
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.

18



Report Title:

Liability Exemptions; Disasters; Care Homes; Schools

Description:

Supports State Civil Defense's Shelter-in-Place initiative by exempting civil liability for care homes and schools, in addition to hotels, during an officially designated emergency. (SB898 HD1)

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