

JAN 22 2008

A BILL FOR AN ACT

RELATING TO DISASTER RELIEF.

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

1 SECTION 1. Section 127-10, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§127-10 Disaster relief [during suspension of preceding
4 sections.] for disasters not caused by enemy attacks. [~~During~~
5 ~~any period in which sections]~~ (a) Sections 127-1 to 127-9 [are
6 not] shall be in effect[~~7~~] and available to provide relief for
7 disasters not covered under chapter 128 and the governor and
8 political subdivisions may exercise any and all of their powers
9 [that relate to disasters resulting from enemy attacks,]
10 authorized under this chapter in order to provide other disaster
11 relief. All provisions of law that relate to disasters
12 resulting from enemy attacks during such period are made
13 applicable to other disaster relief, including without
14 limitation, provisions making or authorizing appropriations or
15 expenditures[-]; provided that, in order to exercise the powers
16 authorized under this chapter and chapter 128 for disasters not
17 caused by an enemy attack, the governor shall first find and



1 declare through an emergency proclamation that tangible and
2 measurable harm or damage has resulted as a consequence of the
3 disaster and that the disaster relief could not otherwise be
4 achieved through legislation enacted in the next occurring
5 regular session of the legislature or a special session of the
6 legislature called by the governor for the purpose of providing
7 for such relief. If disaster relief can be achieved through
8 legislation enacted in the next occurring regular session of the
9 legislature or a special session of the legislature called by
10 the governor for the purpose of providing for such relief, then
11 the governor shall not execute any action to further provide for
12 disaster relief under this chapter.

13 (b) Any disaster relief provided under this chapter shall
14 not extend beyond the adjournment sine die of the next occurring
15 regular session of the legislature after the governor declares
16 that the disaster relief is necessary unless expressly
17 authorized by the legislature through the adoption of a
18 concurrent resolution or by the enactment of law. The governor
19 shall submit a report on the governor's findings and
20 recommendations on whether to extend the provision of any
21 disaster relief provided under this chapter and any enabling
22 proposed legislation or appropriations to authorize the



1 continuance of any disaster relief provided. If the legislature
2 does not adopt or enact legislation to execute or extend
3 disaster relief, the governor shall not execute disaster relief
4 actions under this chapter or extend the provision of disaster
5 relief for a particular disaster beyond the adjournment sine die
6 of the legislature during the session in which the legislation
7 was considered.

8 As used in this section [~~the~~]:

9 "Other disaster relief" means the preparation for and the
10 carrying out of all functions, other than functions for which
11 military forces are primarily responsible, to minimize and
12 repair injury and damage resulting from disasters caused by
13 fire, flood, tidal wave, volcanic eruption, earthquake, or other
14 natural causes and major disasters caused by acts of man,
15 including but not limited to, massive oil spills, nuclear
16 accidents, airplane crashes, and civil disturbances.

17 "Tangible and measurable harm or damage" means harm or
18 damage that has already occurred and that, unless immediately
19 acted upon, would otherwise be irreparable, result in the
20 imminent loss of life, or pose an immediate health or safety
21 hazard to humans or the environment."



1 SECTION 2. Section 128-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§128-7 Civil defense emergency period. The term "civil
4 defense emergency period" includes (1) a period of civil defense
5 emergency proclaimed pursuant to the Federal Civil Defense Act
6 of 1950, or (2) the period of the existence of a state of civil
7 defense emergency in the State hereby authorized to be
8 proclaimed by the governor if the governor finds that an attack
9 upon the State has occurred or that there is danger or threat
10 thereof, or that there has arisen any state of affairs or
11 circumstances of such a grave nature as to affect the common
12 defense or the readiness of the community to meet an attack, and
13 which requires the invocation of provisions of this chapter that
14 are effective only during a period of civil defense emergency.
15 The governor shall be the sole judge of the existence of the
16 danger, threat, state of affairs, or circumstances[-] during a
17 period of civil defense emergency. A period of civil defense
18 emergency proclaimed pursuant to the Federal Civil Defense Act
19 of 1950 shall terminate as therein provided, and a period of
20 civil defense emergency proclaimed by the governor shall
21 terminate upon proclamation by the governor[-] unless otherwise
22 provided by law."



1 SECTION 3. The emergency powers authorized and exercised
2 under any emergency proclamation issued prior to the effective
3 date of this Act that:

4 (1) Is still in full force and effect; and

5 (2) Purports to provide disaster relief in this State
6 through the powers authorized under chapter 127 or
7 128, Hawaii Revised Statutes,

8 shall expire upon the effective date of this Act unless the
9 legislature, by adoption of a concurrent resolution or enactment
10 of law during the 2008 regular session, expressly reauthorizes
11 such powers for the specific disaster relief action.

12 SECTION 4. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval.

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Report Title:

Disaster Relief; Emergency Powers; Clarification

Description:

Clarifies the use of the governor's emergency powers. Clarifies that the governor shall not utilize the power to suspend laws authorized under the Civil Defense and Emergency Act when the State is attacked for purposes of noncivil defense situations unless there is a tangible and measureable threat to the people or environment of the State. Establishes that certain provisions of the State's disaster relief chapter are operative and supersede provisions of the Civil Defense and Emergency Act in times when an emergency arises that is not considered a civil defense emergency. States that any emergency powers in force prior to the effective date of this measure expire at the end of the 2008 regular session unless reauthorized by the legislature.

