
A BILL FOR AN ACT

RELATING TO EMERGENCY MANAGEMENT.

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

1 SECTION 1. The legislature finds that the State is
2 vulnerable to a wide range of natural and man-made hazards which
3 result in emergencies or disasters that threaten the life,
4 health, and safety of its people; damage and destroy property;
5 disrupt everyday services, business, and recreational
6 activities; and impede economic development. Growth in the
7 State's population – especially in the number of businesses and
8 persons residing in coastal areas, in the size of the elderly
9 population, in the number of seasonal vacationers, and in the
10 number of persons with functional and access needs - has greatly
11 complicated the State's ability to coordinate its emergency
12 management resources and activities.

13 The legislature also finds that the statutes pertaining to
14 the civil defense system of the State were enacted at a very
15 different time in the history of Hawaii and our nation. Chapter
16 127, Hawaii Revised Statutes, relating to disaster relief, was
17 enacted in 1949, at a time when Hawaii's population was less
18 than half of what it is today. Chapter 128, Hawaii Revised



1 Statutes, Hawaii's Civil Defense and Emergency Act, is based on
2 the Federal Civil Defense Act of 1950, which was enacted for the
3 purpose of preparing the nation for attack during the cold war
4 era. At the federal level, the civil defense system became
5 obsolete and has been replaced by the federal emergency
6 management system.

7 The purpose of this Act is to bring Hawaii's emergency
8 management laws into conformity with nationwide practices in
9 emergency management by establishing a Hawaii emergency
10 management agency within the state department of defense and
11 updating and recodifying the authorizing statutes. An
12 additional purpose is to codify the existing role of the
13 counties in preparing for and responding to emergencies or
14 disasters.

15 SECTION 2. The Hawaii Revised Statutes is amended by
16 adding a new chapter to be appropriately designated and to read
17 as follows:

18 **"CHAPTER**

19 **EMERGENCY MANAGEMENT**

20 § -1 **Policy and purpose.** (a) Because of the existing
21 and increasing possibility of the occurrence of disasters or
22 emergencies of unprecedented size and destructiveness resulting



1 from natural or man-made hazards, and in order to ensure that
2 the preparations of this State will be adequate to deal with
3 such disasters or emergencies; to ensure the administration of
4 state and federal programs providing disaster relief to
5 individuals; and generally to protect the public health, safety,
6 and welfare and to preserve the lives and property of the people
7 of the State, it is hereby found and declared to be necessary:

- 8 (1) To provide for emergency management by the State, and
9 to authorize the creation of local organizations for
10 emergency management in the counties of the State;
- 11 (2) To confer upon the governor and upon the mayors of the
12 counties of the State the emergency powers necessary
13 to prepare for and respond to emergencies or
14 disasters;
- 15 (3) To provide for the rendering of mutual aid among the
16 counties of the State and with other states and in
17 cooperation with the federal government with respect
18 to the carrying out of emergency management functions;
19 and
- 20 (4) To provide programs, in cooperation with other
21 governmental agencies, the private sector, and



1 nonprofit organizations, to educate and train the
2 public to be prepared for emergencies and disasters.

3 (b) It is further declared to be the purpose of this
4 chapter and the policy of the State that all emergency
5 management functions of this State and its counties be
6 coordinated to the maximum extent with the comparable functions
7 of the federal government, including its various departments,
8 and agencies of other states and localities, and with private-
9 sector and nonprofit organizations, to the end that the most
10 effective preparation and use may be made of the nation's
11 personnel, resources, and facilities for dealing with any
12 emergency or disaster that may occur.

13 (c) It is the intent of the legislature to provide for and
14 confer comprehensive powers for the purposes stated herein.
15 This chapter shall be liberally construed to effectuate its
16 purposes; provided that this chapter shall not be construed as
17 conferring any power or permitting any action which is
18 inconsistent with the Constitution and laws of the United
19 States, but, in so construing this chapter, due consideration
20 shall be given to the circumstances as they exist from time to
21 time. This chapter shall not be deemed to have been amended by
22 any act hereafter enacted at the same or any other session of



1 the legislature, unless this chapter is amended by express
2 reference hereto.

3 § -2 **Definitions.** When used in this chapter, unless
4 the context otherwise requires:

5 "Administrator" means the administrator of the Hawaii
6 emergency management agency established by section -3.

7 "Agency" means the Hawaii emergency management agency
8 established by section -3.

9 "Council" means the Hawaii advisory council on emergency
10 management as established by section -4.

11 "County" means the city and county of Honolulu, and the
12 counties of Hawaii, Kauai, and Maui, but excludes the county of
13 Kalawao.

14 "County emergency management agency" means the county-level
15 entity responsible for emergency management within the
16 respective county as established in section -5.

17 "Critical infrastructure" means those systems, facilities,
18 and assets, whether physical or virtual, so vital to a county,
19 the State, or the nation that the incapacity or destruction of
20 such systems, facilities, or assets would have a debilitating
21 impact on national, state, or county security; economic



1 security; public health or safety; or any combination of those
2 matters.

3 "Director" means the director of the Hawaii emergency
4 management agency established by section -3, and who is the
5 same as the adjutant general as provided in section 26-21.

6 "Disaster" means any emergency, or imminent threat thereof,
7 which results or may likely result in loss of life or property
8 and requires, or may require, assistance from other counties or
9 states or from the federal government.

10 "Disaster relief" means any physical or financial
11 assistance provided to individuals or areas in the aftermath of
12 an emergency or disaster.

13 "Emergency" means any occurrence, or imminent threat
14 thereof, which results or may likely result in substantial
15 injury or harm to the population or substantial damage to or
16 loss of property.

17 "Emergency management" means a comprehensive integrated
18 system at all levels of government, and also in the private
19 sector, which develops and maintains an effective capability to
20 prevent, prepare for, respond to, mitigate, and recover from
21 emergencies or disasters.



1 "Emergency management functions" mean those tasks required
2 to prepare for and carry out actions to prevent, prepare for,
3 respond to, mitigate, and recover from emergencies and
4 disasters, and includes management of resources, personnel, and
5 facilities and administration of economic controls as needed to
6 provide relief in anticipation of, during, or after emergencies
7 or disasters.

8 "Emergency period" means the dates covered by a
9 proclamation issued by the governor declaring a state of
10 emergency or by a mayor declaring a local state of emergency.

11 "Evacuation" means the immediate and rapid movement of
12 individuals and animals away from the threat or actual
13 occurrence of any hazard, emergency, or disaster, and includes
14 vertical evacuation, which is moving to a higher floor or higher
15 ground in order to gain safety above the height of expected
16 inundation by water as recommended by the county emergency
17 management agency.

18 "Facilities", except as otherwise provided in this chapter,
19 includes any infrastructure, buildings and other structures,
20 shelters, land, roads, highways, thoroughfares, walks, roadways,
21 bridges, public rights of way, and any appurtenant facilities,
22 structures, and materials.



1 "Hazard" means an event or condition of the physical
2 environment that results or may likely result in damage to
3 property or injuries or death to individuals and which may
4 result in an emergency or disaster.

5 "Laws" includes ordinances, rules, regulations, and orders
6 prescribed under federal, state, or county laws or ordinances
7 and having the force and effect of law.

8 "Local state of emergency" means the occurrence in any part
9 of a county that requires efforts by the county government to
10 save lives, and to protect property, public health, welfare, or
11 safety in the event of an emergency or disaster, or to reduce
12 the threat of an emergency or disaster.

13 "Materials" includes medicines, supplies, products,
14 commodities, articles, equipment, machinery, and component
15 parts.

16 "Necessary" means and refers to such means, measures, or
17 other actions or determinations as are required to be taken in
18 the opinion of the governor or governor's authorized
19 representative or a mayor or the mayor's authorized
20 representative.

21 "State of emergency" means an occurrence in any part of the
22 State that requires efforts by state government to protect



1 property, public health, welfare, or safety in the event of an
2 emergency or disaster, or to reduce the threat of an emergency
3 or disaster, or to supplement the local efforts of the county.

4 "States" include the several states, the District of
5 Columbia, and the possessions of the United States, and also
6 includes the State of Hawaii, and to the extent authorized by or
7 under federal law, foreign countries and their provinces and
8 states.

9 "Traffic control" includes plans, regulations, devices, and
10 actions for the control of traffic to provide for the rapid and
11 safe movement or evacuation of individuals, vehicles, and
12 materials for emergency management, and for the movement and
13 cessation of movement of any pedestrians and vehicular traffic
14 during, before, and after emergencies and disasters, emergency
15 management exercises and training, or other emergency management
16 actions or activities.

17 § -3 **Hawaii emergency management agency.** (a) There is
18 established within the department of defense the Hawaii
19 emergency management agency. The adjutant general shall serve
20 as the director of Hawaii emergency management and, subject to
21 the direction and control of the governor, shall oversee the
22 agency.



1 (b) There shall be an administrator of emergency
2 management who shall be appointed, and may be removed, by the
3 director, and who shall have at least three years of experience
4 leading emergency management efforts at the local, state, or
5 federal level. The administrator of emergency management shall
6 be the civilian head of and responsible for the day-to-day
7 operations of the agency. The administrator of emergency
8 management shall report to the director. The administrator of
9 emergency management shall, in the absence of the director, have
10 all the duties and responsibilities of the director, and shall
11 report directly to the governor. The administrator of emergency
12 management shall not be subject to chapter 76.

13 (c) The director may, from funds allotted therefor, employ
14 technical, clerical, administrative, and other personnel and
15 make such expenditures as may be necessary.

16 (d) The director shall coordinate the activities of the
17 agency with all county emergency management agencies, other
18 state agencies, other states, or federal agencies involved in
19 emergency management activities, and all organizations for
20 emergency management within the State, whether public or
21 private, and shall maintain liaison and cooperate with all
22 county emergency management agencies, other state agencies,



1 other states, or federal agencies involved in emergency
2 management activities as provided in this chapter.

3 (e) The agency shall perform emergency management
4 functions within the territorial limits of the State; support
5 county emergency management agencies as requested; coordinate
6 all resource support to the counties; ensure that emergency
7 management plans across the State are coordinated with each
8 other and other state, federal, and local organizations; oversee
9 and coordinate the state-wide outdoor siren warning system;
10 monitor and issue alerts and warnings; and coordinate emergency
11 and disaster response and recovery activities.

12 § -4 **Hawaii advisory council on emergency management.**

13 There shall be a Hawaii advisory council on emergency
14 management, which shall be attached to the agency for
15 administrative purposes, and which shall consist of seven
16 members nominated and, by and with the advice and consent of the
17 senate, appointed by the governor. The governor shall designate
18 the chairperson of the council. The council, at the request of
19 the governor, shall confer with and advise the governor in
20 regard to matters pertaining to emergency management. Members
21 of the council shall receive no compensation but shall be
22 reimbursed for travel and other reasonable and necessary



1 expenses incurred in carrying out their duties relating to the
2 council. Persons holding public office or employment in the
3 state government, or any political subdivision thereof, are
4 eligible for appointment to the council.

5 § **-5 County emergency management agency.** (a) The
6 mayor of each county shall have direct responsibility for
7 emergency management within the county, including the
8 organization, administration, and operation of a county
9 emergency management agency.

10 (b) Each county emergency management agency shall perform
11 emergency management functions within the territorial limits of
12 the county within which it is organized, coordinate all
13 emergency management plans within the county, and cooperate as
14 closely as possible with the agency and emergency management
15 agencies in the other counties in all aspects of emergency
16 management.

17 (c) Each county shall be responsible for the
18 establishment, naming, and operation of a county emergency
19 management agency under the mayor's direction, and shall enact
20 ordinances to establish the county emergency management agency
21 and ensure that the mayor and the county's emergency management
22 agency have the powers necessary to receive state and federal



1 funds and carry out the functions of this chapter at the county
2 level. The ordinances shall comply with powers established
3 under sections -12 and -13.

4 (d) Each county, under the mayor's direction, shall make
5 appropriations and authorize expenditures for the purposes of
6 this chapter, including for use as matching funds for federal
7 aid, out of the normal revenues or fund balances or surpluses of
8 the counties, notwithstanding any legal restrictions upon the
9 purposes for which the funds may be expended, except that
10 pension and retirement funds, funds set aside for the redemption
11 of bonds or the payment of interest thereon, trust funds, loan
12 funds, and funds received from the federal government or from
13 any person for specific purposes shall not be affected.

14 (e) Each county, under the mayor's direction, shall
15 provide a county-level administrator or director of the county
16 emergency management agency, and technical, administrative, and
17 other personnel; office space; furniture; equipment; supplies;
18 and funds necessary to carry out the purposes of this chapter.

19 (f) The administrator or director of the county emergency
20 management agency shall be subject to chapter 76.

21 (g) Each county, under the mayor's direction, shall, in
22 order to ensure continuity of government during an emergency



1 period, establish a procedure for the appointment and
2 designation of stand-by officers for the mayor and the county
3 legislative body during an emergency period, who shall serve in
4 the event of the unavailability of the officers for whom they
5 are standing-by.

6 (h) Each county, under the mayor's direction, shall
7 establish and maintain an emergency operations center, as the
8 place from where emergencies and disasters shall be managed, and
9 staff it appropriately.

10 (i) Each county, under the mayor's direction, shall
11 coordinate, develop, and implement an emergency operations plan
12 for the county.

13 § -6 **Emergency reserve corps.** (a) The director may
14 establish an emergency reserve corps comprising of trained
15 specialists to support state and county emergency or disaster
16 requirements. The emergency reserve corps may include:

- 17 (1) Any employee of the State or county;
- 18 (2) Any employee hired specifically for staffing during
19 emergency periods and exercises who shall be hired and
20 compensated without regard to chapters 76, 78, and 88;
21 and
- 22 (3) Any volunteer,



1 who shall be detailed in accordance with this chapter. Emergency
2 reserve corps positions shall be authorized and managed by the
3 agency and do not need the approval of the governor.

4 (b) The emergency reserve corps shall support state
5 emergency or disaster requirements and, if requested by a county
6 emergency management agency, supplement the county emergency
7 management agency staff. The emergency reserve corps may be
8 mobilized during, or in advance of, emergencies or disasters, or
9 for emergency management exercises and training events.

10 Emergency reserve corps members shall attend a minimum of four
11 days of paid training per year.

12 § -7 **State warning point.** (a) The agency shall
13 establish and operate a communications and warning center that
14 shall be known as the state warning point. The state warning
15 point shall be continually staffed by the agency to monitor
16 warning systems and devices and shall have the ability to
17 provide timely warning and notification to government officials,
18 county warning points and emergency operations centers and, when
19 directed, the general public.

20 (b) Each county shall establish and operate a
21 communications and warning center that shall be known as a
22 county warning point. The county warning points shall be



1 continually staffed by the respective county and shall be
2 capable of communicating with the state warning point at all
3 times. The county warning point shall provide timely warning and
4 notification to government officials and the public, when
5 directed.

6 § -8 **Status and rights of personnel.** (a) All state
7 and county officials, officers, and employees are considered
8 "emergency workers" and shall perform functions as determined by
9 their respective state or county department director during
10 emergencies or disasters.

11 (b) If any state or county official, officer, or employee
12 is engaged in carrying out this chapter in lieu of the official,
13 officer, or employee's regular office or employment, the amount
14 of the official, officer, or employee's compensation shall not
15 be adversely affected, and the official, officer, or employee's
16 rights in or under the laws relating to vacation and leave, the
17 retirement system, civil service or the like, shall not be
18 adversely affected.

19 (c) All persons, including volunteers whose services have
20 been accepted by authorized persons, while engaged in the
21 performance of duty pursuant to this chapter, including duty
22 performed during exercises and training, shall be deemed state



1 employees if the performance of duty is for the State, or county
2 employees if the performance of duty is for the county, and
3 shall have the powers, duties, rights, and privileges of such in
4 the performance of their duties, except as may be prescribed by
5 or under the authority of the governor or the mayor, pursuant to
6 this chapter.

7 (d) In case of injury or death arising out of and in the
8 performance of duty pursuant to this chapter, including duty
9 performed during periods of training, all persons having the
10 status of official, officer, or employee of the State or county,
11 pursuant to this section, and their dependents, shall be
12 entitled to all of the benefits provided in chapter 386,
13 including medical services and supplies, and in case of injury
14 or death, no public official shall be excluded from the coverage
15 of chapter 386 by reason of being an elected official. For the
16 purposes of the benefits, average weekly wages shall be computed
17 upon the basis set forth in section 386-51, or upon the basis of
18 earnings from the usual employment of the person, or upon the
19 basis of earnings at the rate of \$20 per week, whichever is most
20 favorable to the claimant or claimants. The costs thereof, in
21 cases of state employees, shall be a charge upon the state
22 insurance fund and, in cases of county employees, shall be a



1 charge upon the county insurance fund; provided that the
2 governor or mayor may effect such insurance in respect of the
3 obligations assumed pursuant to this section and as may be
4 available under any mutual aid agreement or act of Congress.
5 Nothing herein shall adversely affect the right of any person to
6 receive any benefits or compensation under any act of Congress.

7 § -9 Immunities; rights. (a) Neither:

8 (1) The State;

9 (2) Any county;

10 (3) Any public utility or critical infrastructure owner or
11 operator;

12 (4) Private-sector or nonprofit organizations; nor

13 (5) Except in cases of willful misconduct, gross
14 negligence, or recklessness, persons engaged in
15 emergency management functions pursuant to this
16 chapter, including volunteers whose services are
17 accepted by any authorized person,

18 shall be civilly liable for the death of or injury to persons,
19 or property damage, as a result of any act or omission in the
20 course of the employment or duties under this chapter.

21 (b) No act or omission shall be imputed to the owner of
22 any vehicle by reason of the owner's ownership thereof; provided



1 that nothing herein shall preclude recovery by any person for
2 injury or damage sustained from the operation of any vehicle
3 which may be insured under section 41D-8 to the extent of the
4 insurance, and, unless specifically provided, insurance effected
5 under section 41D-8 shall not include coverage of such risk
6 during an emergency period. The governor may insure vehicles
7 owned by the State or in the custody and use of the Hawaii
8 emergency management agency; provided that insurance effected
9 under section 41D-8 on vehicles used for purposes other than
10 emergency management shall not be required to include coverage
11 of the insured vehicle against the risk incurred or which would
12 be incurred under this chapter as a result of the use of the
13 insured vehicle for emergency management.

14 (c) Members of the United States army, air force, navy,
15 marines, or coast guard on any duty or service done under or in
16 pursuance of an order or call of the President of the United
17 States or any proper authority, and the national guard from any
18 other state ordered into service by any proper authority, to
19 assist civil authorities engaged in emergency functions pursuant
20 to this chapter shall not be liable, civilly or criminally, for
21 any act done or caused by them in pursuance of duty in such
22 service.



1 § **-10 Political activity prohibited.** No organization
2 for emergency management established under the authority of this
3 chapter shall participate in any form of political activity, nor
4 shall it be employed directly or indirectly for political
5 purposes.

6 § **-11 Powers on whom conferred; delegation of powers.**

7 (a) Except as otherwise expressly provided, all of the powers
8 conferred by this chapter are conferred on the governor or
9 mayor, as applicable. The governor or mayor may delegate any of
10 these powers to governmental, private-sector, and nonprofit
11 agencies and organizations, officials, officers, employees, and
12 other individuals created, appointed, or employed under, or
13 engaged in carrying out this chapter, any of these powers;
14 provided that the following powers shall be retained by the
15 governor or mayor, as applicable:

16 (1) Proclaiming a state of emergency or local state of
17 emergency, proclaiming a state of emergency or local
18 state of emergency terminated, or making any other
19 proclamation provided for by this chapter;

20 (2) Prescribing rules having the force and effect of law;
21 and



1 (3) Making allotments of funds appropriated or available
2 for the purposes of this chapter.

3 Unless otherwise directed by the governor or mayor, all of the
4 powers pertaining to emergency management authorized to be
5 delegated by the governor or mayor shall be deemed to have been
6 delegated by the governor to the director of Hawaii emergency
7 management and by the mayor to the administrator or director of
8 the county emergency management agency, as applicable, and the
9 administrator or director of the county emergency management
10 agency, respectively, shall have the authority to further
11 delegate any of these powers to any agency or person to whom the
12 governor or mayor could have directly delegated.

13 (b) The powers conferred upon the governor or mayor by
14 this chapter are in addition to any other powers or authority
15 conferred upon the governor or mayor by the laws of the United
16 States and of the State or county for the same or a like
17 purpose, and shall not be construed as abrogating, limiting, or
18 modifying any such powers or authority.

19 § -12 **Emergency management powers, in general.** (a)

20 The governor or mayor, as applicable, may exercise the following
21 powers pertaining to emergency management:



- 1 (1) Prepare comprehensive plans and programs for the
2 protection of the State or county against all hazards,
3 which shall be integrated into and coordinated with
4 the emergency management plans of the State, counties,
5 the federal government, other states, and private-
6 sector and nonprofit organizations;
- 7 (2) Identify emergency workers required to report for duty
8 as directed by the department head regardless of the
9 availability of any type of leave;
- 10 (3) Institute training, preparedness, and public
11 information programs in coordination with the State,
12 counties, federal government, other states, and the
13 private sector and nonprofit organizations;
- 14 (4) Provide or authorize suitable insignia of authority
15 for all authorized emergency management personnel; and
- 16 (5) Direct or control as may be necessary for emergency
17 management:
- 18 (A) Alerts, warnings, notifications, activations,
19 exercises, drills, and tests;
- 20 (B) Warnings and signals for alerts or exercises, and
21 any type of warning device, system, or method to
22 be used in connection therewith;



1 (C) Partial or full mobilization of personnel for
2 exercises or training, in advance of, or in
3 response to, an actual emergency or disaster; and

4 (D) The conduct of civilians and the movement and
5 cessation of movement of pedestrians and
6 vehicular traffic during, before, and after
7 alerts, exercises, training, emergencies, or
8 disasters.

9 (b) The governor may exercise the following powers
10 pertaining to emergency management:

11 (1) Support requests from a mayor for assistance in
12 preparing for, responding to, and recovering from any
13 emergency or disaster or threat thereof;

14 (2) Lease, lend, or otherwise furnish, on such terms and
15 conditions as the governor may consider necessary to
16 promote the public welfare and protect the interest of
17 the State, any real or personal property of the State
18 government, to the President of the United States, the
19 heads of the armed forces, or to the emergency
20 management agency of the United States;

21 (3) Enter into, participate in, or carry out mutual aid
22 agreements or compacts for emergency management or



1 emergency management functions with the federal
2 government and with other states;

3 (4) Sponsor and develop mutual aid plans and agreements
4 for emergency management between the State, one or
5 more counties, and other governmental, private-sector,
6 and nonprofit organizations, for the furnishing or
7 exchange of food, clothing, medicine, and other
8 materials; engineering services; emergency housing;
9 police services; health, medical, and related
10 services; firefighting, rescue, transportation, and
11 construction services and facilities; personnel
12 necessary to provide or conduct these services; and
13 such other materials, facilities, personnel, and
14 services as may be needed. The mutual aid plans and
15 agreements may be made with or without provisions for
16 reimbursement of costs and expenses, and on such terms
17 and conditions as are deemed necessary;

18 (5) Take possession of, use, manage, control, and
19 reallocate any public property of the State, real or
20 personal, required by the governor for the purposes of
21 this chapter, including airports, parks, playgrounds,
22 and schools, and other public buildings. Whenever the



1 property is so taken, the governor may make such
2 provision for the temporary accommodation of the
3 government service affected thereby as the governor
4 may deem advisable;

5 (6) Utilize all services, materials, and facilities of
6 nongovernmental agencies, relief organizations,
7 community associations, and other private-sector and
8 nonprofit organizations that may be made available;

9 (7) Receive, expend, or use contributions or grants, which
10 shall be deemed to be trust funds, in money, property,
11 or services, or loans of property, or special
12 contributions or grants in money, property, or
13 services, or loans of property, for special purposes
14 provided for by this chapter; establish funds in the
15 state treasury for the deposit and expenditure of the
16 moneys; procure federal aid as the same may be
17 available; and apply the provisions of chapter 29 in
18 cases of federal aid even though not in the form of
19 money. The contributions or grants are appropriated
20 for the purposes of this chapter, or for the special
21 purposes;



- 1 (8) Purchase, make, produce, construct, rent, lease, or
2 procure by condemnation or otherwise, transport,
3 store, install, maintain, and insure, repair,
4 renovate, restore, replace or reconstruct, and
5 distribute, furnish or otherwise dispose of, with or
6 without charges, materials and facilities for
7 emergency management; and to procure federal aid
8 therefor whenever feasible. Chapter 103D and sections
9 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4
10 shall not apply to any emergency management functions
11 of the governor to the extent that the governor finds
12 that the provisions, in whole or in part, impede or
13 tend to impede the expeditious discharge of those
14 functions, or that compliance therewith is
15 impracticable due to existing conditions;
- 16 (9) Provide for the appointment, employment, training,
17 equipping, and maintaining with compensation, or on a
18 volunteer basis without compensation and without
19 regard to chapters 76, 78, and 88, of such agencies,
20 officers, and other persons as the governor deems
21 necessary to carry out the purposes of this chapter;
22 to determine to what extent any law prohibiting the



1 holding of more than one office or employment applies
2 to the agencies, officers, and other persons; and
3 subject to provisions of this chapter, to provide for
4 the interchange of personnel, by detail, transfer, or
5 otherwise, between agencies or departments of the
6 State;

7 (10) Make charges in such cases and in such amounts as the
8 governor deems advisable, for any property sold, work
9 performed, services rendered, or accommodations or
10 facilities furnished by the State under this chapter;

11 (11) Make or authorize such contracts as may be necessary
12 to carry out this chapter;

13 (12) Establish special accounting forms and practices
14 whenever necessary;

15 (13) Require each public utility, or any person owning,
16 controlling, or operating a critical infrastructure
17 facility as identified by the governor, to protect and
18 safeguard its or the person's property, or to provide
19 for the protection and safeguarding thereof; and
20 provide for the protection and safeguarding of all
21 critical infrastructure and key resources; provided
22 that without prejudice to the generality of the



1 foregoing two clauses, the protecting and safeguarding
2 may include the regulation or prohibition of public
3 entry thereon, or the permission of the entry upon
4 such terms and conditions as the governor may
5 prescribe;

6 (14) Restrict the congregation of the public in danger
7 areas or under dangerous conditions;

8 (15) Direct and control the non-compulsory evacuation of
9 the civilian population;

10 (16) Order and direct government agencies, officials,
11 officers, and employees of the State, to take such
12 action and employ such measures for law enforcement,
13 medical, health, firefighting, traffic control,
14 warnings and signals, engineering, rescue,
15 construction, emergency housing, other welfare,
16 hospitalization, transportation, water supply, public
17 information, training, and other emergency functions
18 as may be necessary, and utilize the services,
19 materials, and facilities of the agencies and
20 officers. All such agencies and officers shall
21 cooperate with and extend their services, materials,



1 and facilities to the governor as the governor may
2 request;

3 (17) Provide for the repair and maintenance of public
4 property, whenever adequate provision therefor is not
5 otherwise made; insure the property against any
6 emergency or disaster; provide for the restoration,
7 renovation, replacement, or reconstruction of insured
8 property in the event of damage or loss; and make
9 temporary restoration of public utilities and other
10 vital facilities in the event of an emergency or
11 disaster;

12 (18) Fix or revise the hours of government business; and

13 (19) Take any and all steps necessary or appropriate to
14 carry out the purposes of this chapter notwithstanding
15 that those powers in section -13(a) may only be
16 exercised during an emergency period.

17 (c) The mayor may exercise the following powers pertaining
18 to emergency management:

19 (1) Lease, lend, or otherwise furnish, on such terms and
20 conditions as the mayor may consider necessary to
21 promote the public welfare and protect the interest of
22 the county, any real or personal property of the



1 county government, to the governor of the State, to
2 mayors of the other counties of the State, or to the
3 emergency management agency of the State;

4 (2) Sponsor and develop mutual aid plans and agreements
5 for emergency management between the one or more
6 counties, and other governmental, private-sector, or
7 nonprofit organizations, for the furnishing or
8 exchange of food, clothing, medicine, and other
9 materials; engineering services, emergency housing;
10 police services; health, medical, and related
11 services; firefighting, rescue, transportation, and
12 construction services and facilities; personnel
13 necessary to provide or conduct these services; and
14 such other materials, facilities, personnel, and
15 services as may be needed. The mutual aid plans and
16 agreements may be made with or without provisions for
17 reimbursement of costs and expenses, and on such terms
18 and conditions as are deemed necessary;

19 (3) Take possession of, use, manage, control, and
20 reallocate any public property of the county, real or
21 personal, required by the mayor for the purposes of
22 this chapter, including parks, playgrounds, and other



1 public buildings. Whenever the property is so taken,
2 the mayor may make such provision for the temporary
3 accommodation of the government service affected
4 thereby as the mayor may deem advisable;

5 (4) Utilize all services, materials, and facilities of
6 nongovernmental agencies, relief organizations,
7 community associations, and other private-sector and
8 nonprofit organizations that may be made available;

9 (5) Receive, expend, or use contributions or grants, which
10 shall be deemed to be trust funds, in money, property,
11 or services, or loans of property, or special
12 contributions or grants in money, property, or
13 services, or loans of property, for special purposes
14 provided for by this chapter; establish funds in the
15 treasury for the deposit and expenditure of the
16 moneys; and procure federal aid as the same may be
17 available. The contributions or grants are
18 appropriated for the purposes of this chapter, or for
19 the special purposes;

20 (6) Purchase, make, produce, construct, rent, lease, or
21 procure by condemnation or otherwise, transport,
22 store, install, maintain, and insure, repair,



1 renovate, restore, replace or reconstruct, and
2 distribute, furnish or otherwise dispose of, with or
3 without charges, materials and facilities for
4 emergency management; and to procure federal aid
5 therefor whenever feasible. Chapter 103D and sections
6 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4
7 shall not apply to any emergency management functions
8 of and to the extent that the mayor finds that the
9 provisions, in whole or in part, impede or tend to
10 impede the expeditious discharge of the functions, or
11 that compliance therewith is impracticable due to
12 existing conditions;

13 (7) Provide for the appointment, employment, training,
14 equipping, and maintaining, with compensation, or on a
15 volunteer basis without compensation and without
16 regard to chapters 76, 78, and 88, of such agencies,
17 officers, and other persons as the mayor deems
18 necessary to carry out this chapter; to determine to
19 what extent any law prohibiting the holding of more
20 than one office or position of employment applies to
21 the agencies, officers, and other persons; and subject
22 to provisions of this chapter, to provide for the



- 1 interchange of personnel, by detail, transfer or
2 otherwise, between agencies or departments of the
3 county;
- 4 (8) Make charges in such cases and in such amounts as the
5 mayor deems advisable, for any property sold, work
6 performed, services rendered, or accommodations or
7 facilities furnished by the county under this chapter;
- 8 (9) Make or authorize such contracts as may be necessary
9 to carry out this chapter;
- 10 (10) Establish special accounting forms and practices
11 whenever necessary;
- 12 (11) Require each public utility, or any person owning,
13 controlling, or operating a critical infrastructure
14 facility as identified by the mayor, to protect and
15 safeguard its or the person's property, or to provide
16 for such protection and safeguarding; and provide for
17 the protection and safeguarding of all critical
18 infrastructure and key resources; provided that
19 without prejudice to the generality of the foregoing
20 two clauses, the protection and safeguarding may
21 include the regulation or prohibition of public entry



- 1 thereon, or the permission of the entry upon such
2 terms and conditions as the mayor may prescribe;
- 3 (12) Restrict the congregation of the public in stricken or
4 danger areas or under dangerous conditions;
- 5 (13) Direct and control the non-compulsory evacuation of
6 the civilian population of the county;
- 7 (14) Order and direct government agencies, officials,
8 officers, and employees of the county, to take such
9 action and employ such measures for law enforcement,
10 medical, health, firefighting, traffic control,
11 warnings, and signals, engineering, rescue,
12 construction, emergency housing, and other welfare,
13 hospitalization, transportation, water supply, public
14 information, training, and other emergency functions
15 as may be necessary, and utilize the services,
16 materials, and facilities of the agencies and
17 officers. All such agencies and officers shall
18 cooperate with and extend their services, materials,
19 and facilities to the mayor as the mayor may request;
- 20 (15) Provide for the repair and maintenance of public
21 property, whenever adequate provision therefor is not
22 otherwise made; insure the property against any



1 emergency or disaster; provide for the restoration,
2 renovation, replacement, or reconstruction of insured
3 property in the event of damage or loss; and make
4 temporary restoration of public utilities and other
5 vital facilities in the event of an emergency or
6 disaster;

7 (16) Fix or revise the hours of county government business;
8 and

9 (17) Take any and all steps necessary or appropriate to
10 carry out the purposes of this chapter notwithstanding
11 that those powers in section -13(b) may only be
12 exercised during an emergency period.

13 § -13 **Additional powers in an emergency period.** (a)

14 In the event of a state of emergency declared by the governor
15 pursuant to -14, the governor may exercise the following
16 additional powers pertaining to emergency management during the
17 emergency period:

18 (1) Provide for and require the quarantine or segregation
19 of persons who are affected with or believed to have
20 been exposed to any infectious, communicable, or other
21 disease that is, in the governor's opinion, dangerous
22 to the public health and safety, or persons who are



1 the source of other contamination, in any case where
2 in the governor's opinion the existing laws are not
3 adequate to assure the public health and safety;
4 provide for the care and treatment of the persons;
5 supplement the provisions of sections 325-32 to 325-38
6 concerning compulsory immunization programs; provide
7 for the isolation or closing of property which is a
8 source of contamination or is in a dangerous condition
9 in any case where, in the governor's opinion, the
10 existing laws are not adequate to assure the public
11 health and safety, and designate as public nuisances
12 acts, practices, conduct, or conditions that are
13 dangerous to the public health or safety or to
14 property; authorize that public nuisances be summarily
15 abated and, if need be, that the property be
16 destroyed, by any police officer or authorized person,
17 or provide for the cleansing or repair of property,
18 and if the cleansing or repair is to be at the expense
19 of the owner, the procedure therefor shall follow as
20 nearly as may be the provisions of section 322-2,
21 which shall be applicable; and further, authorize



- 1 without the permission of the owners or occupants,
2 entry on private premises for any such purposes;
- 3 (2) Relieve hardships and inequities, or obstructions to
4 the public health, safety, or welfare, found by the
5 governor to exist in the laws and to result from the
6 operation of federal programs or measures taken under
7 this chapter, by suspending the laws, in whole or in
8 part, or by alleviating the provisions of laws on such
9 terms and conditions as the governor may impose,
10 including licensing laws, quarantine laws, and laws
11 relating to labels, grades, and standards;
- 12 (3) Suspend any law that impedes or tends to impede or be
13 detrimental to the expeditious and efficient execution
14 of, or to conflict with, emergency functions,
15 including laws which by this chapter specifically are
16 made applicable to emergency personnel;
- 17 (4) In the event of an emergency or disaster beyond local
18 control, or an event which, in the opinion of the
19 governor, is such as to make state operational control
20 necessary, assume direct operational control over all
21 or any part of the emergency management functions
22 within the affected area;



- 1 (5) Shut off water mains, gas mains, electric power
2 connections, or suspend other services, and, to the
3 extent permitted by or under federal law, suspend
4 electronic media transmission;
- 5 (6) Direct and control the mandatory evacuation of the
6 civilian population;
- 7 (7) Exercise additional emergency functions to the extent
8 necessary to prevent hoarding, waste, or destruction
9 of materials, supplies, commodities, accommodations,
10 facilities, and services, to effectuate equitable
11 distribution thereof, or to establish priorities
12 therein as the public welfare may require; to
13 investigate; and notwithstanding any other law to the
14 contrary, to regulate or prohibit, by means of
15 licensing, rationing, or otherwise, the storage,
16 transportation, use, possession, maintenance,
17 furnishing, sale, or distribution thereof, and any
18 business or any transaction related thereto;
- 19 (8) Suspend section 8-1, relating to state holidays,
20 except the last paragraph relating to holidays
21 declared by the president, which shall remain



1 unaffected, and in the event of the suspension the
2 governor may establish state holidays by proclamation;

3 (9) Adjust the hours for voting to take into consideration
4 the working hours of the voters during the emergency
5 period, and suspend those provisions of section 11-131
6 that fix the hours for voting, and fix other hours by
7 stating the same in the election proclamation or
8 notice, as the case may be;

9 (10) Assure the continuity of service by critical
10 infrastructure, both publicly and privately owned, by
11 regulating or, if necessary to the continuation of the
12 service thereof, by taking over and operating the
13 same; and

14 (11) Except as provided in section 134-7.2, whenever in the
15 governor's opinion the laws of the State do not
16 adequately provide for the common defense, public
17 health, safety, and welfare, investigate, regulate, or
18 prohibit the storage, transportation, use, possession,
19 maintenance, furnishing, sale, or distribution of, as
20 well as any transaction related to, explosives,
21 firearms, and ammunition, inflammable materials and
22 other objects, implements, substances, businesses, or



1 services of a hazardous or dangerous character, or
2 particularly capable of misuse, or obstructive of or
3 tending to obstruct law enforcement, emergency
4 management, or military operations, including
5 intoxicating liquor and the liquor business; and
6 authorize the seizure and forfeiture of any such
7 objects, implements, or substances unlawfully
8 possessed, as provided in this chapter.

9 (b) In the event of a local state of emergency declared by
10 the mayor pursuant to -14, the mayor may exercise the
11 following additional powers pertaining to emergency management
12 during the emergency period:

13 (1) Relieve hardships and inequities, or obstructions to
14 the public health, safety, or welfare, found by the
15 mayor to exist in the laws of the county and to result
16 from the operation of federal programs or measures
17 taken under this chapter, by suspending the county
18 laws, in whole or in part, or by alleviating the
19 provisions of county laws on such terms and conditions
20 as the mayor may impose, including county licensing
21 laws, and county laws relating to labels, grades, and
22 standards;



- 1 (2) Suspend any county law that impedes or tends to impede
2 or be detrimental to the expeditious and efficient
3 execution of, or to conflict with, emergency
4 functions, including laws which by this chapter
5 specifically are made applicable to emergency
6 personnel;
- 7 (3) Shut off water mains, gas mains, electric power
8 connections, or suspend other services; and, to the
9 extent permitted by or under federal law, suspend
10 electronic media transmission;
- 11 (4) To direct and control the mandatory evacuation and
12 reception of the civilian population; and
- 13 (5) Exercise additional emergency functions, to the extent
14 necessary to prevent hoarding, waste, or destruction
15 of materials, supplies, commodities, accommodations,
16 facilities, and services, to effectuate equitable
17 distribution thereof, or to establish priorities
18 therein as the public welfare may require; to
19 investigate; and any other county law to the contrary
20 notwithstanding, to regulate or prohibit, by means of
21 licensing, rationing, or otherwise, the storage,
22 transportation, use, possession, maintenance,



1 furnishing, sale, or distribution thereof, and any
2 business or any transaction related thereto.

3 § **-14 State of emergency.** (a) The governor may
4 declare the existence of a state of emergency in the State by
5 proclamation if the governor finds that an emergency or disaster
6 has occurred or that there is imminent danger or threat of an
7 emergency or disaster in any portion of the State.

8 (b) A mayor may declare the existence of a local state of
9 emergency in the county by proclamation if the mayor finds that
10 an emergency or disaster has occurred or that there is imminent
11 danger or threat of an emergency or disaster in any portion of
12 the county.

13 (c) The governor or mayor shall be the sole judge of the
14 existence of the danger, threat, or circumstances giving rise to
15 a declaration of a state of emergency in the State or a local
16 state of emergency in the county, as applicable. This section
17 shall not limit the power and authority of the governor under
18 section -13(a)(4).

19 (d) A state of emergency and a local state of emergency
20 shall terminate automatically sixty days after issuance of a
21 proclamation of a state of emergency or local state of



1 emergency, respectively, or by a separate proclamation of the
2 governor or mayor, whichever occurs first.

3 § **-15 Proclamations, how made; service of papers.** (a)

4 Every proclamation of the governor or mayor for which provision
5 is made by this chapter, shall be promulgated by posting on the
6 applicable state or county emergency management agency website
7 and by means calculated to bring its contents to the attention
8 of the general public, including by official announcement by
9 means of television or radio broadcast, or both, or by internet,
10 or such other means as may be available. The proclamation shall
11 remain posted on the agency website until the state of emergency
12 terminates automatically or by subsequent proclamation.

13 (b) Any process, notice, or order, service of which is
14 provided for by this chapter, may be served by any law
15 enforcement officer or person authorized by the governor or
16 mayor, any other provision of law to the contrary
17 notwithstanding.

18 § **-16 Major disaster fund.** (a) The director shall
19 submit requests to the legislature to appropriate from the
20 general revenues of the State sufficient moneys as may be
21 necessary for expenditure by or under the direction of the



1 governor for immediate relief in response to an emergency or
2 disaster in any part of the State; provided that:

3 (1) The governor has issued a proclamation of a state of
4 emergency;

5 (2) The governor may not expend in excess of \$2,000,000
6 for immediate relief as a result of any single
7 emergency or disaster; and

8 (3) In addition to the funds in paragraph (2), an
9 additional \$2,000,000 may be made available solely for
10 the purpose of matching federal disaster relief funds
11 when these funds become available to the State
12 following a presidential disaster declaration.

13 In expending the moneys, the governor may allot any portion
14 thereof to any agency, office, or employee, state, or county,
15 for the most efficient relief for the population.

16 Notwithstanding this subsection, the only exception to sections
17 -16(1), (2), and (3) is that the director may use up to \$100,000
18 per year to support emergency reserve corps training.

19 (b) Federal reimbursement moneys for disaster relief shall
20 be deemed to be trust moneys and may be deposited into a trust
21 account with and under the control of the department of
22 defense. These moneys and any interest earned thereon shall be



1 used for the purpose identified in subsection (a) and shall not
2 lapse into the general fund.

3 **§ -17 Allotments.** (a) There shall be available for
4 allotment by the governor under this chapter:

5 (1) Any moneys appropriated for the purposes of this
6 chapter, or reappropriated pursuant to subsection (b)
7 and any unexpended moneys appropriated for emergency
8 management or disaster relief or administration
9 thereof by any act, but only within the scope and
10 purposes of the appropriations so made by the
11 legislature;

12 (2) Contributions, as provided by section -12; and

13 (3) The governor's contingent fund.

14 (b) Any sums realized under this chapter from the sale of
15 property by the State, or from work done, services rendered, or
16 accommodations or facilities furnished by the State, or from
17 insurance against damage or loss of property the premiums for
18 which have been paid by the State under this chapter, shall be
19 deemed to be trust funds for the purposes of this chapter and
20 may be expended or allotted in the same manner as other
21 appropriations made by or available for the purposes of this
22 chapter.



1 (c) The governor may allot any moneys appropriated or
2 available for the purposes of this chapter, to any agency,
3 officer, or employee, created, appointed, or employed under this
4 chapter, or to any government agency, officer, or employee,
5 state or county, to whom powers or duties have been delegated
6 pursuant to this chapter, to be expended in carrying out the
7 provisions of this chapter, and in the case of county agencies,
8 officers, or employees, to order the allotment paid over to be
9 held, disbursed, and accounted for as other county funds or as
10 the governor shall provide.

11 (d) In the event of a deficit in the general fund of the
12 State, any appropriation made or available for the purposes of
13 this chapter and needed for allotment under this chapter shall
14 take priority over other appropriations from the general fund.

15 (e) Any appropriation made or available for the purposes
16 of this chapter may be expended notwithstanding the existence of
17 a specific or other appropriation for the same or a like
18 purpose, and without prejudice to the expenditure of the other
19 appropriation. The powers granted by this section are in
20 addition to, and not restrictive of, the powers granted by any
21 other section.



1 (f) Any order by the governor made pursuant to this
2 section may be amended or revoked by the governor.

3 § -18 **Mitigation of hazardous situations.** (a) Even in
4 the absence of an emergency or disaster, the governor may
5 authorize designated state employees, agents, contractors, or
6 representatives to enter private property at reasonable times to
7 mitigate situations deemed by the governor to be hazardous to
8 the health and safety of the public; provided that this section
9 shall be applicable only to the following actions:

10 (1) Cutting, trimming, or removing dangerous trees or
11 branches that pose a hazard to other properties;

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 hazards;

16 provided further that at least ten days' written notice shall be
17 provided to the landowner and to the occupier of the private
18 property of the governor's intention to authorize designated
19 state employees, agents, contractors, or representatives to
20 enter the property to mitigate the hazardous situation; provided
21 further that the landowner or occupier shall be given a
22 reasonable opportunity to mitigate the hazardous situation



1 without assistance of the State before designated state or
2 county employees, agents, contractors, or representatives may
3 enter the property.

4 (b) Written notice sent to the landowner's last known
5 address by certified mail, postage prepaid, return receipt
6 requested, shall be deemed sufficient notice. If land ownership
7 cannot be determined, notice shall be given once in a daily or
8 weekly publication of general circulation in the county where
9 any action or proposed action will be taken.

10 (c) If entry is refused, the governor may apply to the
11 district court in the circuit in which the property is located
12 for a warrant to enter the premises. The district court may
13 issue a warrant directing the chief of the appropriate county
14 police to assist the governor in gaining entry onto the premises
15 during regular working hours or at other reasonable times.

16 (d) The governor may seek recovery and reimbursement, by
17 appropriate proceedings, of all costs and expenses incurred in
18 the mitigation of a hazardous situation under this section, and
19 any costs and expenses imposed against any landowner shall be a
20 lien upon the landowner's property.

21 (e) This section shall take effect only upon authorization
22 and funding for personnel to administer the program.



1 § **-19 Shelters.** (a) The governor may establish
2 guidelines for providing suitable arrangements and
3 accommodations for the sheltering of the public and the
4 sheltering of pet animals in public shelters under this chapter.

5 (b) County emergency management agencies shall identify,
6 in coordination with private and nonprofit organizations engaged
7 in emergency management functions relating to providing shelter
8 or the management or operation of a public shelter under this
9 chapter, locations and facilities suitable for the sheltering of
10 the public and locations and facilities suitable for the
11 sheltering of pet animals.

12 (c) The administrator or director of the county emergency
13 management agency may identify, in coordination with private
14 owners, operators, or controllers of real property, private
15 locations and facilities that are suitable for use as shelters
16 of the public or of pet animals.

17 (d) A public shelter identified for the sheltering of pet
18 animals pursuant to subsection (b) need not be subject to
19 guidelines developed for public shelters, unless the particular
20 shelter has been specifically identified as a shelter for both
21 pet animals and the public.



1 (e) For purposes of this section, "pet animal" shall have
2 the same meaning as defined in section 711-1100.

3 (f) For purposes of this section, "shelter" includes any
4 structure, excavation, or other facility or item used or useful
5 for the protection of persons.

6 § -20 **Immunity from liability of private shelter.** (a)

7 Any individual, partnership, firm, society, unincorporated
8 association, joint venture group, hui, joint stock company,
9 corporation, trustee, personal representative, trust estate,
10 decedent's estate, trust, or other legal entity whether doing
11 business for itself or in a fiduciary capacity, owning or
12 controlling real property, that voluntarily and without
13 compensation grants a license or privilege for, or otherwise
14 permits, the designation by the emergency management agency of
15 the county in which the building is located for the use of the
16 whole or any part of the property for the purpose of sheltering
17 persons during emergencies and disasters, shall, together with
18 its successors in interest, if any, not be civilly liable for
19 negligently causing the death of or injury to any person or
20 damage to any personal property on the property of the licensor
21 in connection with the use of the licensed premises for the
22 purposes designated.



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

3 (1) Any compensation or consideration paid by or on behalf
4 of any guest or person for transient accommodation
5 lodging;

6 (2) Any compensation or consideration paid for any
7 patient, resident, or ward present or residing in any
8 hospital, community-based care home, home-based care
9 home, or healthcare agency of any type licensed by the
10 department of health or the department of human
11 services and used as a private shelter under this
12 section; provided that the protections afforded by
13 this section shall not extend beyond the use of the
14 private shelter under this section for any other duty
15 or standard of care owed to any patient, resident, or
16 ward; and

17 (3) Any compensation or consideration paid by or on behalf
18 of any minor or student of any age in any day care,
19 preschool, elementary school, middle school, or any
20 other educational facility used as a private shelter
21 under this section.



1 § **-21 Notice of requisition.** The governor or mayor may
2 requisition and take over any materials, facilities, or real
3 property or improvements, required for the purposes of this
4 chapter, or requisition and take over the temporary use
5 thereof. The requisition shall be made by serving notice upon
6 any person found in occupation of the premises or having the
7 property in the person's custody, possession, or control;
8 provided that a like notice shall also be served upon any person
9 who has filed with the governor or mayor, or with such person as
10 the governor or mayor may designate for the purpose, a request
11 for notice with respect to the property; provided further that
12 whenever all persons entitled to compensation for the property
13 have not been served in the manner aforesaid, the governor or
14 mayor shall publish a notice of the requisition at the earliest
15 practicable date.

16 § **-22 Determination of compensation.** (a) Whenever the
17 governor or mayor requisitions and takes over any property or
18 the temporary use thereof, the owner, or other person entitled
19 thereto, shall be paid as compensation for the property or use,
20 such sum as the governor or mayor determines to be fair and
21 just, within twenty days after it has been requisitioned and



1 taken; provided that the compensation for temporary use may be
2 paid in monthly or lesser installments.

3 (b) If any person is unwilling to accept, as full and
4 complete compensation for the property or use thereof, the sum
5 determined by the governor or mayor, the person shall be paid
6 seventy-five per cent of the sum determined by the governor or
7 mayor. The person shall also be entitled to sue the State or
8 county for such additional sum as, when added to the sum already
9 received by the person, the person may consider fair and just
10 compensation for such property or use, in the manner provided by
11 chapter 661 for actions against the State and any other
12 applicable chapter for actions against the county. Any suit
13 under this section shall be instituted within two years after
14 the requisition in the case of the taking of real property in
15 fee simple, or within one year after the requisition in all
16 other cases, subject to sections 657-13 to 657-15, which are
17 hereby made applicable to such a suit; except that no more than
18 six months shall be allowed for the bringing of a suit after the
19 appointment of a conservator of a person under disability, or
20 the removal of the disability, or after the appointment of
21 personal representatives. Recovery shall be confined to the
22 fair market value of the property or its fair rental value, as



1 the case may be, without any allowance for prospective profits,
2 or punitive or other damages. Whenever the owner of property,
3 or other person entitled to compensation on account of the
4 requisitioning of property or the use thereof, is under a
5 disability, or has died, and no conservator or personal
6 representative has been appointed, the State acting through the
7 attorney general, may apply for the appointment of a
8 conservator, or for the appointment of a personal
9 representative.

10 § -23 **Determination of damages.** The governor or mayor,
11 as applicable, shall appoint a board of three disinterested
12 certified appraisers with whom may be filed any claim for
13 damages arising out of any failure to return private property,
14 the temporary use of which was requisitioned, or which was
15 leased, or any claim for damages arising out of the condition in
16 which the private property is returned; provided that no such
17 claim shall be filed for deterioration of property resulting
18 from ordinary wear and tear, and not for any deterioration or
19 damage except such as is shown to have resulted from the taking
20 or use of the property. Any claim shall be filed within thirty
21 days after the return of the property or after the governor or
22 mayor proclaims that all private property has been returned to



1 the owners, whichever is earlier. The decision of the
2 appraisers shall be final and binding upon the governor or
3 mayor, as applicable, and the claimant; provided that either
4 party may file a petition in the circuit court within sixty days
5 after the rendering of a decision of the board, praying for the
6 decision of the court upon the claim. The petition, if filed by
7 the State, shall be entitled in the name of the State, by the
8 attorney general, and if filed by the county, shall be entitled
9 in the name of the county, by its corporation counsel, and shall
10 be heard and decided by the circuit court without the
11 intervention of a jury. If filed by any other party, the
12 petition shall be filed, heard, and decided in the manner
13 provided for suits against the State. Appellate review may be
14 had, subject to chapter 602, in the manner provided for civil
15 appeals from the circuit courts. The court may order the
16 joinder of other parties or may allow other parties to
17 intervene. Any award that has become final shall be paid out of
18 any funds available under this chapter and, if not sufficient,
19 out of the general revenues of the State as appropriated or out
20 of the general revenues of the county as appropriated.

21 § -24 **Investigations and surveys.** (a) The governor or
22 mayor, as applicable, may make investigations and surveys for



1 the purpose of ascertaining facts to be used in administering
2 this chapter, and in making the investigations and surveys may
3 require the making or filing of schedules or statements, under
4 oath or otherwise; administer oaths; take evidence under oath;
5 subpoena witnesses; make inspections; and require the production
6 of books, papers, and records. The circuit court of any circuit
7 or judge thereof, may enforce by proper proceedings the making
8 or filing of the schedules or statements; the attendance and
9 testimony of any witness subpoenaed to appear within the
10 circuit; or the production of books, papers, and records. The
11 proceedings shall be in addition to, and not exclusive of, any
12 other means or methods of enforcement.

13 (b) No person shall be excused from attending and
14 testifying, or from producing books, papers, or records, before
15 the governor or mayor or in obedience to the subpoena of the
16 governor or mayor, or in any cause or proceeding, criminal or
17 otherwise, based upon or growing out of any alleged violation of
18 this chapter or any rule or order thereunder, on the ground, or
19 for the reason, that the testimony or evidence, documentary or
20 otherwise, required of the person may tend to incriminate the
21 person or subject the person to a penalty or forfeiture; but no
22 individual shall be prosecuted or subjected to any penalty or



1 forfeiture for or on account of any transaction, matter, or
2 thing concerning which the person is compelled after having
3 claimed the person's privilege against self-incrimination, to
4 testify or produce evidence, documentary or otherwise, except
5 that any individual so testifying shall not be exempt from
6 prosecution and punishment for perjury committed in so
7 testifying.

8 (c) Witnesses shall be allowed their per diem fees and
9 mileage as in cases in the circuit courts.

10 § -25 **Rules and orders.** (a) For the purpose of
11 carrying out any provision of this chapter, the governor may
12 adopt rules for the State and the mayor may adopt rules for the
13 county which may, if so stated in the rules, have the force and
14 effect of law. Even though the rules are prescribed pursuant to
15 a power conferred, or having mandatory or prohibitive effect,
16 only in the event of a state of emergency or local state of
17 emergency, the rules nevertheless may be prescribed prior
18 thereto if stated therein to have the force and effect of law
19 only in the event of a state of emergency or local state of
20 emergency. All the rules, and likewise all other action taken
21 under this chapter, shall be made and taken with due
22 consideration of the orders, rules, regulations, actions,



1 recommendations, and requests of federal authorities relevant
2 thereto. In these rules, reasonable classifications,
3 exceptions, and exemptions may be made and granted. Such rules
4 shall not be subject to chapter 91.

5 (b) The power to adopt rules having the force and effect
6 of law shall not be deemed in derogation of the power of the
7 governor, or the governor's duly authorized representatives, or
8 the mayor, or the mayor's duly authorized representative, to
9 make orders for the enforcement of this chapter or the rules
10 issued thereunder. The rules may provide for the making of
11 administrative findings by duly authorized representatives, or
12 for the application of the rules by such representatives as the
13 circumstances may require, and the issuance of orders therefor.

14 (c) Rules adopted pursuant to this chapter during a state
15 of emergency shall be promulgated as herein provided, and may be
16 made effective upon the promulgation. The rules shall be
17 promulgated by posting them on the applicable state or county
18 government website and by publishing them in a newspaper of
19 general circulation in the State, by means calculated to bring
20 its contents to the attention of the general public, including
21 by official announcement by means of television or radio
22 broadcast, or both, or by internet, or, where only known persons



1 are concerned, by service upon these persons by registered or
2 certified mail or by personal service. The rules shall remain
3 posted on the government website while in effect. When
4 immediate promulgation of the rules is necessary in the opinion
5 of the governor or mayor, as applicable, who shall be the sole
6 judge thereof, in lieu of publication the rules may be
7 promulgated by television or radio broadcast, or both, or by
8 internet, or such other means as may be available, provided that
9 the rules shall be posted and published thereafter at the
10 earliest practicable date.

11 § -26 **Forfeitures.** The forfeiture of any property
12 unlawfully possessed, pursuant to section -12(b) of this
13 chapter, may be adjudged upon conviction of the offender found
14 to be unlawfully in possession of the same, where no person
15 other than the offender is entitled to notice and hearing with
16 respect to the forfeiture, or the forfeiture may be enforced by
17 an appropriate civil proceeding brought in the name of the
18 State. The district courts and circuit courts shall have
19 concurrent jurisdiction of the civil proceedings. Any property
20 forfeited as provided in this section may be ordered destroyed,
21 or may be ordered delivered for public use to such agency as
22 shall be designated by the governor or the governor's



1 representative, or may be ordered sold, wholly or partially, for
2 the account of the State.

3 § -27 **Preliminary or interlocutory injunctions and**
4 **temporary restraining orders.** (a) Notwithstanding any other
5 law to the contrary, no preliminary or interlocutory injunction,
6 or temporary restraining order, suspending, enjoining, or
7 restraining the enforcement, operation, or execution of, or
8 setting aside, in whole or in part, on the ground of
9 unconstitutionality or for any other reason or reasons, any
10 provision of this chapter or any proclamation, order, or rule
11 prescribed, made, or issued under the authority of this chapter,
12 shall be issued or granted by any court of the State, or by any
13 judge thereof, unless the application for the same is presented
14 to a circuit judge, is heard and determined by the circuit judge
15 sitting with two other circuit judges, and a majority of the
16 judges concur in granting the application. When the application
17 is presented to a judge, the judge shall immediately notify the
18 chief justice of the supreme court of the State, or the senior
19 associate justice in the event of the chief justice's absence or
20 incapacity or a vacancy in the office, who shall forthwith
21 assign two other circuit judges to sit with the circuit judge in
22 hearing and determining the application.



1 The application shall not be heard or determined before at
2 least five days' notice of the hearing has been given to the
3 governor and the attorney general, or to the mayor and the
4 county corporation counsel, as applicable, and to such other
5 persons as may be defendants or respondents in the suits. In
6 cases where immediate irreparable damage would otherwise ensue
7 to the petitioner, the circuit judge to whom the application is
8 made may, after giving notice to the governor and the attorney
9 general, or the mayor and the county corporation counsel, and
10 allowing them an opportunity to appear, grant a temporary stay
11 or suspension, in whole or in part, of the operation of the
12 statutory provision, proclamation, order, or rule. The
13 temporary stay or suspension shall remain in force only until
14 the hearing and determination of the application for a
15 preliminary or interlocutory injunction, and in any event for
16 not more than ten days from the date of the order of the judge.
17 If the two additional circuit judges have been assigned to the
18 case, no temporary stay or suspension shall be ordered unless a
19 majority of the three circuit judges shall concur.

20 In a case of the stay or suspension, the order of the judge
21 or judges shall contain a finding or findings, based upon
22 evidence submitted to the judge or judges and incorporated in



1 the order by reference thereto, that irreparable damage would
2 result to the petitioner, and specifying the nature of the
3 damage and why it is immediate and irreparable. The three
4 circuit judges assigned to sit in the case may, upon a like
5 finding and for good cause shown, appearing from reasons entered
6 of record, continue the temporary stay or suspension for an
7 additional ten-day period, but for only one such period unless
8 the party against whom the order is directed consents that it
9 may be extended for a longer period. The hearing upon an
10 application for a preliminary or interlocutory injunction shall
11 be given precedence and shall be in every way expedited and be
12 assigned for hearing at the earliest practicable day.

13 If a temporary stay or suspension has been allowed, the
14 application for a preliminary or interlocutory injunction shall
15 be set for hearing within five days after the granting of the
16 stay or suspension. When the matter comes on for hearing, the
17 party who obtained the temporary stay or suspension shall
18 proceed with the application for a preliminary or interlocutory
19 injunction. Otherwise the temporary order shall be dissolved
20 forthwith. No extension of time shall be granted without the
21 approval of at least two of the three judges. Upon the final



1 hearing of any such suit, the same requirement as to judges and
2 the same procedure as to expedition shall apply.

3 § -28 **Enforcement of injunction proceedings;**

4 **interventions.** (a) Whenever in the opinion of the governor or
5 mayor, as applicable, any person has engaged or is about to
6 engage in any act or practice that constitutes or will
7 constitute a violation of any provision of this chapter, or any
8 rule of the governor or mayor issued under this chapter, having
9 the force and effect of law, the governor or mayor may make
10 application to the appropriate court in the name of the State or
11 county for an order enjoining the acts or practices, or for such
12 other order as will enforce compliance with the provisions, and
13 upon a showing by the governor or mayor in such manner and form
14 as is usual in injunction cases, that the person has engaged or
15 is about to engage in any such act or practice, a permanent or
16 temporary injunction, restraining order, or other appropriate
17 order shall be granted without bond.

18 (b) The governor may intervene in the name of the State or
19 the mayor may intervene in the name of the county, as
20 applicable, in any action or proceeding wherein a party asserts
21 a right or relies for ground of relief or defense upon this
22 chapter or upon any rule or order of the governor or mayor



1 issued under this chapter, or, in the judgment of the governor
2 or mayor, there is an issue to be presented that involves
3 enforcement of this chapter or the rules.

4 § **-29 Misdemeanors.** Any person violating any rule of
5 the governor or mayor prescribed and promulgated pursuant to
6 this chapter and having the force and effect of law, shall, if
7 it shall be so stated in the rule, be guilty of a misdemeanor.
8 Upon conviction, the person shall be fined not more than \$5,000,
9 or imprisoned not more than one year, or both.

10 Any person who intentionally, knowingly, or recklessly,
11 destroys, damages, or loses any shelter, protective device, or
12 warning or signal device, shall if the same was installed or
13 constructed by the United States, the State, or a county, or is
14 the property of the United States, the State, or a county, be
15 fined the cost of replacement, or imprisoned not more than one
16 year, or both. The governor or mayor, may, by rule, make
17 further provisions for the protection from misuse of shelters,
18 protective devices, or warning and signal devices.

19 § **-30 Rental or sale of essential commodities during a**
20 **state of emergency; prohibition against price increases.** (a)
21 Whenever the governor declares a state of emergency for the
22 entire State or any portion thereof, or a mayor declares a local



1 state of emergency for the county or any portion thereof, or
2 when the State, or any portion thereof, is the subject of a
3 severe weather warning:

4 (1) There shall be prohibited any increase in the selling
5 price of any commodity, whether at the retail or
6 wholesale level, in the area that is the subject of
7 the proclamation or the severe weather warning; and

8 (2) No landlord shall terminate any tenancy for a
9 residential dwelling unit in the area that is the
10 subject of the proclamation or the severe weather
11 warning, except for a breach of a material term of a
12 rental agreement or lease, or if the unit is unfit for
13 occupancy as defined in this chapter; provided that:

14 (A) Nothing in this chapter shall be construed to
15 extend a fixed-term lease beyond its termination
16 date, except that a periodic tenancy for a
17 residential dwelling unit may be terminated by
18 the landlord upon forty-five days' written
19 notice:

20 (i) When the residential dwelling unit is sold
21 to a bona fide purchaser for value; or



1 (ii) When the landlord or an immediate family
2 member of the landlord will occupy the
3 residential dwelling unit; or

4 (B) Under a fixed-term lease or a periodic tenancy,
5 upon forty-five days' written notice, a landlord
6 may require a tenant or tenants to relocate
7 during the actual and continuous period of any
8 repair to render a residential dwelling unit fit
9 for occupancy; provided that:

10 (i) Reoccupancy shall first be offered to the
11 same tenant or tenants upon completion of
12 the repair;

13 (ii) The term of the fixed-term lease or periodic
14 tenancy shall be extended by a period of
15 time equal to the duration of the repair;
16 and

17 (iii) It shall be the responsibility of the tenant
18 or tenants to find other accommodations
19 during the period of repair.

20 (b) Notwithstanding this section, any additional operating
21 expenses incurred by the seller or landlord because of the
22 emergency or disaster or the severe weather, and which can be



1 documented, may be passed on to the consumer. In the case of a
2 residential dwelling unit, if rent increases are contained in a
3 written instrument that was signed by the tenant prior to the
4 declaration or severe weather warning, the increases may take
5 place pursuant to the written instrument.

6 (c) The prohibitions under subsection (a) shall remain in
7 effect until twenty-four hours after the severe weather warning
8 is canceled by the National Weather Service; or in the event of
9 a declaration, the later of a date specified by the governor or
10 mayor in the declaration or ninety-six hours after the effective
11 date and time of the declaration, unless such prohibition is
12 continued by a supplementary declaration issued by the governor
13 or mayor. Any proclamation issued under this chapter that fails
14 to state the time at which it will take effect, shall take
15 effect at twelve noon of the day on which it takes effect.

16 (d) In any action against a merchant, landlord, or other
17 business for violation of the price limitations in this section,
18 the defendant shall be deemed not to have violated this section
19 if the defendant proves all of the following:

20 (1) The violation of the price limitation was
21 unintentional;



1 (2) The defendant voluntarily rolled back prices to the
2 appropriate level upon discovering that this section
3 was or may have been violated; and

4 (3) The defendant has instituted a restitution program for
5 all consumers who may have paid excessive prices.

6 (e) Any violation of this section shall constitute unfair
7 methods of competition and unfair and deceptive acts or
8 practices in the conduct of any trade or commerce under section
9 480-2 and shall be subject to a civil penalty as provided in
10 section 480-3.1. Each item sold at a price that is prohibited
11 by this section shall constitute a separate violation.

12 (f) As used in this section:

13 "Breach of a material term" means the failure of a party to
14 perform an obligation under the rental agreement or lease, which
15 constitutes the consideration for entering into the contract and
16 includes the failure to make a timely payment of rent.

17 "Commodity" means any good or service necessary for the
18 health, safety, and welfare of the people of Hawaii; provided
19 that this term shall include, but not be limited to: materials;
20 merchandise; supplies; equipment; resources; and other articles
21 of commerce that shall include food; water; ice; chemicals;



1 petroleum products; construction materials; or residential
2 dwellings.

3 "Fixed-term lease" means a lease for real property that
4 specifies its beginning date and its termination date as
5 calendar dates, or contains a formula for determining the
6 beginning and termination dates; and the application of the
7 formula as of the date of the agreement will produce a calendar
8 date for the beginning and termination of the lease.

9 "Periodic tenancy" means a tenancy wherein real property is
10 leased for an indefinite time with monthly or other periodic
11 rent reserved. A periodic tenancy may be created by express
12 agreement of the parties, or by implication upon the expiration
13 of a fixed-term lease when neither landlord nor tenant provides
14 the other with written notice of termination and the tenant
15 retains possession of the premises for any period of time after
16 the expiration of the original term.

17 "Unfit for occupancy" means that a residential dwelling
18 unit has been damaged to the extent that the appropriate county
19 agency determines that the unit creates a dangerous or
20 unsanitary situation and is dangerous to the occupants or to the
21 neighborhood.



1 § **-31 Penalties prescribed by this chapter additional**
2 **to other penalties.** If conduct prohibited by or under the
3 authority of this chapter is also made unlawful by another or
4 other laws, the offender may be convicted as provided in this
5 chapter and for the violation of the other law or laws.

6 § **-32 Effect of this chapter on other laws.** All laws
7 inconsistent with the provisions of this chapter, or of any rule
8 issued under the authority of this chapter, shall be suspended
9 during the period of time and to the extent that the emergency
10 or disaster exists, and may be, by the governor for all laws, or
11 mayor for county laws, designated as so suspended."

12 SECTION 3. Section 1-28.5, Hawaii Revised Statutes, is
13 amended by amending subsection (d) to read as follows:

14 "(d) This section shall not apply to notices required by
15 chapters 103D, 103F, _____, and 523A."

16 SECTION 4. Section 26-21, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§26-21 Department of defense.** (a) The department of
19 defense shall be headed by a single executive to be known as the
20 adjutant general. The adjutant general shall also be the
21 director of [~~civil-defense~~] the Hawaii emergency management



1 agency as established in section -3 and the director of
2 homeland security.

3 ~~[There shall be a full-time vice director of civil defense~~
4 ~~who shall be appointed and may be removed by the director.]~~

5 The department shall be responsible for the defense of the
6 State and its people from mass violence, originating from either
7 human or natural causes.

8 The devolution of command of the military forces in the
9 absence of the adjutant general shall be within the military
10 establishment. The devolution of command of the ~~[civil defense~~
11 ~~agency]~~ Hawaii emergency management agency in the absence of the
12 ~~[director of civil defense]~~ adjutant general, as director of the
13 agency, shall be within the ~~[civil defense]~~ agency.

14 ~~[(b) There shall be within the department of defense a~~
15 ~~commission to be known as the civil defense advisory council~~
16 ~~which shall sit in an advisory capacity to the director of civil~~
17 ~~defense on matters pertaining to civil defense. The composition~~
18 ~~of the commission shall be as heretofore provided by law for the~~
19 ~~civil defense advisory council existing immediately prior to~~
20 ~~November 25, 1959.~~

21 ~~(c) The functions and authority heretofore exercised by~~
22 ~~the military department and the civil defense agency as~~



1 ~~heretofore constituted are transferred to the department of~~
2 ~~defense established by this chapter.]~~

3 **(b)** The office of veterans' services and the advisory
4 board on veterans' services as constituted by chapter 363 are
5 placed within the department of defense for administrative
6 purposes."

7 SECTION 5. Section 103-53, Hawaii Revised Statutes, is
8 amended by amending subsection (e) to read as follows:

9 "(e) This section shall not apply to:

10 (1) Any procurement of less than \$25,000 or that is
11 considered a small purchase under section 103D-305 and
12 any state or county department contract of less than
13 \$25,000;

14 (2) Emergency purchases for the procurement of goods,
15 services, or construction under section 103D-307[~~r~~
16 ~~disaster relief under chapter 127,~~] or [~~a civil~~
17 ~~defense]~~ an emergency or disaster under chapter [~~128~~]
18 _____;

19 (3) Grants and subsidies disbursed by a state agency
20 pursuant to chapter 42F or in accordance with
21 standards provided by law as required by article VII,
22 section 4, of the state constitution, or made by the



- 1 counties pursuant to their respective charters or
2 ordinances;
- 3 (4) Contracts or agreements between government agencies;
- 4 (5) Contracts or agreements to disburse funds:
- 5 (A) To make payments to or on behalf of public
6 officials, officers, and employees for salaries,
7 fringe benefits, professional fees, and
8 reimbursements;
- 9 (B) To satisfy obligations required to be paid by
10 law, including fees, judgments, settlements, and
11 other payments for resolving claims;
- 12 (C) To make refunds or return funds held by the State
13 or county as trustee, custodian, or bailee;
- 14 (D) For entitlement programs, including public
15 assistance, unemployment, and workers'
16 compensation programs, established by state or
17 federal law;
- 18 (E) For deposit, investment, or safekeeping,
19 including sums to pay expenses related to their
20 deposit investment, or safekeeping;
- 21 (F) For loans under government-administered loan
22 programs; or



1 (G) To make periodic, recurring payments for utility
2 services;

3 (6) Rent for the use or occupation of the premises and
4 facilities at Aloha Stadium, the convention center, or
5 any other state or county large spectator events
6 facility; and

7 (7) Contracts or agreements of the Hawaii health systems
8 corporation and its regional system boards."

9 SECTION 6. Section 121-30, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§121-30 Order to active service.** In case of war,
12 insurrection, invasion, riot, or imminent danger thereof~~[or]~~;
13 an emergency or disaster; or danger from flood, fire, storm,
14 earthquake, civil disturbances, or terrorist events; or any
15 forcible obstruction to the execution of the laws, or reasonable
16 apprehension thereof~~[or]~~; or for assistance to civil authorities
17 in disaster relief or [~~civil-defense~~] emergency management, the
18 governor may order the national guard or other component of the
19 militia or any part thereof into active service. The governor
20 or the governor's designated representative [~~also~~] may also
21 order the national guard into active service [~~in~~]:



- 1 (1) In nonemergency situations for duty and training in
2 addition to the drill and instruction required by
3 section 121-28~~[7]~~;
- 4 (2) To provide support to other states in response to a
5 request for assistance under the Emergency Management
6 Assistance Compact under chapter 128F; and
- 7 (3) To detect, prevent, prepare for, investigate, respond
8 to, or recover from any of the events for which an
9 order to active service may be made."

10 SECTION 7. Section 134-7.2, Hawaii Revised Statutes, is
11 amended by amending subsections (a) and (b) to read as follows:

12 "(a) Notwithstanding any provision of chapter ~~[128]~~ ___ or
13 any other law to the contrary, no person or government entity
14 shall seize or confiscate, under any ~~[civil-defense]~~
15 emergency~~[7]~~ or disaster relief powers or functions conferred,
16 or during any ~~[civil-defense]~~ emergency period, as defined in
17 section ~~[128-27]~~ ____-2, or during any time of national
18 emergency or crisis, as defined in section 134-34, any firearm
19 or ammunition from any individual who is lawfully permitted to
20 carry or possess the firearm or ammunition under part I of this
21 chapter and who carries, possesses, or uses the firearm or



1 ammunition in a lawful manner and in accordance with the
2 criminal laws of this State.

3 (b) Notwithstanding any provision of chapter [~~128~~] ____ or
4 any other law to the contrary, no person or government entity
5 shall suspend, revoke, or limit, under any [~~civil defense,~~]
6 emergency[~~7~~] or disaster relief powers or functions conferred,
7 any lawfully acquired and maintained permit or license obtained
8 under and in accordance with part I of this chapter."

9 SECTION 8. Section 209-6, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§209-6 Relation to other agencies.** This chapter is not
12 intended, nor shall it be construed in any manner, to conflict
13 with or assume the responsibility of the American National Red
14 Cross, any agency of the federal government, the Salvation Army,
15 or the [~~civil defense~~] emergency management activities of the
16 state department of defense."

17 SECTION 9. Section 269-16.3, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) Any utility that sustains damage to its facilities as
20 a result of a [~~state-declared~~] state of emergency [~~+~~] or local
21 state of emergency, including [~~but not limited to disaster~~
22 ~~relief and civil defense~~] emergencies as defined in [~~chapters~~



1 ~~127 and 128)~~] chapter , and incurs costs related to the
2 restoration and repair of its facilities which, if assessed only
3 on the utility ratepayers of the affected utility service
4 territory, may result in a rate increase of more than fifteen
5 per cent for the average ratepayer in that utility service
6 territory, may apply to the public utilities commission in
7 accordance with this section to recover the costs provided
8 herein through a monthly surcharge which shall be assessed on a
9 statewide basis and shall be based on the utility's net
10 restoration and repair costs; provided that the surcharge shall
11 not result in an assessment of more than fifteen per cent for
12 the average ratepayer in each of the other utility service
13 territories and provided further that the public utilities
14 commission shall exclude ratepayers in utility service
15 territories with rates that may be substantially higher than
16 other utility service territories in the State.

17 The public utilities commission shall have the authority to
18 initially set, or subsequently revise, the surcharge to reflect
19 the actual net restoration and repair costs incurred after
20 deduction of amounts received from outside sources of recovery.
21 Such outside sources of recovery shall include, but not be



1 limited to, insurance proceeds, government grants, and
2 shareholder contributions."

3 SECTION 10. Section 271G-10, Hawaii Revised Statutes, is
4 amended by amending subsection (g) to read as follows:

5 "(g) The commission shall not issue any certificate that
6 is designated as interim or temporary or that otherwise does not
7 conform to the requirements of this chapter except in response
8 to an emergency situation; provided that an emergency situation
9 shall mean a [~~state-declared~~] state of emergency or local state
10 of emergency [~~including disaster relief pursuant to chapter 127~~
11 ~~or a civil defense emergency~~] pursuant to chapter [~~128.~~] _____.
12 Any certificate issued pursuant to this subsection shall expire
13 upon the expiration of the [~~state-declared~~] state of emergency
14 or local state of emergency or an earlier date determined by the
15 commission in response to prevailing conditions. An extension
16 of a certificate granted under this subsection beyond the
17 expiration of the [~~state-declared~~] state of emergency or local
18 state of emergency or date determined by the commission shall be
19 granted only subject to the notice, hearing, and findings
20 requirements of this chapter."

21 Section 11. Section 286-226, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "~~§~~286-226~~§~~ **Routes.** The intrastate shipment of
2 explosives of any quantity that would require placarding of the
3 transporting motor vehicle by the rules adopted pursuant to this
4 part, shall not take place without first giving the police
5 department and the fire department of the county in which the
6 explosives are to be transported a forty-eight hour minimum
7 advance notice. This advance notice shall be in writing and
8 indicate the quantity and type of explosive material being
9 shipped, the date and time of the shipment, and the route over
10 which the explosive shipment will travel. This provision does
11 not apply to the military during the period of [~~a civil defense~~
12 ~~emergency~~] an emergency or disaster proclaimed by the President
13 [~~or~~], the governor, or a county mayor."

14 Section 12. Section 309H-2, Hawaii Revised Statutes, is
15 amended by amending subsection (8) to read as follows:

16 "(8) Establish criteria and procedures for calling Hawaii
17 health corps program participants into service during [~~a civil~~
18 ~~defense or other~~] an emergency or disaster."

19 Section 13. Section 309H-4, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "~~§~~309H-4~~§~~ **Hawaii health corps first responder service**
22 **obligation.** If [~~a civil defense or other~~] an emergency or



1 disaster, proclaimed under chapter [~~127 or 128~~] _____ occurs,
2 physicians, physician assistants, and nurse practitioners
3 participating in the Hawaii health corps program may be ordered
4 into service by the governor as first responders to serve in
5 areas of the State and in a capacity determined by the director
6 of health."

7 SECTION 14. Section 601-1.5, Hawaii Revised Statutes, is
8 amended by amending its title and subsections (a) and (b) to
9 read as follows:

10 "~~[§]§601-1.5[§]—Civil defense emergency]~~ **Emergency period;**
11 **suspension of deadlines.**

12 (a) During [~~a period of civil defense~~] an emergency period
13 proclaimed by the governor under [~~section 128-7,~~] chapter _____,
14 the chief justice shall be authorized to order the suspension,
15 tolling, extension, or granting of relief from deadlines, time
16 schedules, or filing requirements imposed by otherwise
17 applicable statutes, rules, or court orders, in civil or
18 criminal cases or administrative matters, in any judicial
19 circuit affected by the governor's proclamation. The chief
20 justice shall determine the judicial circuits so affected.

21 (b) The order shall be limited to an initial duration of
22 not more than thirty days; provided that the order may be



1 modified or extended for such period of time as the chief
2 justice deems necessary due to an ongoing [~~civil-defense~~] state
3 of emergency."

4 SECTION 15. Section 707-700, Hawaii Revised Statutes, is
5 amended by amending the definition of "emergency worker" to read
6 as follows:

7 ""Emergency worker" means any:

- 8 (1) Law enforcement officer, including [~~but not limited~~
9 ~~to~~] any police officer, public safety officer, parole
10 or probation officer, or any other officer of any
11 county, state, federal, or military agency authorized
12 to exercise law enforcement or police powers;
- 13 (2) Firefighter, emergency medical services personnel,
14 emergency medical technician, ambulance crewmember, or
15 any other emergency response personnel;
- 16 (3) Member of the Hawaii national guard on any duty or
17 service done under or in pursuance of an order or call
18 of the governor or the President of the United States
19 or any proper authority;
- 20 (4) Member of the United States Army, Air Force, Navy,
21 Marines, or Coast Guard on any duty or service done
22 under or in pursuance of an order or call of the



- 1 President of the United States or any proper
2 authority;
- 3 (5) Member of the national guard from any other state
4 ordered into service by any proper authority; or
- 5 (6) Person engaged in [~~civil defense~~] emergency management
6 functions as authorized by the director of [~~civil~~
7 ~~defense~~] Hawaii emergency management or the
8 administrator or director of the county emergency
9 management agency or as otherwise authorized under
10 chapter [~~128; or~~
- 11 ~~(7) Person engaged in disaster relief by authorization of~~
12 ~~the director of disaster relief or as otherwise~~
13 ~~authorized under chapter 127.] _____."~~

14 SECTION 16. Section 707-712.7, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[~~§~~707-712.7[~~§~~] **Assault against an emergency worker.**

- 17 (1) A person commits the offense of assault against an
18 emergency worker if the person, during [~~the time of a civil~~
19 ~~defense emergency~~] an emergency period proclaimed by the
20 governor or mayor pursuant to chapter [~~128,~~] _____, within the
21 area covered by the [~~civil defense~~] emergency or [~~during the~~
22 ~~period of disaster relief under chapter 127~~] disaster:



1 (a) Intentionally, knowingly, or recklessly causes serious
2 or substantial bodily injury to an emergency worker;
3 or

4 (b) Intentionally, knowingly, or recklessly causes bodily
5 injury to an emergency worker with a dangerous
6 instrument.

7 (2) Assault against an emergency worker is a class B
8 felony."

9 SECTION 17. Section 708-817, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[+]§708-817[+] **Burglary of a dwelling during [~~a civil~~**
12 **defense] an emergency [~~or disaster relief] period.~~** (1) A
13 person commits the offense of burglary of a dwelling if, during
14 [~~a civil defense] an emergency [~~or disaster relief period if]~~
15 period proclaimed by the governor or mayor pursuant to
16 chapter _____ and within the area covered by the emergency
17 period, the person:~~

18 (a) Intentionally enters or remains unlawfully in a
19 dwelling with intent to commit therein a crime against
20 a person or against property rights; and



1 (b) Recklessly disregards a risk that the building is the
2 dwelling of another, and the building is such a
3 dwelling[~~7~~
4 ~~during the time of a civil defense emergency proclaimed by the~~
5 ~~governor pursuant to chapter 128, within the area covered by the~~
6 ~~civil defense emergency or during the period of disaster relief~~
7 ~~under chapter 127.] at the time.~~

8 (2) Burglary of a dwelling during [~~a civil defense~~] an
9 emergency [~~or disaster relief~~] period is a class A felony."

10 SECTION 18. Section 708-818, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~§~~§708-818[~~§~~] **Burglary of a building during [~~a civil~~**
13 **~~defense emergency or disaster relief~~] an emergency period. (1)**

14 A person commits the offense of burglary of a building if,
15 during [~~a civil defense~~] an emergency [~~or disaster relief period~~
16 ~~if~~] period proclaimed by the governor or mayor pursuant to
17 chapter _____ and within the area covered by the emergency
18 period, the person intentionally enters or remains unlawfully in
19 a building other than a dwelling with intent to commit therein a
20 crime against a person or against property rights [~~during the~~
21 ~~time of a civil defense emergency proclaimed by the governor~~
22 ~~pursuant to chapter 128, within the area covered by the civil~~



1 ~~defense emergency or during the period of disaster relief under~~
2 ~~chapter 127].~~

3 (2) Burglary of a building during [~~a civil defense~~] an
4 emergency [~~or disaster relief period~~] period is a class B
5 felony."

6 SECTION 19. Section 708-820, Hawaii Revised Statutes, is
7 amended by amending subsection (1) to read as follows:

8 "(1) A person commits the offense of criminal property
9 damage in the first degree if by means other than fire:

10 (a) The person intentionally or knowingly damages property
11 and thereby recklessly places another person in danger
12 of death or bodily injury;

13 (b) The person intentionally or knowingly damages the
14 property of another, without the other's consent, in
15 an amount exceeding \$20,000;

16 (c) The person intentionally or knowingly damages the
17 property of another during [~~the time of a civil~~
18 ~~defense~~] an emergency period proclaimed by the
19 governor or mayor pursuant to chapter [~~128,~~] _____,
20 within the area covered by the [~~civil defense~~]
21 emergency [~~or during the period of disaster relief~~
22 ~~under chapter 127]~~ or disaster; or



1 (d) The person intentionally or knowingly damages the
2 agricultural equipment, supplies, or products or
3 aquacultural equipment, supplies, or products of
4 another, including trees, bushes, or any other plant
5 and livestock of another, without the other's consent,
6 in an amount exceeding \$1,500. In calculating the
7 amount of damages to agricultural products, the amount
8 of damages includes future losses and the loss of
9 future production."

10 SECTION 20. Section 708-830.5, Hawaii Revised Statutes, is
11 amended by amending subsection (1) to read as follows:

12 "(1) A person commits the offense of theft in the first
13 degree if the person commits theft:

14 (a) Of property or services, the value of which exceeds
15 \$20,000;

16 (b) Of a firearm;

17 (c) Of dynamite or other explosive; or

18 (d) Of property or services during [~~the time of a civil~~
19 ~~defense~~] an emergency period proclaimed by the
20 governor or mayor pursuant to chapter [~~128,~~] _____,
21 within the area covered by the [~~civil defense~~]
22 emergency [~~or during the period of disaster relief~~] or



1 disaster under chapter [~~127,~~] _____, the value of which
2 exceeds \$300."

3 SECTION 21. Section 708-840, Hawaii Revised Statutes, is
4 amended by amending subsection (1) to read as follows:

5 "(1) A person commits the offense of robbery in the first
6 degree if, in the course of committing theft or non-consensual
7 taking of a motor vehicle:

8 (a) The person attempts to kill another or intentionally
9 or knowingly inflicts or attempts to inflict serious
10 bodily injury upon another;

11 (b) The person is armed with a dangerous instrument and:

12 (i) The person uses force against the person of
13 anyone present with intent to overcome that
14 person's physical resistance or physical power of
15 resistance; or

16 (ii) The person threatens the imminent use of force
17 against the person of anyone present with intent
18 to compel acquiescence to the taking of or
19 escaping with the property;

20 (c) The person uses force against the person of anyone
21 present with the intent to overcome that person's
22 physical resistance or physical power of resistance



1 during [~~the time of a civil defense~~] an emergency
2 period proclaimed by the governor or mayor pursuant to
3 chapter [~~128,~~] _____, within the area covered by the
4 [~~civil defense emergency or during the period of~~
5 ~~disaster relief under chapter 127~~] emergency or
6 disaster; or

- 7 (d) The person threatens the imminent use of force against
8 the person of anyone present with intent to compel
9 acquiescence to the taking of or escaping with the
10 property during [~~the time of a civil defense~~] an
11 emergency period proclaimed by the governor or mayor
12 pursuant to chapter [~~128,~~] _____, within the area
13 covered by the [~~civil defense emergency or during the~~
14 ~~period of disaster relief under chapter 127~~] emergency
15 or disaster."

16 SECTION 22. Section 710-1014.5, Hawaii Revised Statutes,
17 is amended by amending subsection (3) to read as follows:

18 "(3) For purposes of this section, "public safety agency"
19 means any federal, state, or county police, fire, emergency
20 medical service, or [~~civil defense relief~~] emergency management
21 agency."



1 SECTION 23. Chapter 127, Hawaii Revised Statutes, is
2 repealed.

3 SECTION 24. Chapter 128, Hawaii Revised Statutes, is
4 repealed.

5 SECTION 25. Section 209-9, Hawaii Revised Statutes, is
6 repealed.

7 ~~["§209-9 Rental or sale of essential commodities during a~~
8 ~~state disaster; prohibition against price increases.—(a)~~
9 ~~Whenever the governor declares a state disaster for the entire~~
10 ~~State or any portion thereof, or when the State, or any portion~~
11 ~~thereof, is the subject of a severe weather warning:~~

12 ~~(1) There shall be prohibited any increase in the selling~~
13 ~~price of any commodity, whether at the retail or~~
14 ~~wholesale level, in the area that is the subject of~~
15 ~~the disaster declaration or the severe weather~~
16 ~~warning; and~~

17 ~~(2) No landlord shall terminate any tenancy for a~~
18 ~~residential dwelling unit in the area that is the~~
19 ~~subject of a disaster declaration or a severe weather~~
20 ~~warning, except for a breach of a material term of a~~
21 ~~rental agreement or lease, or if the unit is unfit for~~
22 ~~occupancy as defined in this chapter, provided that:~~



- 1 ~~(A) Nothing in this chapter shall be construed to~~
2 ~~extend a fixed term lease beyond its termination~~
3 ~~date, except that a periodic tenancy for a~~
4 ~~residential dwelling unit may be terminated by~~
5 ~~the landlord upon forty five days written notice:~~
6 ~~(i) When the residential dwelling unit is sold~~
7 ~~to a bona fide purchaser for value; or~~
8 ~~(ii) When the landlord or an immediate family~~
9 ~~member of the landlord will occupy the~~
10 ~~residential dwelling unit; or~~
11 ~~(B) Under a fixed term lease or a periodic tenancy,~~
12 ~~upon forty five days written notice, a landlord~~
13 ~~may require a tenant or tenants to relocate~~
14 ~~during the actual and continuous period of any~~
15 ~~repair to render a residential dwelling unit fit~~
16 ~~for occupancy provided that:~~
17 ~~(i) Reoccupancy shall first be offered to the~~
18 ~~same tenant or tenants upon completion of~~
19 ~~the repair; and~~
20 ~~(ii) The term of the fixed term lease or periodic~~
21 ~~tenancy shall be extended by a period of~~



1 ~~time equal to the duration of the repair;~~

2 ~~and~~

3 ~~(iii) It shall be the responsibility of the tenant~~

4 ~~or tenants to find other accommodations~~

5 ~~during the period of repair.~~

6 ~~As used in this section, "breach of a material term" means~~
7 ~~the failure of a party to perform an obligation under the rental~~
8 ~~agreement which constitutes the consideration for entering into~~
9 ~~the contract and includes the failure to make a timely payment~~
10 ~~of rent. For the purpose of this subsection:~~

11 ~~"Fixed term lease" means a lease for real property that~~
12 ~~specifies its beginning date and its termination date as~~
13 ~~calendar dates, or contains a formula for determining the~~
14 ~~beginning and termination dates; and the application of the~~
15 ~~formula as of the date of the agreement will produce a calendar~~
16 ~~date for the beginning and termination of the lease.~~

17 ~~"Periodic tenancy" means a tenancy wherein real property is~~
18 ~~leased for an indefinite time with monthly or other periodic~~
19 ~~rent reserved. A periodic tenancy may be created by express~~
20 ~~agreement of the parties, or by implication upon the expiration~~
21 ~~of a fixed term lease when neither landlord nor tenant provides~~
22 ~~the other with written notice of termination and the tenant~~



1 ~~retains possession of the premises for any period of time after~~
2 ~~the expiration of the original term.~~

3 ~~"Unfit for occupancy" means that a residential dwelling~~
4 ~~unit has been damaged to the extent that the appropriate county~~
5 ~~agency determines that the unit creates a dangerous or~~
6 ~~unsanitary situation and is dangerous to the occupants or to the~~
7 ~~neighborhood.~~

8 ~~(b) Notwithstanding this section, any additional operating~~
9 ~~expenses incurred by the seller or landlord because of the state~~
10 ~~disaster, and which can be documented, may be passed on to the~~
11 ~~consumer. In the case of a residential dwelling unit, if rent~~
12 ~~increases are contained in a written instrument which was signed~~
13 ~~by the tenant prior to the disaster declaration or severe~~
14 ~~weather warning, the increases may take place pursuant to the~~
15 ~~written instrument.~~

16 ~~(c) The prohibitions under subsection (a) shall remain in~~
17 ~~effect until twenty four hours after the severe weather warning~~
18 ~~is canceled by the National Weather Service; or in the event of~~
19 ~~a disaster declaration, until the declaration is altered,~~
20 ~~amended, revised, or revoked by the governor.~~

21 ~~(d) In any action against a merchant, landlord, or other~~
22 ~~business for violation of the price limitations in this section,~~



1 ~~the defendant shall be deemed not to have violated this section~~
2 ~~if the defendant proves all of the following:~~

3 ~~(1) The violation of the price limitation was~~
4 ~~unintentional;~~

5 ~~(2) The defendant voluntarily rolled back prices to the~~
6 ~~appropriate level upon discovering that this section~~
7 ~~was or may have been violated; and~~

8 ~~(3) The defendant has instituted a restitution program for~~
9 ~~all consumers who may have paid excessive prices.~~

10 ~~(c) Any violation of this section shall constitute unfair~~
11 ~~methods of competition and unfair and deceptive acts or~~
12 ~~practices in the conduct of any trade [or] commerce under~~
13 ~~section 480-2 and shall be subject to a civil penalty as~~
14 ~~provided in section 480-3.1. Each item sold at a price that is~~
15 ~~prohibited by this section shall constitute a separate~~
16 ~~violation."~~

17 SECTION 26. This Act does not affect rights and duties
18 that matured, penalties that were incurred, and proceedings that
19 were begun before its effective date. Rules, policies,
20 procedures, guidelines, and other material adopted or developed
21 under the authority of chapter 128, Hawaii Revised Statutes, or
22 proclamations issued under the authority of chapter 128, Hawaii



1 Revised Statutes, shall remain in effect until they are repealed
2 or replaced under the authority of the chapter being enacted in
3 this Act. References in the new chapter to rules shall include
4 rules adopted pursuant to chapter 128, Hawaii Revised Statutes,
5 until the rules adopted pursuant to chapter 128, Hawaii Revised
6 Statutes, are repealed or replaced by under the authority of the
7 new chapter. Every reference to the civil defense agency of the
8 department of defense in any rules, policies, procedures,
9 guidelines, and other materials shall be amended to refer to the
10 Hawaii emergency management agency.

11 No officer or employee of the State having tenure shall
12 suffer any loss of salary, seniority, prior service credit,
13 vacation, sick leave, or other employee benefit or privilege as
14 a consequence of this Act, and such officer or employee may be
15 transferred or appointed to a civil service position without the
16 necessity of examination; provided that the officer or employee
17 possesses the minimum qualifications for the position to which
18 transferred or appointed; and provided further that subsequent
19 changes in status may be made pursuant to applicable civil
20 service and compensation laws.

21 An officer or employee of the State who does not have
22 tenure and who may be transferred or appointed to a civil



1 service position as a consequence of this Act shall become a
2 civil service employee without the loss of salary, seniority,
3 prior service credit, vacation, sick leave, or other employee
4 benefits or privileges and without the necessity of examination;
5 provided that such officer or employee possesses the minimum
6 qualifications for the position to which transferred or
7 appointed.

8 If an office or position held by an officer or employee
9 having tenure is abolished, the officer or employee shall not
10 thereby be separated from public employment, but shall remain in
11 the employment of the State with the same pay and classification
12 and shall be transferred to some other office or position for
13 which the officer or employee is eligible under the personnel
14 laws of the State as determined by the head of the department or
15 the governor.

16 All deeds, leases, contracts, loans, agreements, permits,
17 or other documents executed or entered into by or on behalf of
18 the civil defense agency of the department of defense, or the
19 department of defense on behalf of the civil defense agency,
20 pursuant to the provisions of the Hawaii Revised Statutes, which
21 are reenacted or made applicable to the Hawaii emergency
22 management agency, by this Act, shall remain in full force and



1 effect. Effective upon approval of this Act, every reference to
2 the civil defense agency of the department of defense or the
3 department of defense for its civil defense agency, shall be
4 construed as a reference to the Hawaii emergency management
5 agency.

6 All appropriations, records, equipment, machines, files,
7 supplies, contracts, books, papers, documents, maps, and other
8 personal property heretofore made, used, acquired, or held by
9 the civil defense agency of the department of defense relating
10 to emergency management pursuant to chapter 128, Hawaii Revised
11 Statutes, shall be transferred to the Hawaii emergency
12 management agency.

13 SECTION 27. If any part of this Act is found to be in
14 conflict with federal requirements that are a prescribed
15 condition for the allocation of federal funds to the State, the
16 conflicting part of this Act is inoperative solely to the extent
17 of the conflict and with respect to the agencies directly
18 affected, and this funding shall not affect the operation of the
19 remainder of this Act in its application to the agencies
20 concerned. The rules under this Act shall meet federal
21 requirements that are a necessary condition to the receipt of
22 federal funds by the State.



1 SECTION 28. Sections 26-14.6, 26-24, 121-9, 121-34.5,
2 128E-5, 134-16(b), 179D-30(2), 196-1(4), 205A-22, 271G-10, 286-
3 64, 286-65, 286-66, 286-67, 291-17(e), 321-23, 508D-15(a)(4),
4 and 803-42(b)(7), Hawaii Revised Statutes, shall be amended by
5 substituting the phrase "emergency management" whenever the
6 phrase "civil defense" appears, as the context requires.

7 SECTION 29. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 30. This Act shall take effect on July 1, 2014;
10 provided that section -5(f) Hawaii Revised Statutes of
11 section 2 of this Act shall take effect on July 1, 2015.



Report Title:

Department of Defense; Emergency Management

Description:

Recodifies Hawaii's emergency management statutes by updating the statutes, clarifying the relationship between the state and county emergency management agencies, and delineating the emergency management functions and powers of the Governor and mayors. Effective July 1, 2014. (PROPOSED HB849 HD2)

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