required disaster preparedness plan, shall include plans to
14 retrofit its structural facilities using new technologies
15 developed to prevent the progressive collapse of buildings
16 during a natural or manmade disaster. Each plan shall include a
17 timeline detailing the facility's planned implementation of the
18 prospective retrofitting of the structural facilities.

19 SECTION 9. Section 269-27.6, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) Notwithstanding any law to the contrary, whenever a
22 public utility applies to the public utilities commission for



1 approval to place, construct, erect, or otherwise build a new
2 forty-six kilovolt or greater high-voltage electric transmission
3 system, either above or below the surface of the ground, the
4 public utilities commission shall determine whether the electric
5 transmission system shall be placed, constructed, erected, or
6 built above or below the surface of the ground; provided that in
7 tsunami-prone areas as determined by the state department of
8 defense, there shall be a rebuttable presumption in favor of
9 placement below the surface of the ground; and provided further
10 that in its determination, the public utilities commission shall
11 consider:

- 12 (1) Whether a benefit exists that outweighs the costs of
13 placing the electric transmission system underground;
- 14 (2) Whether there is a governmental public policy
15 requiring the electric transmission system to be
16 placed, constructed, erected, or built underground,
17 and the governmental agency establishing the policy
18 commits funds for the additional costs of
19 undergrounding;
- 20 (3) Whether any governmental agency or other parties are
21 willing to pay for the additional costs of
22 undergrounding;



1 (4) The recommendation of the division of consumer
2 advocacy of the department of commerce and consumer
3 affairs, which shall be based on an evaluation of the
4 factors set forth under this subsection; and

5 (5) Any other relevant factors."

6 SECTION 10. Act 178, Session Laws of Hawaii 2005, is
7 amended by amending section 67 to read as follows:

8 "SECTION 67. Provided that of the general fund
9 appropriation for amelioration of physical disasters (DEF 110),
10 the sum of \$500,000 for fiscal year 2005-2006 and the sum of
11 \$500,000 for fiscal year 2006-2007 shall be expended for relief
12 from (\$ _____), and to establish an emergency cache for
13 (\$ _____), major disasters pursuant to chapter 127-11, Hawaii
14 Revised Statutes; provided further that the department of
15 defense shall notify the legislature within five business days
16 of any expenditure of these funds by submitting a report
17 detailing the date, reason, and amount of the expenditure; and
18 provided further that any funds not expended for this purpose
19 shall be lapsed to the general fund."

20 SECTION 11. (a) The department of health shall conduct a
21 study to assess the structural integrity of all hospitals and
22 nursing homes in Hawaii. The study shall be conducted by one or



1 more registered professional engineers qualified to conduct
2 structural analysis and knowledgeable in the effects of
3 hurricanes. The analysis shall include rating each facility
4 based on its ability to survive the likely effects natural
5 disasters, including hurricanes in categories I, II, III, IV,
6 and V, using hurricane shelter criteria as established by the
7 state department of defense pursuant to section 5 of Act 5,
8 Special Session Laws of Hawaii 2005.

9 (b) Information derived from the analysis shall be
10 provided to facility owners and operators and used to support
11 risk-based disaster plans. The information shall also be
12 provided to local and state civil defense officials and used to
13 support evacuation decisions. Aggregate data shall be provided
14 to the legislature.

15 (c) The department of health shall report findings and
16 recommendations, including any proposed legislation, to the
17 legislature no later than twenty days before the convening of
18 the regular session of 2007.

19 SECTION 12. (a) The department of defense, in
20 consultation with the civil defense agency for each county and
21 the appropriate state agencies and the prepared emergency
22 response plan commission shall develop a disaster preparedness



1 emergency shelter plan that provides adequate emergency shelter
2 for all residents, visitors, and persons with disabilities, and
3 pets.

4 (b) The disaster preparedness emergency shelter plan shall
5 include a list of facilities currently designated as emergency
6 public shelters, indicating whether the shelters meet public
7 shelter design criteria standards established pursuant to Act 5,
8 Special Session Laws of Hawaii 2005. If a currently designated
9 emergency public shelter does not meet these standards, the
10 director, in consultation with the department of education or
11 the department of accounting and general services and the
12 prepared emergency response plan commission, as appropriate,
13 shall develop and implement a plan to retrofit the shelter to
14 comply with the public shelter design criteria standards.

15 (c) The plan also shall identify sites for new emergency
16 public shelters and provide a schedule for the creation of the
17 new emergency public shelters necessary to meet the anticipated
18 needs of both residents and visitors during any natural or
19 manmade disaster; provided that any newly designated or created
20 emergency public shelter shall meet the public shelter design
21 criteria standards established pursuant to Act 5, Special
22 Session Laws of Hawaii 2005.



1 (d) The disaster preparedness emergency shelter plan shall
2 include criteria, requirements, conditions, and limitations, for
3 providing suitable arrangements for the sheltering of pet
4 animals, as defined in section 711-1000, in public shelters
5 under this chapter, and to identify existing public and private
6 shelters that are suitable for the sheltering of pet animals;

7 (e) The plan shall provide for shelter and evacuation for
8 of persons with disabilities, including but not limited to
9 persons who may have to rely upon the help and assistance of
10 others in a disaster. The provisions made for persons with
11 disabilities in the plan shall recognize that:

12 (1) People with disabilities and older people often need
13 more time than others to make necessary preparation in
14 an emergency;

15 (2) People who are deaf or hard of hearing may not receive
16 early disaster warnings and emergency instructions
17 that are normally disseminated audibly by siren,
18 radio, and television;

19 (3) People who are blind or visually-impaired,
20 particularly the elderly, may be extremely reluctant
21 to leave familiar surroundings in an evacuation;



- 1 (4) Guide dogs could become confused or disoriented in a
2 disaster, leaving their dependent owners at greater
3 risk;
- 4 (5) Guide dogs may not be allowed to stay at shelters to
5 assist their dependent owners;
- 6 (6) People with impaired mobility are concerned about
7 being lifted, carried, and then dropped, causing them
8 injury and further impairment;
- 9 (7) People with mental retardation are not always able to
10 understand an emergency situation and could become
11 disoriented and confused;
- 12 (8) People with respiratory illness could require oxygen
13 and respiratory equipment in an emergency; and
- 14 (9) People with epilepsy, Parkinson's disease, and other
15 conditions have very individualized medication
16 regimens that cannot be interrupted without serious
17 consequences.
- 18 (f) The director of civil defense shall submit to the
19 legislature no less than twenty days prior to the convening of
20 the regular session of 2007, a report concerning the disaster
21 preparedness emergency public shelter plan, which includes the
22 status of currently designated emergency public shelters and



1 their compliance with the design criteria established pursuant
2 to Act 5, Special Session Laws of 2005, and a timetable for the
3 creation of new emergency public shelters to meet the
4 anticipated needs of visitors and residents.

5 SECTION 13. There is appropriated out of the general
6 revenues of the State of Hawaii the following sums or so much
7 thereof as may be necessary for the fiscal year 2006-2007 as a
8 grant-in-aid to assist the counties in locating, designating,
9 and maintaining areas to be used for temporary emergency
10 shelters pursuant to section 7 of this Act:

11	City and county of Honolulu	\$
12	County of Kauai	\$
13	County of Maui	\$
14	County of Hawaii	\$
15	Total	\$

16 The sums appropriated to each county shall be expended by
17 that county for the purposes of this section and shall
18 constitute the State's share of the cost of mandated programs
19 under article VIII, section 5, of the State Constitution.

20 SECTION 14. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$ or so
22 much thereof as may be necessary for fiscal year 2006-2007 for



1 the planning, design, construction, and equipment costs related
2 to increasing the number of safe temporary emergency shelters
3 located in the community pursuant to section 7 of this Act.

4 The sum appropriated shall be expended by the department of
5 defense for the purposes of this section.

6 SECTION 15. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$ or so much
8 thereof as may be necessary for fiscal year 2006-2007 for a
9 study to assess the structural integrity of all hospitals and
10 nursing homes in Hawaii.

11 The sum appropriated shall be expended by the department of
12 health for the purposes of section 9 of this Act.

13 PART II

14 DISASTER RELIEF PREPAREDNESS - RESPONSE AFTER DISASTER

15 Subpart IIA. Response Funding

16 SECTION 16. Chapter 209, Hawaii Revised Statutes, is
17 amended by adding a new section to part III to be appropriately
18 designated and to read as follows:

19 "§209- Residential disaster assistance special fund.

20 (a) There is established within the state treasury a special
21 fund to be known as the residential disaster assistance special
22 fund. The special fund shall be administered and expended by



1 the department of business, economic development, and tourism in
2 accordance with this section.

3 (b) The department shall expend the special fund to
4 provide reimbursement to an applicant who:

5 (1) As a result of a disaster in this state incurs
6 residential property losses; and

7 (2) Is not eligible for any other state or federal
8 government assistance program or loan.

9 (c) An applicant shall be eligible to receive compensation
10 under this section if the applicant is a natural person and the
11 owner of the damaged dwelling; provided that an applicant may
12 apply for compensation for not more than one damaged dwelling.

13 (d) Compensation for loss to any one applicant under this
14 section shall not exceed \$. The department may expend
15 moneys from the fund without an appropriation by the
16 legislature. Any insurance proceeds received by the applicant
17 for a loss as a result of a natural disaster, as defined in
18 section 171-85, shall be deducted from the amount payable to the
19 applicant under this subsection if the applicant's compensation
20 from the special fund exceeds the applicant's insurance
21 compensation, if any. If the compensation from the special fund
22 is not more than the insurance compensation, the applicant shall



1 be entitled to compensation from the special fund in an amount
2 that does not exceed the difference between the amount of the
3 insurance compensation and the actual loss suffered.

4 (e) For purposes of calculating the amount of compensation
5 to each applicant, the department shall:

6 (1) Determine the amount of total potential compensation
7 based upon all eligible applications resulting from a
8 single state disaster; and

9 (2) Make compensation to each applicant in the pro rata
10 proportion that the applicant's compensation bears to
11 the total available moneys appropriated under
12 subsection (g).

13 (f) The department shall establish procedures and a
14 deadline for filing an application after the occurrence of a
15 state disaster by adopting rules pursuant to chapter 91.

16 (g) The special fund shall consist of moneys appropriated
17 for deposit into the fund for purposes of this section; provided
18 that no unexpended or unencumbered moneys shall lapse into the
19 general fund."

20 SECTION 17. Section 127-11, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§127-11 Major disaster fund.** The director shall submit
2 requests to the legislature to appropriate from the general
3 revenues of the State sufficient moneys as may be necessary for
4 expenditure by or under the direction of the governor for
5 immediate relief in the event of the occurrence of any major
6 disaster or emergency in any part of the State; provided that:

7 (1) The governor may not expend in excess of [~~\$1,000,000~~]
8 \$2,000,000 for immediate relief of any single major
9 disaster[+] or emergency; and

10 (2) [~~Provided further that in~~] In addition to the funds in
11 paragraph (1), an additional [~~\$1,000,000~~] \$2,000,000
12 shall be available solely for the purpose of matching
13 federal disaster or emergency relief funds when these
14 funds become available following a presidential
15 disaster or emergency declaration.

16 In expending the moneys, the governor may allot any portion
17 thereof to any agency, office, or employee, federal, state, or
18 county, for the more speedy and efficient relief of the
19 conditions created by the disasters. The governor may determine
20 whether a major disaster or emergency contemplated by this
21 section has occurred[, ~~and any determination shall be~~
22 ~~conclusive~~]."



1 SECTION 18. Section 328L-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§328L-3 Emergency and budget reserve fund.** (a) There is
4 established in the state treasury the emergency and budget
5 reserve fund which shall be a special fund administered by the
6 director of finance, into which shall be deposited:

7 (1) Twenty-four and one-half per cent of the moneys
8 received from the tobacco settlement moneys under
9 section 328L-2(b)(1); and

10 (2) Appropriations made by the legislature to the fund.

11 (b) All interest earned from moneys in the emergency and
12 budget reserve fund shall be credited to the general fund.

13 (c) Expenditures from the emergency and budget reserve
14 fund shall be a temporary supplemental source of funding for the
15 State during times of emergency, economic downturn, or
16 unforeseen reduction in revenues. No expenditures shall be made
17 from the emergency and budget reserve fund except pursuant to
18 appropriations[~~-~~] or as provided in subsection (e). The general
19 appropriations bill or the supplemental appropriations bill, as
20 defined in section 9 of article VII of the Constitution of the
21 State of Hawaii, shall not be used to appropriate moneys from
22 the emergency and budget reserve fund. The governor, through an



1 appropriations bill, may recommend expenditures from the
2 emergency and budget reserve fund by setting forth the purposes
3 of the expenditures consistent with subsection (d), the amounts,
4 and the reasons justifying the necessity for the appropriations.

5 (d) The legislature may make appropriations from the fund
6 for the following purposes:

7 (1) To maintain levels of programs determined to be
8 essential to public health, safety, welfare, and
9 education;

10 (2) To provide for counter cyclical economic and
11 employment programs in periods of economic downturn;

12 (3) To restore facilities destroyed or damaged or services
13 disrupted by disaster in any county; and

14 (4) To meet other emergencies when declared by the
15 governor or determined to be urgent by the
16 legislature.

17 Any act making appropriations from the emergency and budget
18 reserve fund shall include a declaration of findings and
19 purposes setting forth the purposes, the amounts, and the
20 reasons why the appropriations are necessary and, except as
21 provided in subsection (e), shall require a two-thirds majority
22 vote of each house of the legislature.



1 (e) Upon the declaration by the governor of an emergency
2 due to a natural disaster, the governor, by executive order, may
3 authorize the release and expenditure of moneys appropriated
4 from the fund to provide emergency assistance to residents or
5 businesses of the state for damages sustained from a natural
6 disaster, during or immediately after the natural disaster,
7 subject to the following requirements:

8 (1) The governor shall determine the amount of moneys to
9 be released based upon the recommendations of the
10 State and respective county civil defense agencies;
11 provided that the amount appropriated shall not exceed
12 ten per cent of the balance in the fund earned from
13 interest on principal at the time of the
14 appropriation;

15 (2) Within seventy-two hours after issuing the executive
16 order, the governor shall provide written notice to
17 the president of the senate and the speaker of the
18 house of representatives describing the intended use
19 of the moneys; and

20 (3) The governor shall submit a report to the legislature
21 not later than twenty days prior to the convening of
22 the regular session or any special session immediately



1 following the occurrence of the natural disaster,
2 regarding the release and expenditure of moneys from
3 the fund under this subsection; provided that if the
4 natural disaster occurs in the period between thirty
5 days prior to the convening of a regular session and
6 the closing of the regular session, the governor shall
7 submit the report not later than thirty days after
8 issuing the executive order. At a minimum the report
9 shall:

10 (A) State the amounts released;

11 (B) Describe the purposes under subsection (d) for
12 which the funds were released;

13 (C) Explain the factors that necessitated the use of
14 moneys in the fund; and

15 (D) Provide recommendations for replacing the
16 expended moneys from the fund.

17 [~~(e)~~] (f) Appropriations for the following purposes from
18 the emergency and budget reserve fund are specifically
19 prohibited:

20 (1) To meet expenses of the legislature;

21 (2) To provide for salary adjustments for officials

22 appointed pursuant to article V, section 6, or article



1 VI, section 3, of the Constitution of the State of
2 Hawaii and for others whose salaries are directly
3 related to salaries of these officials; and
4 (3) To fund cost items in any collective bargaining
5 contract."

6 Subpart IIB. National Guard Response

7 SECTION 19. Section 121-30, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§121-30 Order to active service[-]; governor's duty.** (a)

10 In case of war, insurrection, invasion, riot, or imminent danger
11 thereof, or any forcible obstruction to the execution of the
12 laws, or reasonable apprehension thereof, or for assistance to
13 civil authorities in disaster relief or civil defense, the
14 governor may order the national guard or other component of the
15 militia or any part thereof into active service. The governor
16 or the governor's designated representative also may order the
17 national guard into active service in nonemergency situations
18 for duty and training in addition to the drill and instruction
19 required by section 121-28.

20 (b) The governor shall not order the national guard or
21 other component of the militia or any part thereof into active
22 service pursuant to subsection (a), other than for assistance to



1 civil authorities in disaster relief or civil defense if, as a
2 result, more than _____ per cent of the members of the Hawaii
3 national guard would be in active federal or state service at
4 any one time.

5 (c) If, as a result of an order by the President of the
6 United States directing any members of the Hawaii national guard
7 to report to active federal service for deployment outside of
8 the State, the percentage under subsection (b) would be
9 exceeded, the governor, with the assistance of the adjutant
10 general, shall immediately:

11 (1) Advise the President of the United States, Secretary
12 of Defense, and Secretary of the Army, or Secretary of
13 the Air Force, as appropriate, of the provisions of
14 this section, as well as the dire social, economic,
15 and civil defense consequences to the State of the
16 activation and deployment; and

17 (2) Urge the reduction in the number of troops to be
18 ordered into active federal service."

19 Subpart IIC. Price Gouging and Profiteering

20 SECTION 20. Section 209-1, Hawaii Revised Statutes, is
21 amended by adding a new definition to be appropriately inserted
22 and to read as follows:



1 "Services" shall mean any work, labor, or services
2 furnished in connection with the sale or renovation of real or
3 personal property."

4 SECTION 21. Section 209-9, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By amending subsection (a) to read:

7 "(a) Whenever the governor declares a state disaster for
8 the entire State or any portion thereof, or when the State, or
9 any portion thereof, is the subject of a severe weather warning:

10 (1) There shall be prohibited any excessive increase in
11 the selling price of any commodity~~[,]~~ or service,
12 whether at the retail or wholesale level, in the area
13 that is the subject of the disaster declaration or the
14 severe weather warning~~[; and]~~. It is prima facie
15 evidence that a price is an excessive increase if:

16 (A) The amount charged for the commodity or service
17 that is the subject of the offer or transaction
18 exceeds by _____ per cent the average price at
19 which that commodity or service was leased or
20 sold or offered for lease or sale in the usual
21 course of business during the thirty days
22 immediately prior to a declaration of a state of



1 disaster, and the increase in the amount charged
2 is not attributable to additional costs incurred
3 in connection with the lease or sale of that
4 commodity or service, or any national or
5 international trends; or

6 (B) The amount charged exceeds by per cent the
7 average price at which the same or similar
8 commodity or service was readily obtainable in
9 the trade area during the thirty days immediately
10 prior to a declaration of a state of natural
11 disaster, and the increase is not attributable to
12 additional costs incurred in connection with the
13 lease or sale of that commodity or service, or
14 any national or international trends;

15 [+2+] (3) No landlord shall terminate any tenancy for a
16 residential dwelling unit in the area that is the
17 subject of a disaster declaration or a severe weather
18 warning, except for a breach of a material term of a
19 rental agreement or lease, or if the unit is unfit for
20 occupancy as defined in this chapter, provided that:

21 (A) Nothing in this chapter shall be construed to
22 extend a fixed term lease beyond its termination



1 date, except that a periodic tenancy for a
2 residential dwelling unit may be terminated by
3 the landlord upon forty-five days written notice:

4 (i) When the residential dwelling unit is sold
5 to a bona fide purchaser for value; or

6 (ii) When the landlord or an immediate family
7 member of the landlord will occupy the
8 residential dwelling unit; or

9 (B) Under a fixed term lease or a periodic tenancy,
10 upon forty-five days written notice, a landlord
11 may require a tenant or tenants to relocate
12 during the actual and continuous period of any
13 repair to render a residential dwelling unit fit
14 for occupancy provided that:

15 (i) Reoccupancy shall first be offered to the
16 same tenant or tenants upon completion of
17 the repair; [~~and~~]

18 (ii) The term of the fixed term lease or periodic
19 tenancy shall be extended by a period of
20 time equal to the duration of the repair;
21 and



1 (iii) It shall be the responsibility of the tenant
2 or tenants to find other accommodations
3 during the period of repair.

4 As used in this section, "breach of a material term" means
5 the failure of a party to perform an obligation under the rental
6 agreement which constitutes the consideration for entering into
7 the contract and includes the failure to make a timely payment
8 of rent. For the purpose of this subsection:

9 "Fixed term lease" means a lease for real property that
10 specifies its beginning date and its termination date as
11 calendar dates, or contains a formula for determining the
12 beginning and termination dates; and the application of the
13 formula as of the date of the agreement will produce a calendar
14 date for the beginning and termination of the lease.

15 "Periodic tenancy" means a tenancy wherein real property is
16 leased for an indefinite time with monthly or other periodic
17 rent reserved. A periodic tenancy may be created by express
18 agreement of the parties, or by implication upon the expiration
19 of a fixed term lease when neither landlord nor tenant provides
20 the other with written notice of termination and the tenant
21 retains possession of the premises for any period of time after
22 the expiration of the original term.



1 "Unfit for occupancy" means that a residential dwelling
2 unit has been damaged to the extent that the appropriate county
3 agency determines that the unit creates a dangerous or
4 unsanitary situation and is dangerous to the occupants or to the
5 neighborhood."

6 2. By amending subsection (e) to read:

7 "(e) Any violation of this section [~~shall~~]:

8 (1) Shall constitute unfair methods of competition and
9 unfair and deceptive acts or practices in the conduct
10 of any trade [+]or[+] commerce under section 480-2 and
11 shall be subject to a civil penalty as provided in
12 section 480-3.1. Each [~~item sold~~] sale of a commodity
13 or services at a price that is prohibited by this
14 section shall constitute a separate violation[-];

15 (2) Shall be a class C felony if the profit unlawfully
16 received exceeds \$300; and

17 (3) Shall be a misdemeanor if the profit unlawfully
18 received is \$300 or less."

19 SECTION 22. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so
21 much thereof as may be necessary for fiscal year 2006-2007 to
22 carry out the purposes of section 18 of this Act.



1 The sum appropriated shall be expended by the director of
2 finance for the purposes of section 18 of this Act.

3 PART III.

4 SECTION 23. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 24. This Act shall take effect on July 1, 2006.



Report Title:

Disaster Preparedness

Description:

Prepares for Disasters by: establishing Civil Defense Disaster Preparedness Special Fund and makes appropriation to the fund; establishing Prepared Emergency Response Plan Commission; requiring counties to designate and maintain emergency shelter for homeless, hospitals and nursing homes to develop disaster preparedness plans; Department of Health to study structural integrity of hospitals and nursing homes, Department of Defense to develop disaster preparedness emergency shelter plan and report to Legislature; ; establishes the Residential Disaster Special Assistance Fund; increases expenditure cap of Major Disaster Fund to \$2,000,000; authorizes Governor to expend funds from the emergency and budget reserve fund to provide emergency assistance to residents and businesses of the State after natural disaster; limits the percentage of National Guard that can be activated by Governor for purposes other than disaster relief; establishes class C felony and misdemeanor offenses for price gouging and profiteering after natural disaster. (SB2214 HD2)

