

---

---

# A BILL FOR AN ACT

RELATING TO EMERGENCY RULES BY AGENCIES.

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

1           SECTION 1. The legislature finds that periodically,  
2 changes to controlling law may require immediate alterations to  
3 long-standing statutes, administrative rules, or agency  
4 practices. The issuance of federal decisions may affect any  
5 regulated area, at any time, including when the legislature is  
6 not in session, and requires specialized skill in interpretation  
7 of Hawaii law, and rapidity of response on an emergency basis to  
8 prevent impairment of important rights.

9           The purpose of this Act is to allow agencies to adopt  
10 emergency rules for immediate adaptation of Hawaii law to meet  
11 the requirements of federal law, or other overarching Hawaii  
12 law, while preserving the values and goals of Hawaii law. This  
13 Act is intended to be broad enough to allow agencies to react  
14 rapidly to any changes in federal case law or statute that  
15 affects any aspect of the agency's jurisdiction or statutes.  
16 The legislature finds that the enactment of emergency rules may  
17 stabilize the situation sufficiently for the agency or the



1 legislature to pursue more enduring solutions with appropriate  
2 deliberation.

3 SECTION 2. Section 91-3, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) Notwithstanding the foregoing, if an agency finds  
6 that an imminent peril to the public health, safety, or morals,  
7 to livestock and poultry health, or to natural resources  
8 requires adoption, amendment, or repeal of a rule upon less than  
9 thirty days' notice of hearing, and states in writing its  
10 reasons for such finding, it may proceed without prior notice or  
11 hearing or upon such abbreviated notice and hearing, including  
12 posting the abbreviated notice and hearing on the Internet as  
13 provided in section 91-2.6, as it finds practicable to adopt an  
14 emergency rule to be effective for a period of not longer than  
15 one hundred twenty days without renewal. In addition, an agency  
16 may, in a similar manner, adopt emergency rules, where new  
17 federal legislation or federal and state court decisions disrupt  
18 prior practice under any statute administered by the agency, and  
19 adoption of an emergency rule is urgently needed to:

- 20 (1) Conform existing rules to new requirements;
- 21 (2) Implement newly-established rights;



- 1        (3) Clarify existing rules and prevent confusion among  
2        those covered by existing statutes;
- 3        (4) Stabilize a regulated industry or endeavor;
- 4        (5) Avoid disruption of governmental or industrial  
5        operations;
- 6        (6) Facilitate orderly agency or legislative study of the  
7        consequences of the new federal legislation or a  
8        federal or state court decision;
- 9        (7) Reinforce or preserve the unmodified goals of a  
10       statute administered by the agency; or
- 11       (8) Temporarily resolve any practical problems created by  
12       the new federal legislation or federal and state court  
13       decisions;
- 14 provided that an agency shall not adopt any emergency rule  
15 pursuant to this section without conducting a public hearing;  
16 provided further that an agency shall give no less than thirty  
17 days' notice of the hearing; provided further that any emergency  
18 rule adopted pursuant to this section shall be effective until  
19 the legislature has passed legislation relating to the subject  
20 matter of the emergency rule and the legislation has either been  
21 enacted or vetoed by the governor."



1 SECTION 3. Section 91-4, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:  
3 "(b) Each rule hereafter adopted, amended, or repealed  
4 shall become effective ten days after filing with the lieutenant  
5 governor in the case of the State, or with the respective county  
6 clerks in the case of the counties; provided that:  
7 (1) If a later effective date is required by statute or  
8 specified in the rule, the later date shall be the  
9 effective date; provided further that no rule shall  
10 specify an effective date in excess of thirty days  
11 after the filing of the rule as provided herein; and  
12 (2) An emergency rule shall become effective upon filing  
13 with the lieutenant governor in the case of the State,  
14 or with the respective county clerks in the case of  
15 the counties, for a period [~~of not longer than one~~  
16 ~~hundred twenty days without renewal unless extended in~~  
17 ~~compliance with section 91-3(b) if the agency finds~~  
18 ~~that immediate adoption of the rule is necessary~~  
19 ~~because of imminent peril to the public health,~~  
20 ~~safety, or morals, or to natural resources.] lasting  
21 until the legislature has passed legislation relating~~

1           to the subject matter of the emergency rule and the  
2           legislation has either been enacted or vetoed by the  
3           governor. The agency's finding and brief statement of  
4           the reasons therefor shall be incorporated in the rule  
5           as filed. The agency shall make an emergency rule  
6           known to persons who will be affected by it by  
7           publication at least once in a newspaper of general  
8           circulation in the State for state agencies and in the  
9           county for county agencies within five days from the  
10          date of filing of the rule."

11          SECTION 4. Statutory material to be repealed is bracketed  
12          and stricken. New statutory material is underscored.

13          SECTION 5. This Act shall take effect on January 1, 2050.



**Report Title:**

Emergency Rules; Public Proceedings and Records

**Description:**

Authorizes agencies to adopt specified emergency rules to lessen disruptions to prior practices caused from changes to federal legislation or federal and state court decisions. Requires a public hearing prior to the adoption of an emergency rule; provided that no less than thirty days' notice shall be given. Provides that an emergency rule will be effective until the Legislature has passed legislation relating to the subject matter of the emergency rule and the legislation has either been enacted or vetoed by the Governor. Takes effect on 1/1/2050.  
(SD2)

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

