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# A BILL FOR AN ACT

RELATING TO CIVIL DEFENSE.

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

1           SECTION 1. One of the policies and purposes of chapter  
2 128, Hawaii Revised Statutes, is that all civil defense  
3 functions of the State be coordinated to the maximum extent with  
4 the comparable functions of the federal government including its  
5 various departments and agencies, with those of other states and  
6 localities, and with those of private agencies of every type, to  
7 the end that the most effective preparation and use may be made  
8 of all personnel, resources, and facilities for dealing with any  
9 disaster or emergency that may occur.

10           The legislature finds that there is a need to amend the law  
11 regarding the liability of an owner or operator of a hospital,  
12 community based care home, home-based care home, home health  
13 agency, or health care agency or facility of any type, as well  
14 as day care, and educational institutions, when an owner or  
15 operator of these facilities permits the use of the property for  
16 sheltering persons during disasters and emergencies. The  
17 legislature recognizes that there is a shortage of shelter space  
18 in Hawaii and that the private industry should be encouraged to



1 assist in sheltering the public by providing shelter for those  
2 persons who by reason of existing relationships may be in these  
3 facilities during disasters and emergencies. Under the current  
4 law, it is unclear whether owners or operators of certain  
5 facilities are able to fully comply with the requirements of  
6 section 128-19, Hawaii Revised Statutes, when providing shelter  
7 to persons in their care, custody, or charge because section  
8 128-19 requires that shelter be made available without  
9 compensation.

10 The purpose of this Act is to clarify that compensation  
11 received by certain private entities for use of facilities as a  
12 private shelter is not considered compensation for the purposes  
13 of section 128-19, Hawaii Revised Statutes.

14 SECTION 2. Section 128-2, Hawaii Revised Statutes, is  
15 amended by adding a new definition to be appropriately inserted  
16 and to read as follows:

17 "State licensed health care setting or agency" means any  
18 hospital, clinic, rural health center, rehabilitation facility,  
19 community-based care home, home-based care home, home health  
20 agency, skilled nursing facility, intermediate care facility,  
21 adult residential care home, expanded adult residential care  
22 home, assisted living facility, hospice, adult day health



1 center, special treatment facility, therapeutic living program,  
2 intermediate care facility for the mentally retarded,  
3 developmental disabilities domiciliary home, adult foster home  
4 for the developmentally disabled or mentally retarded, community  
5 care foster family home, or any other health care facility or  
6 agency duly licensed or certified by the department of health or  
7 department of human services."

8 SECTION 3. Section 128-19, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 **"§128-19 Immunity from liability of private shelter. (a)**

11 Any individual, partnership, firm, society, unincorporated  
12 association, joint venture group, hui, joint stock company,  
13 corporation, trustee, personal representative, trust estate,  
14 decedent's estate, trust, or other legal entity whether doing  
15 business for itself or in a fiduciary capacity, owning or  
16 controlling real property, who voluntarily and without  
17 compensation grants a license or privilege for, or otherwise  
18 permits, the designation by the director of civil defense for  
19 the use of the whole or any part of the property for the purpose  
20 of sheltering persons during an actual, impending, mock, or  
21 practice attack [~~shall~~], together with its successors in  
22 interest, if any, shall not be civilly liable for negligently



1 causing the death of or injury to any person or damage to any  
2 personal property on the property of the licensor in connection  
3 with the use of the licensed premises for the purposes  
4 designated. [~~For purposes of this section, the consideration~~  
5 ~~paid by any guest or person for transient accommodation lodging~~  
6 ~~shall not be considered compensation.~~]

7 (b) For the purposes of this section, the following shall  
8 not be considered compensation:

- 9 (1) Any compensation or consideration paid by or on behalf  
10 of any guest or person for transient accommodation  
11 lodging;
- 12 (2) Any compensation or consideration paid for any  
13 patient, resident, ward, or client present or residing  
14 in any state licensed health care setting or agency  
15 used as a private shelter under this section; provided  
16 that the immunity under this section shall not extend  
17 beyond the use of the private shelter to any other  
18 duty or standard of care owed to any patient,  
19 resident, ward, or client; and
- 20 (3) Any compensation or consideration paid by or on behalf  
21 of any minor or student of any age in any day care,  
22 preschool, elementary school, middle school, high



1           school, college, university, trade school, or any  
2           other educational facility used as a private shelter  
3           under this section."

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

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



**Report Title:**

Liability Exemptions; Disasters; Care Homes; Schools

**Description:**

Supports State Civil Defense's shelter-in-place initiative by exempting civil liability for care homes and schools, in addition to hotels, during an officially designated emergency.  
(SD1)

