



GOV. MSG. NO. 523

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

April 25, 2010

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fifth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on April 25, 2010, the following bill was signed into law:

SB898 SD2 HD1

A BILL FOR AN ACT  
RELATING TO CIVIL DEFENSE.  
**ACT 060 (10)**

Sincerely,



LINDA LINGLE

Approved by the Governor  
on APR 25 2010

THE SENATE  
TWENTY-FIFTH LEGISLATURE, 2009  
STATE OF HAWAII

**ACT 060**

**S.B. NO.** 898  
S.D. 2  
H.D. 1

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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 (HRS), is to coordinate all state  
3 civil defense functions to the maximum extent possible with the  
4 comparable functions of the federal government (including its  
5 various departments and agencies), other states and localities,  
6 and private agencies, to allow for the most effective  
7 preparation and use of all personnel, resources, and facilities  
8 for dealing with any disaster or emergency that may occur.

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



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

9 The purpose of this Act is to clarify that compensation  
10 received by certain private entities for use of facilities as a  
11 private shelter is not considered compensation for the purposes  
12 of the law pertaining to immunity from liability of private  
13 shelter. This Act also includes sheltering of persons during  
14 natural or man-made disasters in the category of events that  
15 trigger limited liability for private entities that make their  
16 facilities available to the public during times of emergency.

17 SECTION 2. Section 128-19, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "§128-19 Immunity from liability of private shelter. (a)  
20 Any individual, partnership, firm, society, unincorporated  
21 association, joint venture group, hui, joint stock company,  
22 corporation, trustee, personal representative, trust estate,



1 decedent's estate, trust, or other legal entity whether doing  
2 business for itself or in a fiduciary capacity, owning or  
3 controlling real property, ~~[who]~~ that voluntarily and without  
4 compensation grants a license or privilege for, or otherwise  
5 permits, the designation by the director of civil defense for  
6 the use of the whole or any part of the property for the purpose  
7 of sheltering persons during an actual, impending, mock, or  
8 practice attack, or natural or man-made disaster, shall,  
9 together with its successors in interest, if any, not be civilly  
10 liable for negligently causing the death of or injury to any  
11 person or damage to any personal property on the property of the  
12 licensor in connection with the use of the licensed premises for  
13 the purposes designated. ~~[For purposes of this section, the~~  
14 ~~consideration paid by any guest or person for transient~~  
15 ~~accommodation lodging shall not be considered compensation.]~~

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

18 (1) Any compensation or consideration paid by or on behalf  
19 of any guest or person for transient accommodation  
20 lodging;

21 (2) Any compensation or consideration paid for any  
22 patient, resident, or ward present or residing in any



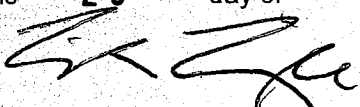
1 hospital, community-based care home, home-based care  
 2 home, or healthcare agency of any type licensed by the  
 3 department of health or the department of human  
 4 services and used as a private shelter under this  
 5 section; provided that the protections afforded by  
 6 this section shall not extend beyond the use of the  
 7 private shelter under this section for any other duty  
 8 or standard of care owed to any patient, resident, or  
 9 ward; and

10 (3) Any compensation or consideration paid by or on behalf  
 11 of any minor or student of any age in any day care,  
 12 preschool, elementary school, middle school, or any  
 13 other educational facility used as a private shelter  
 14 under this section."

15 SECTION 3. Statutory material to be repealed is bracketed  
 16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect upon its approval.  
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APPROVED this 25 day of APR, 2010

  
 GOVERNOR OF THE STATE OF HAWAII