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STATE OF HAWAII  
KA MOKU'ĀINA O HAWAI'I  
**DEPARTMENT OF DEFENSE**  
**KA 'OIHANA PILI KAUA**  
**HAWAI'I EMERGENCY MANAGEMENT AGENCY**  
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STATE OF HAWAI'I  
DEPARTMENT OF DEFENSE  
HAWAI'I EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON HOUSE BILL 2515,  
RELATING TO EMERGENCY MANAGEMENT

BEFORE THE HOUSE COMMITTEE ON  
**WATER AND LAND**

BY

JAMES DS. BARROS  
ADMINISTRATOR  
HAWAI'I EMERGENCY MANAGEMENT AGENCY

FEBRUARY 9, 2024

Aloha Chair Ichiyama, Vice-Chair Poepoe, and Members of the Committee:

Thank you for the opportunity to submit testimony and **OPPOSE** for HB 2515.

The Hawai'i Emergency Management Agency (HI-EMA) opposes the language in HB 2515. Hawai'i Revised Statute Section 127A-2 defines disasters, and emergencies to expand the definition of the emergency management mission of HI-EMA and county emergency management agencies.

By explicitly defining the types of events that constitute disasters and emergencies, we limit the flexibility and adaptability of response measures. Disasters and emergencies can take various forms, and their nature may evolve over time. A rigid definition could exclude emerging or unforeseen events that require immediate attention and response. It is crucial to allow for discretion and adaptability in determining what qualifies as a disaster or emergency to ensure an effective response.

HI-EMA does not believe it is necessary to define what is written in law and the language within HB 2515 is redundant in its scope, and not necessary to alter.

Thank you for the opportunity to provide testimony on House Bill 2515.

James Barros: [james.barros@hawaii.gov](mailto:james.barros@hawaii.gov); 808-733-4300

Feb 9, 2024, 9:00 a.m.  
Hawaii State Capitol  
Conference Room 430 and Videoconference

**To: House Committee on Water & Land**  
**Rep. Linda Ichiyama, Chair**  
**Rep. Mahina Poepoe, Vice-Chair**

**From: Grassroot Institute of Hawaii**  
**Ted Kefalas, Director of Strategic Campaigns**

TESTIMONY IN SUPPORT OF HB2515 — RELATING TO EMERGENCY MANAGEMENT

Aloha Chairs and Committee Members,

The Grassroot Institute of Hawaii would like to offer its comments in support of [HB2515](#), which would clarify the definitions of “emergency” and “disaster” for the purposes of Hawaii’s emergency management statute.

By specifying what constitutes an “emergency” or “disaster” under chapter 127A, this bill would go a long way toward addressing a growing problem in the application of the emergency management statute — the unchecked expansion of executive power via emergency proclamations.

As we discussed in our January 2021 policy brief, “Lockdowns Versus Liberty: How Hawaii’s Experience in 2020-2021 Demonstrates the Need to Revise the State’s Emergency Powers,” the governor has extremely broad powers to define what constitutes an emergency under the current law.<sup>1</sup>

This has resulted in an ever-growing list of “emergencies” outside of the “immediate” and “catastrophic” threats described in this bill. Thus, important social issues, such as homelessness or the lack of affordable housing, are declared “emergencies” so as to benefit from the broad powers granted to the executive under the statute.

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<sup>1</sup> Malia Hill, “[Lockdowns Versus Liberty: How Hawaii’s Experience in 2020-2021 Demonstrates the Need to Revise the State’s Emergency Powers.](#)” Grassroot Institute of Hawaii. January 2021.

This use of emergency power might be an effective way to streamline decision-making and cut through red tape. However, it also upsets the state’s constitutional balance of powers, allows the governor to act as a “super-legislator” by waiving or suspending statewide laws, deprives the Legislature of its constitutional prerogative in the crafting of state policy, and frustrates efforts to enact permanent reforms.

Governing via executive order also has the effect of denying the public a voice on important issues, forcing the people to rely on the courts for redress, a slow and expensive process that acts as an additional barrier to public input.

Even those who agree with the goals or actions of these questionable emergency orders have expressed concern about the methodology behind them.

This problem is then compounded by the lack of any meaningful time limit on emergency orders. The legal ambiguity over the power to extend emergencies via supplemental proclamation means that an abuse of executive power could be extended indefinitely.

By creating a clear definition of the events that constitute an “emergency” or “disaster” under the law, HB2515 would limit the potential for executive overreach via emergency orders. The bill’s list of emergency events, combined with its emphasis on immediate danger and timely action, gives a clear indication of legislative intent and brings the statute in line with the common understanding of an emergency.

The experiences of the past few years have given us a better understanding of the need to reform Hawaii’s emergency management statute. There is room to restore the constitutional balance of powers without handicapping the executive’s ability to respond quickly and effectively to emergency situations.

By providing guidance on what an emergency is, HB2515 would help reassert the Legislature’s role in the use of emergency powers.

Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas  
Director of Strategic Campaigns  
Grassroot Institute of Hawaii

**HB-2515**

Submitted on: 2/6/2024 4:44:48 PM

Testimony for WAL on 2/9/2024 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Seth Kamemoto	Individual	Support	Written Testimony Only

Comments:

I fully support this amendment, as the current law is too broad, allowing the governor to call “any occurrence” an emergency that can then suspend or modify our laws, leading to a potential abuse of power and severe overreach of the executive branch into legislative affairs.

**HB-2515**

Submitted on: 2/6/2024 11:30:06 PM

Testimony for WAL on 2/9/2024 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
ellen sofio	Individual	Support	Written Testimony Only

Comments:

The passage of HB2515 will help ensure that emergency proclamations are used judiciously and selectively to provide enhanced support and protection for Hawai'i's citizenry and environment only in the specific, legitimate, context of an imminent or already occurring disaster. HB2515 provides important and essential clarification of the fundamental definition of what constitutes an "emergency". HB2515 will protect against potential for abuse of executive power by better defining what constitutes a compelling legal basis for the governor to declare a state of emergency in Hawai'i.

Please support this important bill to protect our civil liberties and our environment.

Ellen Sofio

**HB-2515**

Submitted on: 2/7/2024 4:57:45 AM

Testimony for WAL on 2/9/2024 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Erich Kimoto	Individual	Support	Written Testimony Only

Comments:

I suport HB2515.

**HB-2515**

Submitted on: 2/7/2024 4:24:23 PM

Testimony for WAL on 2/9/2024 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Janyce Mitchell	Individual	Support	Written Testimony Only

Comments:

Dear Legislators,

I urge you to support HB2515. This bill clearly defines events that may be considered emergencies and limits the executive branch's ability to declare a state of emergency for conditions in the state they happen to prioritize. As such, it curtails the ability of the executive branch to usurp the legislature's power. For example, the ability of the executive branch to declare a state of emergency and issue emergency proclamations that make changes to existing law is more limited. As a result, the governor cannot make changes to laws via proclamation, some of which the legislature may have expressly declined to make. Thus, HB2515 limits the ability of the executive branch to govern by fiat.

Separation of powers and the delegation of certain powers to the legislature and others to the executive branch (and still others to the judiciary) are fundamental our constitutional government. HB2515 helps return this vital balance to our state government. Please support HB2515.

Thank you for your time and consideration.

-Janyce Mitchell

**HB-2515**

Submitted on: 2/8/2024 2:06:01 PM

Testimony for WAL on 2/9/2024 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Brett Kurashige	Individual	Support	Remotely Via Zoom

Comments:

I strongly support HB 2515 which will clarify/limit the conditions under which the Governor may seek to declare a State of Emergency. As made clear in the recent case of Governor Green's Declaration of a State of Emergency for Housing, and in the subsequent series of evolving Emergency Proclamations on Housing (and the resulting lawsuits filed against it), Governor Green has likely wrongly interpreted and wongly sought to exceed the emergency authorities granted to the Governor under the law. To ensure this does not happen in the future, HB2515 is a welcome step in the right direction to clearly articulate the limits on the Governor's emergency authorities. Mahalo!