
A BILL FOR AN ACT

RELATING TO THE CLEANSING OF STREAMS AND WATERWAYS.

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

1 SECTION 1. 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; streams and waterways.

5 (a) Irrespective of the existence of a civil defense or other
6 emergency, the governor may enter onto private property at
7 reasonable times to clean streams and waterways to mitigate or
8 prevent flooding or other disasters; provided that at least five
9 days notice is given to the landowner and the occupier of any
10 private property of the governor's intention to enter the
11 property to clean the stream or waterway.

12 (b) Written notice sent to the landowner's last known
13 address by certified mail, postage prepaid, return receipt
14 requested, shall be deemed sufficient notice. In the event that
15 certified mail is impractical because, despite diligent efforts,
16 land ownership cannot be determined, notice shall be given once
17 in a daily or weekly publication of general circulation in the
18 county where any action or proposed action will be taken. A



1 duplicate of the notice shall be left with a tenant or occupant
2 of the property. If the property is unoccupied, notice posted
3 on the property shall be sufficient.

4 (c) If the cleaning is to be at the expense of the
5 landowner, the notice under subsection (b) shall inform the
6 landowner that the stream or waterway must be cleaned by the
7 landowner at the landowner's expense within the time specified
8 in the notice, and of the governor's intention to enter the
9 property to perform the cleaning at the landowner's expense if
10 the landowner fails to comply. Notwithstanding subsection (b),
11 notice under this subsection shall be provided within a
12 reasonable time. The governor may recover the costs of cleaning
13 by billing the landowner and by any other appropriate
14 proceeding. In no case shall the governor or an agent of the
15 governor be liable for costs in any action or proceeding that
16 may be commenced under this section.

17 (d) If entry is refused, the governor may apply to the
18 district court in the circuit in which the property is located
19 for a warrant to enter the property. The district court may
20 issue a warrant directing a police officer of the circuit to
21 assist the governor in gaining entry onto the property during
22 regular working hours or at other reasonable times."



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

3 "§127-10 Disaster relief during suspension of preceding
4 sections. During any period in which sections 127-1 to 127-9
5 are not in effect, the governor and political subdivisions may
6 exercise any and all of their powers under chapter 128 or that
7 relate to disasters resulting from enemy attacks, to provide
8 other disaster relief. All provisions of law that relate to
9 disasters resulting from enemy attacks during such period and
10 all provisions of chapter 128 are made applicable to other
11 disaster relief, including without limitation, provisions making
12 or authorizing appropriations or expenditures.

13 As used in this section, "other disaster relief" means the
14 preparation for and the carrying out of all functions, other
15 than functions for which military forces are primarily
16 responsible, to minimize and repair injury and damage resulting
17 from disasters caused by fire, flood, tidal wave, volcanic
18 eruption, earthquake, or other natural causes and major
19 disasters caused by acts of man[7] including [~~but not limited~~
20 ~~to,~~] massive oil spills, nuclear accidents, airplane crashes and
21 civil disturbances."



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: *[Signature]*

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[Signature]

Alla A. Belatti
[Signature]
[Signature]
[Signature]
Jessie Weig
F. W. Oll.
[Signature]
Cindy Evans
[Signature]
[Signature]
[Signature]



Report Title:

Private Streams and Waterways; State Access for Cleaning

Description:

Allows Civil Defense, when no emergency exists, to enter on private property to clean streams and waterways at the landowner's expense after giving the landowner notice.

