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# 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  
15 personnel, at the discretion of the governor, to enter on  
16 private property after giving the landowner notice to mitigate  
17 hazardous situations such as dangerous trees that pose a falling  
18 hazard, unstable rock and soil conditions, or clogged streams.



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 activity or other emergency, the governor may enter onto  
7 private property at reasonable times to mitigate situations  
8 deemed hazardous to the health and safety of the public,  
9 including:

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 land ownership cannot be determined, notice shall be given once  
2 in a daily or weekly publication of general circulation in the  
3 county where any action or proposed action will be taken.

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

10 (d) The governor may seek recovery and reimbursement by  
11 appropriate proceedings of all costs and expenses incurred in  
12 the mitigation of a hazardous situation under this section, and  
13 any costs and expenses imposed against any landowner shall be a  
14 lien upon the landowner's property."

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

17 **"§127-10 Disaster relief during suspension of preceding**  
18 **sections.** During any period in which sections 127-1 to 127-9  
19 are not in effect, the governor and political subdivisions may  
20 exercise any and all of their powers under chapter 128 or that  
21 relate to disasters resulting from enemy attacks, [~~in order~~] to  
22 provide other disaster relief. All provisions of law that



1 relate to disasters resulting from enemy attacks during such  
2 period and all provisions of chapter 128 are made applicable to  
3 other disaster relief, including without limitation, provisions  
4 making or authorizing appropriations or expenditures.

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

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

16 SECTION 5. This Act shall take effect on January 1, 2046.



**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. May seek recovery and reimbursement of costs and expenses. (HB1713 HD1)

