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## 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 COVID-19) and its variants created a great challenge to global  
3 health, the economy, and our way of life. The Governor and  
4 county mayors have had to exercise their emergency powers under  
5 chapter 127A, Hawaii Revised Statutes, to impose rules aimed to  
6 control the spread of COVID-19. The enforcement of those rules  
7 has been critical to efforts to limit the spread of COVID-19,  
8 protect the health and safety of the community, manage medical  
9 resources, and promote economic recovery. The COVID-19 pandemic  
10 has highlighted the importance of clear legal frameworks for  
11 State and county emergency management to ensure the State and  
12 counties are ready for any type of emergency. The purpose of  
13 this Act is to clarify State and county emergency management  
14 authority, ensure effective and adaptable emergency responses,  
15 and further the goals of transparency and democratic  
16 accountability within our constitutional system.



1           The legislature finds that chapter 127A, Hawaii Revised  
2 Statutes, should clearly specify and articulate the bases for  
3 emergency actions. To that end, this Act amends chapter 127A to  
4 require specificity when suspending provisions of law during an  
5 emergency; clarify when and how Hawaii's emergency management  
6 system involves coordination between state and county emergency  
7 management functions; and clarify the legal framework governing  
8 the extension and termination of states of emergency.

9           SECTION 2. Section 127A-1, Hawaii Revised Statutes, is  
10 amended by amending subsection (c) to read as follows:

11           "(c) It is the intent of the legislature to provide for  
12 and confer comprehensive powers for the purposes stated herein.  
13 This chapter shall be liberally construed to effectuate its  
14 purposes; provided that this chapter shall not be construed as  
15 conferring any power or permitting any action [~~which~~] that is  
16 inconsistent with the Constitution and laws of the United  
17 States[~~7~~] or the constitution of the State of Hawaii, but, in so  
18 construing this chapter, due consideration shall be given to the  
19 circumstances [~~as they exist from time to time~~] upon the  
20 expiring of the second consecutive emergency proclamation issued  
21 under this section, at which time the legislature shall be



1 granted authority to convene for the purpose of discussing  
2 whether or not the situation does in fact meet the character and  
3 magnitude of an emergency or disaster as contemplated by  
4 sections 127A-2 and 127A-14. For a state of emergency to be  
5 extended, the legislature must approve of the extension by a  
6 two-thirds majority vote in both houses. For a county state of  
7 emergency to be extended, the county council must approve the  
8 mayor's request for extension by a two-thirds majority vote. The  
9 county council may also vote to terminate a mayor's state of  
10 emergency by a two-thirds majority vote. This chapter shall not  
11 be deemed to have been amended by any act hereafter enacted at  
12 the same or any other session of the legislature, unless this  
13 chapter is amended by express reference."

14 SECTION 3. Section 127A-2, Hawaii Revised Statutes, is  
15 amended by adding a new definition to be appropriately inserted  
16 and to read as follows:

17 "Severe weather warning" means the issuance by the  
18 National Weather Service of a public notification that a  
19 dangerous weather condition exists that could impact the State,  
20 or any portion of it, within a specified period of time. This



1 term includes but is not limited to, warnings of coastal  
2 inundation, high surf, flash flooding, tsunami, or hurricane."

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

5 "**§127A-13 Additional powers in an emergency period.** (a)

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

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



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

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



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

6 (3) Suspend any law that impedes or tends to impede or be  
 7 detrimental to the expeditious and efficient execution  
 8 of, or to conflict with, emergency functions,  
 9 including laws [~~which~~] that by this chapter  
 10 specifically are made applicable to emergency  
 11 personnel; provided that any suspension of law shall  
 12 be no broader and last no longer than the governor  
 13 deems necessary for the execution of emergency  
 14 management functions, and any suspension of law shall  
 15 identify the section of law suspended and, for each  
 16 section, shall both specify the emergency management  
 17 functions facilitated and justify the suspension based  
 18 on protecting the public health, safety, and welfare;

19 (4) Suspend the provisions of any regulatory law  
 20 prescribing the procedures for out-of-state utilities  
 21 to conduct business in the State including any



1           licensing laws applicable to out-of-state utilities or  
 2           their respective employees, as well as any order,  
 3           rule, or regulation of any state agency, if strict  
 4           compliance with the provisions of any such law, order,  
 5           rule, or regulation would in any way prevent, hinder,  
 6           or delay necessary action of a state utility in coping  
 7           with the emergency or disaster with assistance that  
 8           may be provided under a mutual assistance agreement;

9           (5) In the event of disaster or emergency beyond local  
 10          control, or an event which, in the opinion of the  
 11          governor, is such as to make state operational control  
 12          or coordination necessary, or upon request of the  
 13          ~~[local entity,]~~ county, assume direct operational  
 14          control over all or any part of the emergency  
 15          management functions within the affected area; and  
 16          notwithstanding sections 127A-14 and 127A-25, require  
 17          the county to obtain the governor's approval, or the  
 18          approval of the director of the Hawaii emergency  
 19          management agency, prior to issuing any emergency  
 20          order, rule, or proclamation under this chapter;



- 1           (6) 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           (7) Direct and control the mandatory evacuation of the
- 6                   civilian population;
- 7           (8) 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           (9) 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 (10) 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 (11) Assure the continuity of service by critical  
10 infrastructure facilities, both publicly and privately  
11 owned, by regulating or, if necessary to the  
12 continuation of the service thereof, by taking over  
13 and operating the same; and  
14 (12) 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



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

10 (b) In the event of a local state of emergency declared by  
11 the mayor pursuant to [+]section[+] 127A-14, the mayor may  
12 exercise the following additional powers pertaining to emergency  
13 management during the emergency period:

14 (1) Relieve hardships and inequities, or obstructions to  
15 the public health, safety, or welfare, found by the  
16 mayor to exist in the laws of the county and to result  
17 from the operation of federal programs or measures  
18 taken under this chapter, by suspending the county  
19 laws, in whole or in part, or by alleviating, ~~[the~~  
20 ~~provisions of county laws on such]~~ subject to terms  
21 and conditions [~~as~~] that the mayor may [~~impose~~]



1           specify, the provisions of county laws, including  
2           county licensing laws[7] and county laws relating to  
3           labels, grades, and standards;

4           (2) Suspend any county law that impedes or tends to impede  
5           or be detrimental to the expeditious and efficient  
6           execution of, or to conflict with, emergency  
7           functions, including laws [~~which~~] that by this chapter  
8           specifically are made applicable to emergency  
9           personnel; provided that any suspension of law shall  
10          be no broader and last no longer than the mayor deems  
11          necessary for the execution of emergency management  
12          functions, and any suspension of law shall identify  
13          the section of law suspended and, for each section,  
14          shall both specify the emergency management functions  
15          facilitated and justify the suspension based on  
16          protecting the public health, safety, and welfare;

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



- 1 (4) Direct and control the mandatory evacuation of the  
2 civilian population; and
- 3 (5) Exercise additional emergency functions, to the extent  
4 necessary to prevent hoarding, waste, or destruction  
5 of materials, supplies, commodities, accommodations,  
6 facilities, and services, to effectuate equitable  
7 distribution thereof, or to establish priorities  
8 therein as the public welfare may require; to  
9 investigate; and any other county law to the contrary  
10 notwithstanding, to regulate or prohibit, by means of  
11 licensing, rationing, or otherwise, the storage,  
12 transportation, use, possession, maintenance,  
13 furnishing, sale, or distribution thereof, and any  
14 business or any transaction related thereto."

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

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



1 (b) A mayor may declare the existence of a local state of  
2 emergency in the county by proclamation if the mayor finds that  
3 an emergency or disaster has occurred or that there is imminent  
4 danger or threat of an emergency or disaster in any portion of  
5 the county.

6 (c) The governor or mayor shall be the sole judge of the  
7 existence of the danger, threat, or circumstances giving rise to  
8 a declaration, or a request to the legislature for an extension,  
9 or termination of a state of emergency in the State or a local  
10 state of emergency in the county, as applicable. This section  
11 shall not limit the power and authority of the governor under  
12 section 127A-13(a) (5) .

13 (d) A state of emergency and a local state of emergency  
14 shall terminate automatically [~~sixty~~] thirty days after the  
15 issuance of a proclamation of a state of emergency or local  
16 state of emergency, respectively, [~~or~~] unless extended or  
17 terminated by a separate or supplementary proclamation of the  
18 governor or mayor [~~, whichever occurs first~~]. The governor or  
19 mayor shall proclaim the termination of a state of emergency or  
20 local state of emergency, respectively, at the earliest possible  
21 date that conditions warrant."




1 SECTION 6. Section 127A-30, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

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

15 SECTION 7. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

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

18

INTRODUCED BY: 

JAN 20 2023



# H.B. NO. 684

**Report Title:**

Emergency Management

**Description:**

Amends chapter 127A, Hawaii Revised Statutes (HRS), to clarify State and local authority, ensure effective and adaptable emergency response, and further the goals of transparency and democratic accountability. Clarifies that powers granted for emergency purposes shall not be construed as permitting actions inconsistent with the state constitution. Amends chapter 127A, HRS, to provide for greater clarity and specificity regarding the scope of suspensions of law. Clarifies that Hawaii's emergency management system includes coordination between State and county emergency management functions, where appropriate. Clarifies the legal framework governing the extension and termination of emergency periods. Adds the definition of the term "severe weather warning" as used in section 127A-30, HRS.

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

