

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO DISASTER RELIEF.

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

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

3           "§127-2 Disaster relief agency. (a) There shall be  
4 within the executive branch of the state government a division  
5 of disaster relief, hereinafter called the "disaster relief  
6 agency". The director of disaster relief [~~, hereinafter called~~  
7 ~~the "director", who shall be appointed and removed in the manner~~  
8 ~~provided by section 26-34, and who shall receive such~~  
9 ~~compensation as the governor may determine,~~] shall be in charge  
10 of the disaster relief agency. For the purposes of this  
11 chapter, the "disaster relief agency" and the "director of  
12 disaster relief" shall be the civil defense agency and the  
13 director of civil defense described in section 128-3,  
14 respectively.

15           (b) There shall be a vice-director of disaster relief who  
16 shall be appointed by the director. The vice-director shall be  
17 the chief administrative assistant to the director and shall, in



1 the absence of the director, have all the duties and  
2 responsibilities of the director.

3 ~~[(c) The director shall, with the approval of the county~~  
4 ~~council, appoint a deputy director for each political~~  
5 ~~subdivision. Deputy directors shall serve without pay. They~~  
6 ~~may hold other office or employment in the state government, or~~  
7 ~~any political subdivision.~~

8 ~~(d)]~~ (c) The director may employ [such] technical,  
9 clerical, stenographic, and other personnel and may make [such]  
10 expenditures as may be necessary to carry out the purposes of  
11 this chapter.

12 (d) The director shall be responsible for formulating and  
13 carrying out programs for disaster relief. The director shall  
14 coordinate the activities of all organizations for disaster  
15 relief, public or private, and shall cooperate with state and  
16 federal disaster relief agencies. The director shall be  
17 responsible for carrying out this chapter and in the event of  
18 disaster beyond local control the director may assume direct  
19 operational control over all or any part of the disaster relief  
20 functions within the State."

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



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

16           (1) A fire, flood, tidal wave, volcanic eruption,  
17 earthquake, pandemic illness, or other natural causes  
18 and major disasters caused by acts of man, including  
19 but not limited to massive oil spills, nuclear  
20 accidents, airplane crashes, and civil disturbances;  
21 or

22           (2) An enemy attack or act of terrorism,



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

14 (b) Any relief provided under this chapter for a disaster  
15 not enumerated in subsection (a) (1) and (2) shall not extend  
16 beyond the adjournment sine die of the next occurring regular  
17 session of the legislature after the governor declares that the  
18 disaster relief is necessary, unless expressly authorized by the  
19 legislature through the adoption of a concurrent resolution or  
20 by the enactment of law. The governor shall submit a report on  
21 the governor's findings and recommendations on whether to extend  
22 any disaster relief provided under this chapter, and any



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

9 (c) As used in this section [~~other~~]:

10 "Other disaster relief" means the preparation for and the  
11 carrying out of all functions, other than functions for which  
12 military forces are primarily responsible, to minimize and  
13 repair injury and damage resulting from disasters caused by  
14 fire, flood, tidal wave, volcanic eruption, earthquake, or other  
15 natural causes and major disasters caused by acts of man,  
16 including but not limited to[massive oil spills, nuclear  
17 accidents, airplane crashes and civil disturbances[]; provided  
18 that the term does not include the remedying of periodic or  
19 longstanding societal inequities or circumstances that may arise  
20 over the course of time that could otherwise be contemplated and  
21 remedied through the enactment of law under the legislative  
22 process.



1       "Tangible and measurable harm or damage" means harm or  
2 damage that may occur in the immediate future or that has  
3 already occurred and that, unless immediately acted upon, would  
4 otherwise be irreparable, result in the imminent loss of life,  
5 or pose an immediate health or safety hazard to humans or to the  
6 environment."

7       SECTION 3. Section 128-7, Hawaii Revised Statutes, is  
8 amended to read as follows:

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



1 civil defense emergency period. A period of civil defense  
2 emergency proclaimed pursuant to the Federal Civil Defense Act  
3 of 1950 shall terminate as therein provided, and a period of  
4 civil defense emergency proclaimed by the governor shall  
5 terminate upon proclamation by the governor[-] unless otherwise  
6 provided by law."

7 SECTION 4. The emergency powers authorized and exercised  
8 under any emergency proclamation issued prior to the effective  
9 date of this Act that:

- 10 (1) Is still in full force and effect on the effective  
11 date of this Act;
- 12 (2) Purports to provide disaster relief in the State of  
13 Hawaii through the powers authorized under chapter 127  
14 or 128, Hawaii Revised Statutes;
- 15 (3) Was not issued to:
- 16 (A) Establish drainage improvements to mitigate past,  
17 present or future flood damage;
- 18 (B) Mitigate earthquake damage;
- 19 (C) Mitigate slope erosion;
- 20 (D) Effectuate emergency culvert repairs;
- 21 (E) Conduct emergency boat ramp dredging;
- 22 (F) Conduct emergency dam spillway repairs; or



1 (G) Conduct stream or river restoration and debris  
2 removal; and

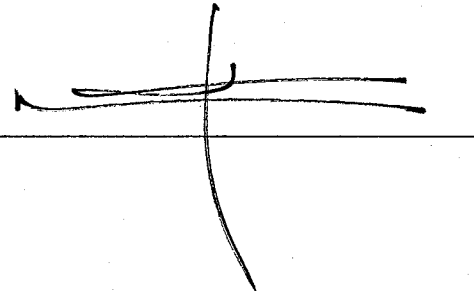
3 (4) Is not in compliance with the provisions of this Act,  
4 shall expire upon the effective date of this Act unless the  
5 legislature, by adoption of a concurrent resolution or enactment  
6 of law during the 2009 regular session, expressly reauthorizes  
7 those powers for the specific disaster relief action.

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

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

11

INTRODUCED BY: \_\_\_\_\_

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**Report Title:**

Disaster Relief; Emergency Powers; Clarification

**Description:**

Activates provisions of the State's disaster relief law to apply to emergencies, except for enemy attack. Clarifies the use of the governor's emergency powers in response to a natural or manmade disaster. Limits the governor's powers to provide disaster relief or the length of time that the governor may provide disaster relief in specific circumstances without legislative authorization. States that, in certain cases, emergency powers in force prior to the effective date of this measure expire at the end of the 2009 regular session unless reauthorized by the legislature.

