
A BILL FOR AN ACT

RELATING TO DISASTER PREPAREDNESS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 DISASTER RELIEF PREPAREDNESS - PLANNING AND ASSESSMENT

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

6 "~~§128-~~ Civil defense disaster preparedness special fund.

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

10 (1) The moneys provided by the hurricane reserve trust
11 fund under section 431P-16; and

12 (2) Appropriations made by the legislature to the civil
13 defense disaster preparedness special fund.

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



- 1 (1) Constructing, improving, and retrofitting buildings
- 2 that could serve as public shelters;
- 3 (2) Purchasing or improving early warning systems;
- 4 (3) Public education programs on disaster preparedness;
- 5 (4) Loss mitigation or reduction efforts or programs,
- 6 including but not limited to deposits to the loss
- 7 mitigation grant fund under section 431:22-102;
- 8 (5) Providing around-the-clock alert staff for the civil
- 9 defense division of the department of defense;
- 10 (6) Updating evacuation maps in phone books;
- 11 (7) Developing statewide residential safe room design
- 12 standards and facilitating impact resistance testing
- 13 and certification of safe room design; provided that
- 14 safe room prototype models are developed with public
- 15 or private sector grants or investments;
- 16 (8) Disaster or emergency response programs including, but
- 17 not limited to, deposits to the major disaster fund
- 18 under section 127-11;
- 19 (9) Establishing and maintaining emergency supplies to
- 20 provide immediate relief in the case of a disaster or
- 21 emergency; or

1 (10) Improving the readiness of the State or its citizens
2 to respond to a disaster.

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

11 SECTION 2. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$, or so
13 much thereof as may be necessary for fiscal year 2006-2007, for
14 deposit into the civil defense disaster preparedness special
15 fund.

16 The sum appropriated shall be expended by the department of
17 defense for the purposes of section 1.

18 SECTION 3. There is appropriated out of the civil defense
19 disaster preparedness special fund the sum of \$, or so
20 much thereof as may be necessary for fiscal year 2006-2007, for
21 the purposes of section 1.

1 The sum appropriated shall be expended by the department of
2 defense for the purposes of section 1.

3 SECTION 4. The department of defense, in consultation with
4 the civil defense agency for each county and the appropriate
5 state agencies, shall develop a disaster preparedness emergency
6 shelter plan that provides adequate emergency shelter for all
7 residents, visitors, and persons with disabilities.

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

19 (c) The plan also shall identify sites for new emergency
20 public shelters and provide a schedule for the creation of the
21 new emergency public shelters necessary to meet the anticipated
22 needs of both residents and visitors during any natural or



1 manmade disaster; provided that any newly designated or created
2 emergency public shelter shall meet the public shelter design
3 criteria standards established pursuant to Act 5, Special
4 Session Laws of Hawaii 2005.

5 (d) People with disabilities are self-sufficient under
6 normal circumstances, but may have to rely upon the help and
7 assistance of others in a disaster. For example:

8 (1) People with disabilities and older people often need
9 more time than others to make necessary preparation in
10 an emergency;

11 (2) People who are deaf or hard of hearing may not receive
12 early disaster warnings and emergency instructions
13 that are normally disseminated audibly by siren,
14 radio, and television;

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

18 (4) Guide dogs could become confused or disoriented in a
19 disaster, leaving their dependent owners at greater
20 risk;

21 (5) Guide dogs may not be allowed to stay at shelters to
22 assist their dependent owners;



1 (6) People with impaired mobility are concerned about
2 being lifted, carried, and then dropped, causing them
3 injury and further impairment;

4 (7) People with mental retardation are not always able to
5 understand an emergency situation and could become
6 disoriented and confused;

7 (8) People with respiratory illness could require oxygen
8 and respiratory equipment in an emergency; and

9 (9) People with epilepsy, Parkinson's disease, and other
10 conditions have very individualized medication
11 regimens that cannot be interrupted without serious
12 consequences.

13 The plan shall provide for shelter and evacuation for the
14 population of persons with disabilities, including but not
15 limited to persons such as those enumerated in this subsection.

16 SECTION 5. The director of civil defense shall submit to
17 the legislature no less than twenty days prior to the convening
18 of the regular session of 2007 a report concerning the disaster
19 preparedness emergency public shelter plan, which includes the
20 status of currently designated emergency public shelters and
21 their compliance with the design criteria established pursuant
22 to Act 5, Special Session Laws of 2005, and a timetable for the



1 creation of new emergency public shelters to meet the
2 anticipated needs of visitors and residents.

3 SECTION 6. The Hawaii Revised Statutes is amended by
4 adding two new sections to be appropriately designated and to
5 read as follows:

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

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

20 (c) By January 1, 2007, any nursing home that is licensed
21 or certified by the department shall file with the department of
22 defense a disaster preparedness plan that details the facility's



1 plan to provide adequate emergency shelter for patients and
2 staff, as well as a plan to meet the medical needs of their
3 patients during a natural or manmade disaster.

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

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

16 § - Disaster preparedness plans; hotels. (a)
17 Pursuant to section 321-11 and no later than July 1, 2007, the
18 department of health shall adopt rules under chapter 91
19 necessary for public health and safety to require all hotels
20 with at least nine rooming units, in which space is let by the
21 owner or operator, to file with the department of defense a
22 disaster preparedness plan that details the hotel's plan to



1 provide adequate emergency shelter for visitors and staff during
2 a natural or manmade disaster.

3 (b) The disaster preparedness plan shall be submitted by
4 hotels subject to this section no later than thirty days after
5 the effective date of the rules adopted pursuant to subsection
6 (a).

7 (c) Any hotel subject to this section, as a part of its
8 required disaster preparedness plan, shall include plans to
9 retrofit its structural facilities using new technologies
10 developed to prevent the progressive collapse of buildings
11 during a natural or manmade disaster. Each plan shall include a
12 timeline detailing the facility's planned implementation of the
13 prospective retrofitting of the structural facilities."

14 SECTION 7. The department of health shall conduct a study
15 to assess the structural integrity of all hospitals and nursing
16 homes in Hawaii. The study shall be conducted by one or more
17 registered professional engineers qualified to conduct
18 structural analysis and knowledgeable in the effects of
19 hurricanes. The analysis shall include rating each facility
20 based on its ability to survive the likely effects of hurricanes
21 in categories I, II, III, IV, and V, using hurricane shelter
22 criteria as established by the state department of defense



1 pursuant to section 5 of Act 5, Special Session Laws of Hawaii
2 2005.

3 Information derived from the analysis shall be provided to
4 facility owners and operators and used to support risk-based
5 disaster plans. The information shall also be provided to local
6 and state civil defense officials and used to support evacuation
7 decisions. Aggregate data shall be provided to the legislature.

8 SECTION 8. The department of health shall report findings
9 and recommendations, including any proposed legislation, to the
10 legislature no later than twenty days before the convening of
11 the regular session of 2007.

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

17 The sum appropriated shall be expended by the department of
18 health for the purposes of section 7.

19 SECTION 10. Chapter 201G, Hawaii Revised Statutes, is
20 amended by adding a new section to part IV to be appropriately
21 designated and to read as follows:



1 "§201G- Temporary emergency housing. (a) In addition
 2 to any other duties prescribed by law, the administration shall
 3 coordinate with the four counties to develop a procedure for
 4 identifying locations that shall be used for temporary emergency
 5 shelters for homeless individuals and families.

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

10 SECTION 11. There is appropriated out of the general
 11 revenues of the State of Hawaii the following sums, or so much
 12 thereof as may be necessary for the fiscal year 2006-2007, as a
 13 grant-in-aid to assist the counties in implementing section 9 of
 14 this Act:

15	City and county of Honolulu	\$
16	County of Kauai	\$
17	County of Maui	\$
18	County of Hawaii	\$
19	Total	\$

20 The sums appropriated to each county shall be expended by
 21 that county for the purposes of this section and shall



1 constitute the State's share of the cost of mandated programs
2 under article VIII, section 5, of the state constitution.

3 SECTION 12. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$, or so
5 much thereof as may be necessary for fiscal year 2006-2007, for
6 the planning, design, construction, and equipment costs related
7 to increasing the number of safe emergency shelters located in
8 the community.

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

11 SECTION 13. Act 178, Session Laws of Hawaii 2005, is
12 amended by amending section 67 to read as follows:

13 "SECTION 67. Provided that of the general fund
14 appropriation for amelioration of physical disasters (DEF 110),
15 the sum of \$500,000 for fiscal year 2005-2006 and the sum of
16 \$500,000 for fiscal year 2006-2007 shall be expended for relief
17 (\$) and to establish an emergency cache (\$),
18 from major disasters pursuant to chapter 127-11, Hawaii Revised
19 Statutes; provided further that the department of defense shall
20 notify the legislature within five business days of any
21 expenditure of these funds by submitting a report detailing the
22 date, reason, and amount of the expenditure; and provided



1 further that any funds not expended for this purpose shall be
2 lapsed to the general fund."

3 SECTION 14. Section 269-27.6, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Notwithstanding any law to the contrary, whenever a
6 public utility applies to the public utilities commission for
7 approval to place, construct, erect, or otherwise build a new
8 forty-six kilovolt or greater high-voltage electric transmission
9 system, either above or below the surface of the ground, the
10 public utilities commission shall determine whether the electric
11 transmission system shall be placed, constructed, erected, or
12 built above or below the surface of the ground; provided that in
13 tsunami-prone areas as determined by the state department of
14 defense, there shall be a rebuttable presumption in favor of
15 placement below the surface of the ground; and provided further
16 that in its determination, the public utilities commission shall
17 consider:

- 18 (1) Whether a benefit exists that outweighs the costs of
19 placing the electric transmission system underground;
- 20 (2) Whether there is a governmental public policy
21 requiring the electric transmission system to be
22 placed, constructed, erected, or built underground,



1 and the governmental agency establishing the policy
2 commits funds for the additional costs of
3 undergrounding;

4 (3) Whether any governmental agency or other parties are
5 willing to pay for the additional costs of
6 undergrounding;

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

11 (5) Any other relevant factors."

12 PART II

13 DISASTER RELIEF PREPAREDNESS - RESPONSE AFTER DISASTER

14 SECTION 15. Section 328L-3, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§328L-3 Emergency and budget reserve fund.** (a) There is
17 established in the state treasury the emergency and budget
18 reserve fund which shall be a special fund administered by the
19 director of finance, into which shall be deposited:

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



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

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

4 (c) Expenditures from the emergency and budget reserve
5 fund shall be a temporary supplemental source of funding for the
6 State during times of emergency, economic downturn, or
7 unforeseen reduction in revenues. No expenditures shall be made
8 from the emergency and budget reserve fund except pursuant to
9 appropriations~~[-]~~ or as provided in subsection (e). The general
10 appropriations bill or the supplemental appropriations bill, as
11 defined in section 9 of article VII of the Constitution of the
12 State of Hawaii, shall not be used to appropriate moneys from
13 the emergency and budget reserve fund. The governor, through an
14 appropriations bill, may recommend expenditures from the
15 emergency and budget reserve fund by setting forth the purposes
16 of the expenditures consistent with subsection (d), the amounts,
17 and the reasons justifying the necessity for the appropriations.

18 (d) The legislature may make appropriations from the fund
19 for the following purposes:

20 (1) To maintain levels of programs determined to be
21 essential to public health, safety, welfare, and
22 education;

- 1 (2) To provide for counter cyclical economic and
2 employment programs in periods of economic downturn;
- 3 (3) To restore facilities destroyed or damaged or services
4 disrupted by disaster in any county; and
- 5 (4) To meet other emergencies when declared by the
6 governor or determined to be urgent by the
7 legislature.

8 Any act making appropriations from the emergency and budget
9 reserve fund shall include a declaration of findings and
10 purposes setting forth the purposes, the amounts, and the
11 reasons why the appropriations are necessary and, except as
12 provided in subsection (e), shall require a two-thirds majority
13 vote of each house of the legislature.

14 (e) Upon the declaration by the governor of an emergency
15 due to a natural disaster, the governor, by executive order, may
16 authorize the release and expenditure of moneys appropriated
17 from the fund to provide emergency assistance to residents or
18 businesses of the State for damages sustained from a natural
19 disaster, during or immediately after the natural disaster,
20 subject to the following requirements:

- 21 (1) The governor shall determine the amount of moneys to
22 be released based upon the recommendations of the



1 State and respective county civil defense agencies;
2 provided that the amount appropriated shall not exceed
3 ten per cent of the balance in the fund earned from
4 interest on principal at the time of the
5 appropriation;

6 (2) Within seventy-two hours after issuing the executive
7 order, the governor shall provide written notice to
8 the president of the senate and the speaker of the
9 house of representatives describing the intended use
10 of the moneys; and

11 (3) The governor shall submit a report to the legislature
12 not later than twenty days prior to the convening of
13 the regular session or any special session immediately
14 following the occurrence of the natural disaster,
15 regarding the release and expenditure of moneys from
16 the fund under this subsection; provided that if the
17 natural disaster occurs in the period between thirty
18 days prior to the convening of a regular session and
19 the closing of the regular session, the governor shall
20 submit the report not later than thirty days after
21 issuing the executive order. At a minimum the report
22 shall:



- 1 (A) State the amounts released;
- 2 (B) Describe the purposes under subsection (d) for
- 3 which the funds were released;
- 4 (C) Explain the factors that necessitated the use of
- 5 moneys in the fund; and
- 6 (D) Provide recommendations for replacing the
- 7 expended moneys from the fund.

8 [~~e~~] (f) Appropriations for the following purposes from
 9 the emergency and budget reserve fund are specifically
 10 prohibited:

- 11 (1) To meet expenses of the legislature;
- 12 (2) To provide for salary adjustments for officials
- 13 appointed pursuant to article V, section 6, or article
- 14 VI, section 3, of the Constitution of the State of
- 15 Hawaii and for others whose salaries are directly
- 16 related to salaries of these officials; and
- 17 (3) To fund cost items in any collective bargaining
- 18 contract."

19 SECTION 16. 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

1 carry out the purposes of section 328L-3, Hawaii Revised
2 Statutes.

3 The sum appropriated shall be expended by the director of
4 finance for the purposes of this section.

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

7 "**§127-11 Major disaster fund.** The director shall submit
8 requests to the legislature to appropriate from the general
9 revenues of the State sufficient moneys as may be necessary for
10 expenditure by or under the direction of the governor for
11 immediate relief in the event of the occurrence of any major
12 disaster or emergency in any part of the State; provided that:

13 (1) The governor may not expend in excess of [~~\$1,000,000~~]
14 \$2,000,000 for immediate relief of any single major
15 disaster[+] or emergency; and

16 (2) [~~Provided further that in~~] In addition to the funds in
17 paragraph (1), an additional [~~\$1,000,000~~] \$2,000,000
18 shall be available solely for the purpose of matching
19 federal disaster or emergency relief funds when these
20 funds become available following a presidential
21 disaster or emergency declaration.



1 In expending the moneys, the governor may allot any portion
2 thereof to any agency, office, or employee, federal, state, or
3 county, for the more speedy and efficient relief of the
4 conditions created by the disasters. The governor may determine
5 whether a major disaster or emergency contemplated by this
6 section has occurred[~~, and any determination shall be~~
7 ~~conclusive~~]."

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

11 **"§209- Residential disaster assistance special fund.**

12 (a) There is established within the state treasury a special
13 fund to be known as the residential disaster assistance special
14 fund. The special fund shall be administered and expended by
15 the department of business, economic development, and tourism in
16 accordance with this section.

17 (b) The department shall expend the special fund to
18 provide reimbursement to applicants who, as a result of a state
19 disaster:

- 20 (1) Incurred residential property losses; and
21 (2) Are not eligible for any other state or federal
22 government assistance program or loan.



1 (c) An applicant shall be eligible to receive compensation
2 for loss, resulting from a state disaster, under this section if
3 the applicant is a natural person and the owner of the damaged
4 dwelling; provided that an applicant may apply for compensation
5 for not more than one damaged dwelling.

6 (d) Compensation for loss to any one applicant under this
7 section shall not exceed \$. The department may expend
8 moneys from the fund without an appropriation by the
9 legislature. Any insurance proceeds received by the applicant
10 for a loss as a result of a natural disaster, as defined in
11 section 171-85, shall be deducted from the amount payable to the
12 applicant under this subsection if the applicant's compensation
13 from the special fund exceeds the applicant's insurance
14 compensation, if any. If the compensation from the special fund
15 is not more than the insurance compensation, the applicant shall
16 be entitled to compensation from the special fund in an amount
17 that does not exceed the difference between the amount of the
18 insurance compensation and the actual loss suffered.

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



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

4 (2) Make compensation to each applicant in the pro rata
5 proportion that the applicant's compensation bears to
6 the total available moneys appropriated under
7 subsection (g).

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

11 (g) The special fund shall consist of moneys appropriated
12 for deposit into the fund for purposes of this section; provided
13 that no unexpended or unencumbered moneys shall lapse into the
14 general fund."

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

17 "**§121-30 Order to active service[-]; governor's duty.** (a)

18 In case of war, insurrection, invasion, riot, or imminent danger
19 thereof, or any forcible obstruction to the execution of the
20 laws, or reasonable apprehension thereof, or for assistance to
21 civil authorities in disaster relief or civil defense, the
22 governor may order the national guard or other component of the

1 militia or any part thereof into active service. The governor
2 or the governor's designated representative also may order the
3 national guard into active service in nonemergency situations
4 for duty and training in addition to the drill and instruction
5 required by section 121-28.

6 (b) The governor shall not order the national guard or
7 other component of the militia or any part thereof into active
8 service pursuant to subsection (a), other than for assistance to
9 civil authorities in disaster relief or civil defense if, as a
10 result, more than _____ per cent of the members of the Hawaii
11 national guard would be in active federal or state service at
12 any one time.

13 (c) If, as a result of an order by the President of the
14 United States directing any members of the Hawaii national guard
15 to report to active federal service for deployment outside of
16 the State, the percentage under subsection (b) would be
17 exceeded, the governor, with the assistance of the adjutant
18 general, shall immediately:

19 (1) Advise the President of the United States, Secretary
20 of Defense, and Secretary of the Army, or Secretary of
21 the Air Force, as appropriate, of the provisions of
22 this section as well as the dire social, economic, and



1 civil defense consequences to the State of the
2 activation and deployment; and

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

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

8 "Services" shall mean any work, labor, or services
9 furnished in connection with the sale or renovation of real or
10 personal property."

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

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

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

17 (1) There shall be prohibited any excessive increase in
18 the selling price of any commodity~~[r]~~ or service,
19 whether at the retail or wholesale level, in the area
20 that is the subject of the disaster declaration or the
21 severe weather warning~~[r and]~~. It is prima facie
22 evidence that a price is an excessive increase if:



- 1 (A) The amount charged for the commodity or service
2 that is the subject of the offer or transaction
3 exceeds by per cent the average price at
4 which that commodity or service was leased or
5 sold or offered for lease or sale in the usual
6 course of business during the thirty days
7 immediately prior to a declaration of a state of
8 disaster, and the increase in the amount charged
9 is not attributable to additional costs incurred
10 in connection with the lease or sale of that
11 commodity or service, or any national or
12 international trends; or
- 13 (B) The amount charged exceeds by per cent the
14 average price at which the same or similar
15 commodity or service was readily obtainable in
16 the trade area during the thirty days immediately
17 prior to a declaration of a state of natural
18 disaster, and the increase is not attributable to
19 additional costs incurred in connection with the
20 lease or sale of that commodity or service, or
21 any national or international trends;



1 ~~[(2)]~~ (3) No landlord shall terminate any tenancy for a
2 residential dwelling unit in the area that is the
3 subject of a disaster declaration or a severe weather
4 warning, except for a breach of a material term of a
5 rental agreement or lease, or if the unit is unfit for
6 occupancy as defined in this chapter, provided that:
7 (A) Nothing in this chapter shall be construed to
8 extend a fixed term lease beyond its termination
9 date, except that a periodic tenancy for a
10 residential dwelling unit may be terminated by
11 the landlord upon forty-five days written notice:
12 (i) When the residential dwelling unit is sold
13 to a bona fide purchaser for value; or
14 (ii) When the landlord or an immediate family
15 member of the landlord will occupy the
16 residential dwelling unit; or
17 (B) Under a fixed term lease or a periodic tenancy,
18 upon forty-five days written notice, a landlord
19 may require a tenant or tenants to relocate
20 during the actual and continuous period of any
21 repair to render a residential dwelling unit fit
22 for occupancy provided that:

- 1 (i) Reoccupancy shall first be offered to the
- 2 same tenant or tenants upon completion of
- 3 the repair; and
- 4 (ii) The term of the fixed term lease or periodic
- 5 tenancy shall be extended by a period of
- 6 time equal to the duration of the repair;
- 7 and
- 8 (iii) It shall be the responsibility of the tenant
- 9 or tenants to find other accommodations
- 10 during the period of repair.

11 As used in this section, "breach of a material term" means

12 the failure of a party to perform an obligation under the rental

13 agreement which constitutes the consideration for entering into

14 the contract and includes the failure to make a timely payment

15 of rent. For the purpose of this subsection:

16 "Fixed term lease" means a lease for real property that

17 specifies its beginning date and its termination date as

18 calendar dates, or contains a formula for determining the

19 beginning and termination dates; and the application of the

20 formula as of the date of the agreement will produce a calendar

21 date for the beginning and termination of the lease.

1 "Periodic tenancy" means a tenancy wherein real property is
2 leased for an indefinite time with monthly or other periodic
3 rent reserved. A periodic tenancy may be created by express
4 agreement of the parties, or by implication upon the expiration
5 of a fixed term lease when neither landlord nor tenant provides
6 the other with written notice of termination and the tenant
7 retains possession of the premises for any period of time after
8 the expiration of the original term.

9 "Unfit for occupancy" means that a residential dwelling
10 unit has been damaged to the extent that the appropriate county
11 agency determines that the unit creates a dangerous or
12 unsanitary situation and is dangerous to the occupants or to the
13 neighborhood."

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

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

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



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

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

5 SECTION 22. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 23. This Act shall take effect on July 1, 2006.

Report Title:

Disaster Preparedness

Description:

Establishes Civil Defense Disaster Preparedness Special Fund and makes appropriation to the fund; requires Department of Defense to develop disaster preparedness emergency shelter plan and to report to Legislature; requires hospitals, nursing homes, and hotels to develop disaster preparedness plans; requires Department of Health to conduct a study of the structural integrity of hospitals and nursing homes in Hawaii; requires counties to locate, designate, and maintain areas to provide emergency shelter for homeless; establishes rebuttable presumption in favor of undergrounding electric utilities in tsunami-prone areas; 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; establishes the Residential Disaster Special Assistance Fund; 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. (SD2)

