
A BILL FOR AN ACT

RELATING TO HAZARDS.

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

1 SECTION 1. The legislature finds that conditions exist on
2 public and private property that pose a significant risk of harm
3 to the public. In the case of private property, a dangerous
4 condition may exist that poses a significant risk of harm to an
5 adjoining landowner. While the affected landowners may have
6 rights to personally address some conditions, there are
7 situations in which doing so may place the affected landowner in
8 a position of financial hardship or at risk of personal harm.
9 Where a dangerous condition exists and injury is caused as a
10 result thereof, private property owners may seek remedies by way
11 of civil actions. However, the courts are not readily
12 accessible to all persons, especially those who do not have the
13 economic means to secure legal counsel.

14 The purpose of this Act is to allow civil defense, when no
15 emergency exists, to enter on private property to mitigate
16 hazardous situations such as dangerous trees that pose a falling
17 hazard, unstable rock and soil conditions, or clogged streams
18 after giving the landowner notice.



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 powers; mitigation of hazardous
5 situations. (a) Irrespective of the existence of a civil
6 defense or other emergency, the governor may enter onto private
7 property at reasonable times to mitigate a situation deemed
8 hazardous to the health and safety of the public that include
9 but are not limited to:

- 10 (1) Removing trees that may pose a risk to others due to
11 falling branches or total collapse;
12 (2) Stabilizing or removing unstable rock and soil
13 hazards; or
14 (3) Cleaning streams and waterways to mitigate or prevent
15 flooding or other disasters;

16 provided that at least five days notice is given to the
17 landowner and the occupier of any private property of the
18 governor's intention to enter the property to mitigate the
19 hazardous situation.

20 (b) Written notice sent to the landowner's last known
21 address by certified mail, postage prepaid, return receipt
22 requested, shall be deemed sufficient notice. In the event that



1 certified mail is impractical because, despite diligent efforts,
2 land ownership cannot be determined, notice shall be given once
3 in a daily or weekly publication of general circulation in the
4 county where any action or proposed action will be taken.

5 (c) If entry is refused, the governor may apply to the
6 district court in the circuit in which the property is located
7 for a warrant to enter the premises. The district court may
8 issue a warrant directing a police officer of the circuit to
9 assist the governor in gaining entry onto the premises during
10 regular working hours or at other reasonable times."

11 SECTION 3. Section 127-10, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§127-10 Disaster relief during suspension of preceding**
14 **sections.** During any period in which sections 127-1 to 127-9
15 are not in effect, the governor and political subdivisions may
16 exercise any and all of their powers under chapter 128 or that
17 relate to disasters resulting from enemy attacks, to provide
18 other disaster relief. All provisions of law that relate to
19 disasters resulting from enemy attacks during such period and
20 all provisions of chapter 128 are made applicable to other
21 disaster relief, including without limitation, provisions making
22 or authorizing appropriations or expenditures.



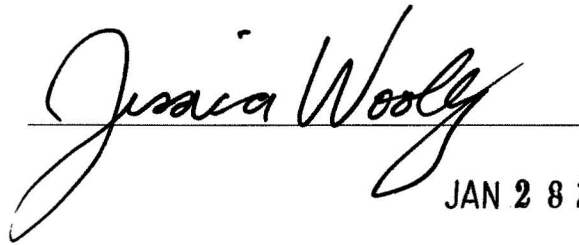
1 As used in this section, "other disaster relief" means the
2 preparation for and the carrying out of all functions, other
3 than functions for which military forces are primarily
4 responsible, to minimize and repair injury and damage resulting
5 from disasters caused by fire, flood, tidal wave, volcanic
6 eruption, earthquake, or other natural causes and major
7 disasters caused by acts of man^[7] including ~~[but not limited~~
8 ~~to]~~ massive oil spills, nuclear accidents, airplane crashes,
9 and civil disturbances."

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

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

13

INTRODUCED BY:

A handwritten signature in black ink, reading "Jessica Woolly", is written over a horizontal line.

JAN 28 2009



Report Title:

Hazard Mitigation; Private Property

Description:

Allows Civil Defense, when no emergency exists, to enter on private property to mitigate hazardous situations after giving the landowner notice.

