
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 the
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. During the pandemic, the governor and county mayors
5 exercised their emergency powers under chapter 127A, Hawaii
6 Revised Statutes, to impose rules aimed at combatting COVID-19.
7 The legislature further finds that the enforcement of these
8 rules was critical to efforts to limit the spread of COVID-19,
9 protect the health and safety of the community, manage medical
10 resources, and promote economic recovery. The legislature
11 further finds that the COVID-19 pandemic highlighted the
12 importance of clear legal frameworks for state and county
13 emergency management to ensure the State and counties are
14 prepared for any type of emergency. The legislature believes
15 that existing law relating to emergency management should be
16 clarified to clearly specify and articulate the bases for
17 emergency actions.



H.B. NO. 1961

1 The purpose of this Act is to reform the legal framework
2 governing emergency management in the State by:

3 (1) Clarifying that the powers granted for emergency
4 purposes shall not be inconsistent with the Hawaii
5 State Constitution;

6 (2) Providing parameters for the duration of the
7 suspension of laws and requiring justification for the
8 suspension;

9 (3) Authorizing the governor to require the counties to
10 obtain the governor's approval or the approval of the
11 director of the Hawaii emergency management agency
12 prior to issuing any emergency order, rule, or
13 proclamation;

14 (4) Clarifying that a state of emergency may be extended
15 or terminated by a separate or supplementary
16 proclamation;

17 (5) Authorizing the legislature to terminate a state of
18 emergency, in whole or in part, by a two-thirds vote
19 of each legislative house; and

20 (6) Specifying that prohibitions on price increases of
21 essential commodities during a severe warning expire



1 seventy-two hours after the effective date and time of
2 the initial declaration or any supplemental
3 proclamation.

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

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

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

20 "**§127A-13 Additional powers in an emergency period.** (a)
21 In the event of a state of emergency declared by the governor



1 pursuant to section 127A-14, the governor may exercise the
2 following additional powers pertaining to emergency management
3 during the emergency period:

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



1 property; authorize that public nuisances be summarily
2 abated and, if need be, that the property be
3 destroyed, by any police officer or authorized person,
4 or provide for the cleansing or repair of property,
5 and if the cleansing or repair is to be at the expense
6 of the owner, the procedure therefor shall follow as
7 nearly as may be the provisions of section 322-2,
8 which shall be applicable; and further, authorize
9 without the permission of the owners or occupants,
10 entry on private premises for any such purposes;

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

20 (3) Suspend any law that impedes or tends to impede or be
21 detrimental to the expeditious and efficient execution



1 of, or to conflict with, emergency functions,
2 including laws [~~which~~] that by this chapter
3 specifically are made applicable to emergency
4 personnel; provided that any suspension of law shall
5 be no broader and last no longer than the governor
6 deems necessary for the execution of emergency
7 management functions, and any suspension of law shall
8 identify the section of law suspended, and for each
9 section, shall specify the emergency management
10 functions facilitated and justify the suspension based
11 on protecting the public health, safety, and welfare;
12 provided further that any suspension of any law that
13 requires permits, authorizations, or approvals from
14 any state or county agency may continue beyond the
15 emergency period to allow for the completion of any
16 repairs, reconstruction, rebuilding, or construction
17 of any state or county infrastructure, facilities, or
18 properties that would otherwise be delayed by any
19 permit, authorization, or approval;

20 (4) Suspend the provisions of any regulatory law
21 prescribing the procedures for out-of-state utilities



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

10 (5) In the event of disaster or emergency beyond local
11 control, or an event [~~which,~~ that, in the opinion of
12 the governor, is such as to make state operational
13 control or coordination necessary, or upon request of
14 the [~~local entity, assume~~] county:

15 (A) Assume direct operational control over all or any
16 part of the emergency management functions within
17 the affected area; and

18 (B) Notwithstanding sections 127A-14 and 127A-25,
19 require the county to obtain the approval of the
20 governor or director prior to issuing any



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



- 1 (9) Suspend section 8-1, relating to state holidays,
2 except the last paragraph relating to holidays
3 declared by the president, which shall remain
4 unaffected, and in the event of the suspension, the
5 governor may establish state holidays by proclamation;
- 6 (10) Adjust the hours for voting to take into consideration
7 the working hours of the voters during the emergency
8 period, and suspend those provisions of section 11-131
9 that fix the hours for voting, and fix other hours by
10 stating the same in the election proclamation or
11 notice, as the case may be;
- 12 (11) Assure the continuity of service by critical
13 infrastructure facilities, both publicly and privately
14 owned, by regulating or, if necessary to the
15 continuation of the service thereof, by taking over
16 and operating the same; and
- 17 (12) Except as provided in section 134-7.2, whenever in the
18 governor's opinion, the laws of the State do not
19 adequately provide for the common defense, public
20 health, safety, and welfare, investigate, regulate, or
21 prohibit the storage, transportation, use, possession,



1 maintenance, furnishing, sale, or distribution of, as
2 well as any transaction related to, explosives,
3 firearms, and ammunition, inflammable materials and
4 other objects, implements, substances, businesses, or
5 services of a hazardous or dangerous character, or
6 particularly capable of misuse, or obstructive of or
7 tending to obstruct law enforcement, emergency
8 management, or military operations, including
9 intoxicating liquor and the liquor business; and
10 authorize the seizure and forfeiture of any such
11 objects, implements, or substances unlawfully
12 possessed, as provided in this chapter.

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

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



1 laws, in whole or in part, or by alleviating the
2 provisions of county laws on [~~such~~] terms and
3 conditions as the mayor may impose, including county
4 licensing laws[~~r~~] and county laws relating to labels,
5 grades, and standards;

6 (2) Suspend any county law that impedes or tends to impede
7 or be detrimental to the expeditious and efficient
8 execution of, or to conflict with, emergency
9 functions, 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 mayor deems
13 necessary for the execution of emergency management
14 functions, and any suspension of law shall identify
15 the section of law suspended, and for each section,
16 shall specify the emergency management functions
17 facilitated and justify the suspension based on
18 protecting the public health, safety, and welfare;
19 provided further that any suspension of any law that
20 requires permits, authorizations, or approvals from
21 any county agency may continue beyond the emergency



1 period to allow for the completion of any repairs,
2 reconstruction, rebuilding, or construction of any
3 county infrastructure, facilities, or properties that
4 would otherwise be delayed by any permit,
5 authorization, or approval;

6 (3) Shut off water mains, gas mains, electric power
7 connections, or suspend other services; and, to the
8 extent permitted by or under federal law, suspend
9 electronic media transmission;

10 (4) Direct and control the mandatory evacuation of the
11 civilian population; and

12 (5) Exercise additional emergency functions, to the extent
13 necessary to prevent hoarding, waste, or destruction
14 of materials, supplies, commodities, accommodations,
15 facilities, and services, to effectuate equitable
16 distribution thereof, or to establish priorities
17 therein as the public welfare may require; to
18 investigate; and any other county law to the contrary
19 notwithstanding, to regulate or prohibit, by means of
20 licensing, rationing, or otherwise, the storage,
21 transportation, use, possession, maintenance,



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

3 SECTION 4. Section 127A-14, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§127A-14 State of emergency.** (a) The governor may
6 declare the existence of a state of emergency in the State by
7 proclamation if the governor finds that an emergency or a
8 disaster has occurred or that there is imminent danger or threat
9 of an emergency or a disaster in any portion of the State.

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

15 (c) [~~The~~] Except as provided in subsection (e), the
16 governor or mayor shall be the sole judge of the existence of
17 the danger, threat, or circumstances giving rise to a
18 declaration, extension, or termination of a state of emergency
19 in the State or a local state of emergency in the county, as
20 applicable. This section shall not limit the power and
21 authority of the governor under section 127A-13(a) (5).



1 (d) A state of emergency and a local state of emergency
2 shall terminate automatically sixty days after the issuance of a
3 proclamation of a state of emergency or local state of
4 emergency, respectively, [~~or~~] unless extended or terminated by a
5 separate or supplementary proclamation of the governor or
6 mayor[, whichever occurs first].

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

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

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

14 "(a) Whenever the governor declares a state of emergency
15 for the entire State or any portion thereof, or a mayor declares
16 a local state of emergency for the county or any portion
17 thereof, or when the State, or any portion thereof, is the
18 subject of a severe [~~weather~~] warning:

19 (1) There shall be prohibited any increase in the selling
20 price of any commodity, whether at the retail or
21 wholesale level, in the area that is the subject of



1 the proclamation or [~~the~~] severe [~~weather~~] warning;
2 and
3 (2) No landlord shall terminate any tenancy for a
4 residential dwelling unit in the area that is the
5 subject of the proclamation or [~~the~~] severe [~~weather~~]
6 warning, except for a breach of a material term of a
7 rental agreement or lease, or if the unit is unfit for
8 occupancy as defined in this chapter; provided that:
9 (A) Nothing in this chapter shall be construed to
10 extend a fixed-term lease beyond its termination
11 date, except that a periodic tenancy for a
12 residential dwelling unit may be terminated by
13 the landlord upon forty-five days' written
14 notice:
15 (i) When the residential dwelling unit is sold
16 to a bona fide purchaser for value; or
17 (ii) When the landlord or an immediate family
18 member of the landlord will occupy the
19 residential dwelling unit; or
20 (B) Under a fixed-term lease or [~~a~~] periodic tenancy,
21 upon forty-five days' written notice, a landlord



1 may require a tenant or tenants to relocate
2 during the actual and continuous period of any
3 repair to render a residential dwelling unit fit
4 for occupancy; provided that:

5 (i) Reoccupancy shall first be offered to the
6 same tenant or tenants upon completion of
7 the repair;

8 (ii) The term of the fixed-term lease or periodic
9 tenancy shall be extended by a period of
10 time equal to the duration of the repair;
11 and

12 (iii) It shall be the responsibility of the tenant
13 or tenants to find other accommodations
14 during the period of repair.

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



1 ~~[weather]~~ warning, the increases may take place pursuant to the
2 written instrument.

3 (c) The prohibitions under subsection (a) shall remain in
4 effect until twenty-four hours after the severe ~~[weather]~~
5 warning is canceled by the ~~[National Weather Service,]~~ issuing
6 agency; or in the event of a declaration, ~~[the later of a date~~
7 ~~specified by the governor or mayor in the declaration or ninety-~~
8 ~~six]~~ seventy-two hours after the effective date and time of the
9 declaration, unless ~~[such]~~ the prohibition is identified and
10 continued [by a supplementary declaration issued] by the
11 governor or mayor[-] in the proclamation or any supplementary
12 proclamation. The prohibitions under subsection (a) shall not
13 prohibit an increase in the price at which a commodity may be
14 offered, advertised, or sold if the increase is related to
15 seasonal fluctuations or local, regional, national, or
16 international market trends occurring during the normal course
17 of business. Any proclamation issued under this chapter that
18 fails to state the time at which it will take effect, shall take
19 effect at ~~[twelve]~~ noon ~~[of]~~ on the day on which it takes
20 effect."

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



1 "(f) As used in this section:

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

6 "Commodity" means any good or service necessary for the
7 health, safety, and welfare of the people of Hawaii; provided
8 that this term shall include^[7] but not be limited to:
9 materials; merchandise; supplies; equipment; resources; and
10 other articles of commerce that shall include food; water; ice;
11 chemicals; petroleum products; construction materials; or
12 residential dwellings.

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

19 "Periodic tenancy" means a tenancy wherein real property is
20 leased for an indefinite time with monthly or other periodic
21 rent reserved. A periodic tenancy may be created by express



1 agreement of the parties, or by implication upon the expiration
2 of a fixed-term lease when neither landlord nor tenant provides
3 the other with written notice of termination and the tenant
4 retains possession of the premises for any period of time after
5 the expiration of the original term.

6 "Severe warning" means the issuance by the National Weather
7 Service, Pacific Tsunami Warning Center, United States
8 Geological Survey, or other public authority of a public
9 notification that a dangerous condition exists that could impact
10 the State, or any portion of it, within a specified period of
11 time. "Severe warning" includes but is not limited to warnings
12 of coastal inundation, high surf, flash flooding, volcano,
13 tsunami, or hurricane.

14 "Unfit for occupancy" means that a residential dwelling
15 unit has been damaged to the extent that the appropriate county
16 agency determines that the unit creates a dangerous or
17 unsanitary situation and is dangerous to the occupants or [~~to~~
18 ~~the~~] neighborhood."

19 SECTION 6. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 7. This Act shall take effect upon its approval.



H.B. NO. 1961

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INTRODUCED BY:

James S. King

JAN 19 2024



H.B. NO. 1961

Report Title:

Emergency Powers; State of Emergency; Local State of Emergency; Termination; Extension; Legislative Override; Severe Warning; Price Control

Description:

Clarifies that the powers granted for emergency purposes shall not be inconsistent with the Hawaii State Constitution. Provides parameters for the duration of suspension of laws and requires justification for the suspension. Authorizes the Governor to require the counties to obtain approval prior to issuing any emergency order, rule, or proclamation. Clarifies that a state of emergency may be extended or terminated by a separate or supplementary proclamation. Authorizes the legislature to terminate a state of emergency, in whole or in part, by an affirmative two-thirds vote of each legislative house. Defines "severe warning". Specifies that prohibitions on price increases of essential commodities during a severe warning expire seventy-two hours after the effective date and time of the initial declaration or any supplemental proclamation.

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

