
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 emergence of
2 coronavirus disease 2019 (COVID-19) and its variants created a
3 great challenge to global health, the economy, and our way of
4 life. The governor and county mayors exercised their emergency
5 powers under chapter 127A, Hawaii Revised Statutes, to limit the
6 spread of COVID-19, protect the health and safety of the
7 community, manage medical resources, and promote economic
8 recovery. The COVID-19 pandemic highlighted the importance of
9 clear legal frameworks for state and county emergency management
10 to ensure that the State and counties are ready for any type of
11 emergency.

12 The legislature further finds that chapter 127A, Hawaii
13 Revised Statutes, should clearly specify and articulate the
14 bases for emergency actions.

15 The purpose of this Act is to:

- 16 (1) Clarify that powers granted for emergency purposes
17 shall not be inconsistent with the state constitution;



- 1 (2) Provide parameters for the duration of the suspension
2 of laws and require justification for the suspension;
- 3 (3) Authorize the governor to require counties to obtain
4 the approval of the governor or director of the Hawaii
5 emergency management agency before issuing any
6 emergency order, rule, or proclamation;
- 7 (4) Clarify the legal framework governing the extension
8 and termination of emergency periods;
- 9 (5) Authorize the legislature to terminate, in part or in
10 whole, a state of emergency by an affirmative two-
11 thirds vote;
- 12 (6) Clarify that the governor may re-declare a state of
13 emergency that has been terminated; and
- 14 (7) Specify when certain prohibitions during an emergency
15 or a severe warning expire.

16 SECTION 2. Chapter 127A, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

19 "§127A- Public records generated during suspension of
20 disclosure law. Notwithstanding a proclamation or declaration
21 of emergency or any rule or order adopted pursuant to this



1 chapter that suspends disclosure of public records, including
2 the uniform information practices act pursuant to part II of
3 chapter 92F and the disclosure of vital statistics records and
4 public health statistics records law pursuant to section 338-18,
5 public records generated during or containing information from
6 the time of the suspension shall be subject to disclosure
7 requests made after the suspension has terminated."

8 SECTION 3. Section 127A-1, Hawaii Revised Statutes, is
9 amended by amending subsection (c) to read as follows:

10 "(c) It is the intent of the legislature to provide for
11 and confer comprehensive powers for the purposes stated herein.
12 This chapter shall be liberally construed to effectuate its
13 purposes; provided that this chapter shall not be construed as
14 conferring any power or permitting any action [~~which~~] that is
15 inconsistent with the Constitution and laws of the United
16 States[~~7~~] or the Hawaii State Constitution, but, in so
17 construing this chapter, due consideration shall be given to the
18 circumstances as they exist from time to time. This chapter
19 shall not be deemed to have been amended by any act hereafter
20 enacted at the same or any other session of the legislature,
21 unless this chapter is amended by express reference."



SECTION 4. Section 127A-13, Hawaii Revised Statutes, is amended to read as follows:

"§127A-13 Additional powers in an emergency period. (a)

In the event of a state of emergency declared by the governor pursuant to section 127A-14, the governor may exercise the following additional powers pertaining to emergency management during the emergency period:

- (1) Provide for and require the quarantine or segregation of persons who are affected with or believed to have been exposed to any infectious, communicable, or other disease that is, in the governor's opinion, dangerous to the public health and safety, or persons who are the source of other contamination, in any case where, in the governor's opinion, the existing laws are not adequate to assure the public health and safety; provide for the care and treatment of the persons; supplement the provisions of sections 325-32 to 325-38 concerning compulsory immunization programs; provide for the isolation or closing of property ~~[which]~~ that is a source of contamination or is in a dangerous condition in any case where, in the governor's



1 opinion, the existing laws are not adequate to assure
2 the public health and safety, and designate as public
3 nuisances acts, practices, conduct, or conditions that
4 are dangerous to the public health or safety or to
5 property; authorize that public nuisances be summarily
6 abated and, if need be, that the property be
7 destroyed~~[,]~~ by any police officer or authorized
8 person, or provide for the cleansing or repair of
9 property, and if the cleansing or repair is to be at
10 the expense of the owner, the procedure therefor shall
11 follow as nearly as may be the provisions of section
12 322-2, which shall be applicable; and ~~[further,]~~
13 authorize, without the permission of the owners or
14 occupants, entry on private premises for any such
15 purposes;

- 16 (2) Relieve hardships and inequities, or obstructions to
17 the public health, safety, or welfare, found by the
18 governor to exist in the laws and to result from the
19 operation of federal programs or measures taken under
20 this chapter~~[,]~~ by suspending the laws, in whole or in
21 part, or by alleviating ~~[the provisions of laws on~~



1 ~~such~~], subject to terms and conditions [as] that the
2 governor may [impose] specify, the provisions of laws,
3 including licensing laws, quarantine laws, and laws
4 relating to labels, grades, and standards;

- 5 (3) Suspend any law that impedes or tends to impede or be
6 detrimental to the expeditious and efficient execution
7 of, or to conflict with, emergency functions,
8 including laws ~~[which]~~ that by this chapter
9 specifically are made applicable to emergency
10 personnel; provided that any suspension of law shall
11 be no broader and last no longer than the governor
12 deems necessary for the execution of emergency
13 management functions, and any suspension of law shall
14 identify the section of law suspended and, for each
15 section, shall specify the emergency management
16 functions facilitated and justify the suspension based
17 on protecting the public health, safety, and welfare;
18 provided further that any suspension of any law that
19 requires permits, authorizations, or approvals from
20 any state or county agency may continue beyond the
21 emergency period to allow for the completion of any



1 repairs, reconstruction, rebuilding, or construction
2 of any state or county infrastructure, facilities, or
3 properties that would otherwise be delayed by any such
4 permit, authorization, or approval;

5 (4) Suspend the provisions of any regulatory law
6 prescribing the procedures for out-of-state utilities
7 to conduct business in the State, including any
8 licensing laws applicable to out-of-state utilities or
9 their respective employees, as well as any order,
10 rule, or regulation of any state agency, if strict
11 compliance with the provisions of ~~[any such]~~ the law,
12 order, rule, or regulation would in any way prevent,
13 hinder, or delay necessary action of a state utility
14 in coping with the emergency or disaster with
15 assistance that may be provided under a mutual
16 assistance agreement;

17 (5) In the event of a disaster or an emergency beyond
18 local control ~~[, or]~~; an event ~~[which,]~~ that, in the
19 opinion of the governor, ~~[is such as to make]~~ makes
20 state operational control or coordination



1 necessary~~[7]~~; or upon request of the ~~[local entity,~~
2 ~~assume]~~ county:

3 (A) Assume direct operational control over all or any
4 part of the emergency management functions within
5 the affected area; and

6 (B) Notwithstanding sections 127A-14 and 127A-25,
7 require the county to obtain the approval of the
8 governor or director before issuing any emergency
9 order, rule, or proclamation under this chapter;

10 (6) Shut off water mains, gas mains, electric power
11 connections, or suspend other services, and, to the
12 extent permitted by or under federal law, suspend
13 electronic media transmission;

14 (7) Direct and control the mandatory evacuation of the
15 civilian population;

16 (8) Exercise additional emergency functions to the extent
17 necessary to prevent hoarding, waste, or destruction
18 of materials, supplies, commodities, accommodations,
19 facilities, and services, to effectuate equitable
20 distribution thereof, or to establish priorities
21 therein as the public welfare may require; to



1 investigate; and notwithstanding any other law to the
2 contrary, to regulate or prohibit, by means of
3 licensing, rationing, or otherwise, the storage,
4 transportation, use, possession, maintenance,
5 furnishing, sale, or distribution thereof, and any
6 business or any transaction related thereto;

7 (9) Suspend section 8-1, relating to state holidays,
8 except the last paragraph relating to holidays
9 declared by the president, which shall remain
10 unaffected, and in the event of the suspension, the
11 governor may establish state holidays by proclamation;

12 (10) Adjust the hours for voting to take into consideration
13 the working hours of the voters during the emergency
14 period, and suspend those provisions of section 11-131
15 that fix the hours for voting, and fix other hours by
16 stating the same in the election proclamation or
17 notice, as the case may be;

18 (11) Assure the continuity of service by critical
19 infrastructure facilities, both publicly and privately
20 owned, by regulating or, if necessary to the



1 continuation of the service thereof, by taking over
2 and operating the same; and

3 (12) Except as provided in section 134-7.2, whenever, in
4 the governor's opinion, the laws of the State do not
5 adequately provide for the common defense[~~7~~] or public
6 health, safety, and welfare, investigate, regulate, or
7 prohibit the storage, transportation, use, possession,
8 maintenance, furnishing, sale, or distribution of, as
9 well as any transaction related to, explosives,
10 firearms, and ammunition, inflammable materials and
11 other objects, implements, substances, businesses, or
12 services of a hazardous or dangerous character, or
13 particularly capable of misuse, or obstructive of or
14 tending to obstruct law enforcement, emergency
15 management, or military operations, including
16 intoxicating liquor and the liquor business; and
17 authorize the seizure and forfeiture of any such
18 objects, implements, or substances unlawfully
19 possessed, as provided in this chapter.

20 (b) In the event of a local state of emergency declared by
21 the mayor pursuant to [~~+~~]section[+] 127A-14, the mayor may



1 exercise the following additional powers pertaining to emergency
2 management during the emergency period:

3 (1) Relieve hardships and inequities, or obstructions to
4 the public health, safety, or welfare, found by the
5 mayor to exist in the laws of the county and to result
6 from the operation of federal programs or measures
7 taken under this chapter[7] by suspending the county
8 laws, in whole or in part, or by alleviating [~~the~~
9 ~~provisions of county laws on such~~], subject to terms
10 and conditions [as] that the mayor may [~~impose~~]
11 specify, the provisions of county laws, including
12 county licensing laws[7] and county laws relating to
13 labels, grades, and standards;

14 (2) Suspend any county law that impedes or tends to impede
15 or be detrimental to the expeditious and efficient
16 execution of, or to conflict with, emergency
17 functions, including laws [~~which~~] that by this chapter
18 specifically are made applicable to emergency
19 personnel; provided that any suspension of law shall
20 be no broader and last no longer than the mayor deems
21 necessary for the execution of emergency management



1 functions, and any suspension of law shall identify
2 the section of law suspended and, for each section,
3 shall specify the emergency management functions
4 facilitated and justify the suspension based on
5 protecting the public health, safety, and welfare;
6 provided further that any suspension of any law that
7 requires permits, authorizations, or approvals from
8 any state or county agency may continue beyond the
9 emergency period to allow for the completion of any
10 repairs, reconstruction, rebuilding, or construction
11 of any state or county infrastructure, facilities, or
12 properties that would otherwise be delayed by any such
13 permit, authorization, or approval;

14 (3) Shut off water mains, gas mains, electric power
15 connections, or suspend other services; and, to the
16 extent permitted by or under federal law, suspend
17 electronic media transmission;

18 (4) Direct and control the mandatory evacuation of the
19 civilian population; and

20 (5) Exercise additional emergency functions, to the extent
21 necessary to prevent hoarding, waste, or destruction



1 of materials, supplies, commodities, accommodations,
2 facilities, and services, to effectuate equitable
3 distribution thereof, or to establish priorities
4 therein as the public welfare may require; to
5 investigate; and notwithstanding any other county law
6 to the contrary [~~notwithstanding~~], to regulate or
7 prohibit, by means of licensing, rationing, or
8 otherwise, the storage, transportation, use,
9 possession, maintenance, furnishing, sale, or
10 distribution thereof, and any business or any
11 transaction related thereto."

12 SECTION 5. Section 127A-14, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§127A-14 State of emergency.** (a) The governor may
15 declare the existence of a state of emergency in the State by
16 proclamation if the governor finds that an emergency or a
17 disaster has occurred or that there is imminent danger or threat
18 of an emergency or a disaster in any portion of the State.

19 (b) A mayor may declare the existence of a local state of
20 emergency in the county by proclamation if the mayor finds that
21 an emergency or a disaster has occurred or that there is



1 imminent danger or threat of an emergency or a disaster in any
2 portion of the county.

3 (c) ~~[The]~~ Except as provided in subsection (e), the
4 governor or mayor shall be the sole judge of the existence of
5 the danger, threat, or circumstances giving rise to a
6 declaration, an extension, or a termination of a state of
7 emergency in the State or a local state of emergency in the
8 county, as applicable. This section shall not limit the power
9 and authority of the governor under section 127A-13(a)(5).

10 (d) A state of emergency and a local state of emergency
11 shall terminate automatically sixty days after the issuance of a
12 proclamation of a state of emergency or local state of
13 emergency, respectively, ~~[or]~~ unless extended or terminated by a
14 separate or supplementary proclamation of the governor or
15 mayor~~[, whichever occurs first]~~.

16 (e) The legislature may, by an affirmative vote of two-
17 thirds of the members to which each house is entitled, terminate
18 a state of emergency, in part or in whole, declared by the
19 governor pursuant to this section.

20 (f) Notwithstanding subsections (d) and (e), the governor
21 may re-declare the existence of a state of emergency in the



1 State pursuant to this chapter if an emergency or a disaster has
2 occurred or there is imminent danger or threat of an emergency
3 or a disaster in any portion of the State."

4 SECTION 6. Section 127A-30, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By amending subsections (a) to (c) to read:

7 "(a) Whenever the governor declares a state of emergency
8 for the entire State or any portion thereof, or a mayor declares
9 a local state of emergency for the county or any portion
10 thereof, or when the State, or any portion thereof, is the
11 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 proclamation or [~~the~~] severe [~~weather~~] warning;
16 and

17 (2) No landlord shall terminate any tenancy for a
18 residential dwelling unit in the area that is the
19 subject of the proclamation or [~~the~~] severe [~~weather~~]
20 warning, except for a breach of a material term of a



1 rental agreement or lease, or if the unit is unfit for
2 occupancy as defined in this chapter; provided that:

3 (A) Nothing in this chapter shall be construed to
4 extend a fixed-term lease beyond its termination
5 date, except that a periodic tenancy for a
6 residential dwelling unit may be terminated by
7 the landlord upon forty-five days' written
8 notice:

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

11 (ii) When the landlord or an immediate family
12 member of the landlord will occupy the
13 residential dwelling unit; or

14 (B) Under a fixed-term lease or [a] periodic tenancy,
15 upon forty-five days' written notice, a landlord
16 may require a tenant or tenants to relocate
17 during the actual and continuous period of any
18 repair to render a residential dwelling unit fit
19 for occupancy; provided that:



1 (i) Reoccupancy shall first be offered to the
2 same tenant or tenants upon completion of
3 the repair;

4 (ii) The term of the fixed-term lease or periodic
5 tenancy shall be extended by a period of
6 time equal to the duration of the repair;
7 and

8 (iii) It shall be the responsibility of the tenant
9 or tenants to find other accommodations
10 during the period of repair.

11 (b) Notwithstanding this section, any additional operating
12 expenses incurred by the seller or landlord because of the
13 emergency ~~[or]~~, disaster, or ~~[the]~~ severe ~~[weather, and which]~~
14 warning that can be documented~~[7]~~ may be passed on to the
15 consumer. In the case of a residential dwelling unit, if rent
16 increases are contained in a written instrument that was signed
17 by the tenant ~~[prior to]~~ before the declaration or severe
18 ~~[weather]~~ warning, the increases may take place pursuant to the
19 written instrument.

20 (c) The prohibitions under subsection (a) shall remain in
21 effect until twenty-four hours after the severe ~~[weather]~~



1 warning is canceled by the National Weather Service[~~7~~], Pacific
2 Tsunami Warning Center, United States Geological Survey, or
3 other public authority, as applicable; or in the event of a
4 declaration, [~~the later of a date specified by the governor or~~
5 mayor in the declaration or ninety-six] seventy-two hours after
6 the effective date and time of the declaration, unless [~~such~~]
7 the prohibition is identified and continued [~~by a supplementary~~
8 ~~declaration issued]~~ and the types of commodities are identified
9 by the governor or mayor[~~-~~] in the proclamation or any
10 supplementary proclamation. Any proclamation issued under this
11 chapter that fails to state the time at which it will take
12 effect, shall take effect at [~~twelve~~] noon [~~of~~] on the day on
13 which it takes effect."

14 2. By amending subsection (f) to read:

15 "(f) As used in this section:

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

20 "Commodity" means any good or service necessary for the
21 health, safety, and welfare of the people of Hawaii; provided



1 that this term shall include[7] but not be limited to:
2 materials; merchandise; supplies; equipment; resources; and
3 other articles of commerce that shall include food; water; ice;
4 chemicals; petroleum products; construction materials; or
5 residential dwellings.

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

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

20 "Severe warning" means the issuance by the National Weather
21 Service, Pacific Tsunami Warning Center, United States



1 Geological Survey, or other public authority of a public
2 notification that a dangerous condition exists that could impact
3 the State, or any portion of it, within a specified period of
4 time. "Severe warning" includes but is not limited to warnings
5 of coastal inundation, high surf, flash flooding, volcano,
6 tsunami, or hurricane.

7 "Unfit for occupancy" means that a residential dwelling
8 unit has been damaged to the extent that the appropriate county
9 agency determines that the unit creates a dangerous or
10 unsanitary situation and is dangerous to the occupants or [~~te~~
11 ~~the~~] neighborhood."

12 SECTION 7. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 8. This Act shall take effect upon its approval.



Report Title:

Emergency Management; State of Emergency; Emergency Powers;
Price Control

Description:

Clarifies that powers granted for emergency purposes shall not inconsistent with the state constitution. Provides for greater clarity and specificity regarding the scope of suspensions of law. Authorizes the governor to require counties to obtain approval before issuing any emergency order, rule, or proclamation. Clarifies the legal framework governing the extension and termination of emergency periods. Allows the legislature to terminate a state of emergency or local state of emergency. Clarifies that the governor may re-declare a state of emergency that has been terminated. Specifies when certain prohibitions during an emergency or a severe warning expire. Defines "severe warning". (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

