
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, despite the need
2 for rapid executive action and centralized decision-making in
3 time of emergency, such actions should be limited in scope and
4 duration to no more and no longer than those necessary to
5 facilitate emergency response. All executive emergency actions
6 should be rationally related to expediting emergency response.
7 Executive emergency action must neither be overbroad nor
8 interminable, and the balance of authority between the branches
9 of government should be restored as soon as feasible. Standards
10 must be provided for the courts to consider cases of alleged
11 overreach.

12 The purpose of this Act is to maintain oversight by the
13 appropriate legislative bodies by establishing an advise and
14 consent process for certain executive emergency actions and
15 empowering the legislative bodies to terminate any executive
16 emergency proclamation no longer serving its purpose.



1 SECTION 2. Section 127A-1, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:
3 "(c) It is the intent of the legislature to provide for
4 and confer comprehensive powers for the purposes stated herein.
5 This chapter shall be liberally construed to effectuate its
6 purposes; provided that this chapter shall not be construed as
7 conferring any power or permitting any action which is
8 inconsistent with the Constitution and laws of the United
9 States, or the Constitution of the State of Hawaii, but, in so
10 construing this chapter, due consideration shall be given to the
11 circumstances as they exist from time to time. This chapter
12 shall not be deemed to have been amended by any act hereafter
13 enacted at the same or any other session of the legislature,
14 unless this chapter is amended by express reference."

15 SECTION 3. Section 127A-11, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) Except as otherwise expressly provided, all of the
18 powers conferred by this chapter are conferred on the governor
19 or mayor, as applicable. The governor or mayor may delegate any
20 of these powers to governmental, private-sector, and nonprofit
21 agencies and organizations, officials, officers, employees, and



1 other individuals created, appointed, or employed under, or
2 engaged in carrying out this chapter; provided that the
3 following powers shall be retained by the governor or mayor, as
4 applicable:

5 (1) Proclaiming a state of emergency or local state of
6 emergency, proclaiming a state of emergency or local
7 state of emergency terminated, or making any other
8 proclamation provided for by this chapter;

9 (2) Prescribing rules having the force and effect of law;
10 and

11 (3) Making allotments of funds appropriated or available
12 for the purposes of this chapter.

13 Unless otherwise directed by the governor or mayor, all of the
14 powers pertaining to emergency management authorized to be
15 delegated by the governor or mayor shall be deemed to have been
16 delegated by the governor to the director of Hawaii emergency
17 management and by the mayor to the administrator or director of
18 the county emergency management agency, as applicable, and the
19 administrator or director of the county emergency management
20 agency, respectively, shall have the authority to further
21 delegate any of these powers to any agency or person to whom the



1 governor or mayor could have directly delegated such powers.
2 Any delegation of powers made under this section to non-
3 governmental entities, or to individuals not employed by the
4 government, shall be with the advice and consent of the senate,
5 in the case of a power conferred on the governor, or the advice
6 and consent of the county legislative body, in the case of a
7 power conferred on a mayor."

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

10 **"§127A-13 Additional powers in an emergency period. (a)**

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

- 15 (1) Provide for and require the quarantine or segregation
16 of persons who are affected with or believed to have
17 been exposed to any infectious, communicable, or other
18 disease that is, in the governor's opinion, dangerous
19 to the public health and safety, or persons who are
20 the source of other contamination, in any case where,
21 in the governor's opinion, the existing laws are not



1 adequate to assure the public health and safety;
2 provide for the care and treatment of the persons;
3 supplement the provisions of sections 325-32 to 325-38
4 concerning compulsory immunization programs; provide
5 for the isolation or closing of property which is a
6 source of contamination or is in a dangerous condition
7 in any case where, in the governor's opinion, the
8 existing laws are not adequate to assure the public
9 health and safety, and designate as public nuisances
10 acts, practices, conduct, or conditions that are
11 dangerous to the public health or safety or to
12 property; authorize that public nuisances be summarily
13 abated and, if need be, that the property be
14 destroyed, by any police officer or authorized person,
15 or provide for the cleansing or repair of property,
16 and if the cleansing or repair is to be at the expense
17 of the owner, the procedure therefor shall follow as
18 nearly as may be the provisions of section 322-2,
19 which shall be applicable; and further, authorize
20 without the permission of the owners or occupants,
21 entry on private premises for any such purposes;



- 1 (2) Relieve hardships and inequities, or obstructions to
2 the public health, safety, or welfare, found by the
3 governor to exist in the laws and to result from the
4 operation of federal programs or measures taken under
5 this chapter, by suspending the laws, in whole or in
6 part, or by alleviating the provisions of laws on such
7 terms and conditions as the governor may impose,
8 including licensing laws, quarantine laws, and laws
9 relating to labels, grades, and standards;
- 10 (3) Suspend any law that impedes or tends to impede or be
11 detrimental to the expeditious and efficient execution
12 of, or to conflict with, emergency functions,
13 including laws which by this chapter specifically are
14 made applicable to emergency personnel; provided that
15 any suspension of law shall be no broader and for no
16 longer than required for expeditious and efficient
17 execution of emergency functions, and any suspension
18 of laws shall identify the sections of laws suspended
19 and, for each section, shall specify the emergency
20 functions facilitated thereby, with sufficient



1 explanation to demonstrate a rational basis for the
2 suspension;
3 (4) Suspend the provisions of any regulatory law
4 prescribing the procedures for out-of-state utilities
5 to conduct business in the State including any
6 licensing laws applicable to out-of-state utilities or
7 their respective employees, as well as any order,
8 rule, or regulation of any state agency, if strict
9 compliance with the provisions of any such law, order,
10 rule, or regulation would in any way prevent, hinder,
11 or delay necessary action of a state utility in coping
12 with the emergency or disaster with assistance that
13 may be provided under a mutual assistance agreement;
14 (5) In the event of disaster or emergency beyond local
15 control, or an event which, in the opinion of the
16 governor, is such as to make state operational control
17 necessary, or upon request of the local entity, assume
18 direct operational control over all or any part of the
19 emergency management functions within the affected
20 area;



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- 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



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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 [§] 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 terms and conditions
21 as the mayor may impose, including county licensing



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- 1 laws, and county laws relating to labels, grades, and
2 standards;
- 3 (2) Suspend any county law that impedes or tends to impede
4 or be detrimental to the expeditious and efficient
5 execution of, or to conflict with, emergency
6 functions, including laws which by this chapter
7 specifically are made applicable to emergency
8 personnel; provided that any suspension of law shall
9 be no broader and for no longer than required for
10 expeditious and efficient execution of emergency
11 functions, and any suspension of laws shall identify
12 the sections of laws suspended and, for each section,
13 shall specify the emergency functions facilitated
14 thereby, with sufficient explanation to demonstrate a
15 rational basis for the suspension;
- 16 (3) Shut off water mains, gas mains, electric power
17 connections, or suspend other services; and, to the
18 extent permitted by or under federal law, suspend
19 electronic media transmission;
- 20 (4) Direct and control the mandatory evacuation of the
21 civilian population; and



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

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

15 "**§127A-14 State of emergency.** (a) The governor may
16 declare the existence of a state of emergency in the State by
17 proclamation if the governor finds that an emergency or disaster
18 has occurred or that there is imminent danger or threat of an
19 emergency or disaster in any portion of the State[-]; provided
20 that any proclamation must specify a date upon which the effects
21 of the proclamation will terminate.



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[-]; provided that any proclamation must specify a
6 date upon which the effects of the proclamation will terminate.

7 (c) The governor or mayor shall be the sole judge of the
8 existence of the danger, threat, or circumstances giving rise to
9 a declaration 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 days after the issuance of a~~
15 ~~proclamation of a state of emergency or local state of~~
16 ~~emergency, respectively, or by a separate proclamation of the~~
17 ~~governor or mayor, whichever occurs first.] No proclamation of~~
18 emergency under this chapter, nor any combination of
19 proclamations, however dated, sequenced, or denominated, shall
20 have effect beyond one hundred twenty days from the date of the
21 first proclamation, absent the advice and consent of the senate,



1 in the case of a state of emergency, or the advice and consent
2 of the county legislative body, in the case of a local state of
3 emergency.

4 At any time, the legislature, by concurrent resolution, may
5 terminate a proclamation of a state of emergency, in whole or in
6 part. At any time, the county legislative body, by resolution,
7 may terminate a proclamation of a local state of emergency, in
8 whole or in part."

9 SECTION 6. Section 127A-25, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) For the purpose of carrying out any provision of this
12 chapter, the governor may adopt rules for the State and the
13 mayor may adopt rules for the county which may, for the duration
14 of the emergency proclamation, if so stated in the rules, have
15 the force and effect of law. Even though the rules are
16 prescribed pursuant to a power conferred, or having mandatory or
17 prohibitive effect, only in the event of a state of emergency or
18 local state of emergency, the rules nevertheless may be
19 prescribed prior thereto if stated therein to have the force and
20 effect of law only in the event of a state of emergency or local
21 state of emergency. All the rules, and likewise all other



1 action taken under this chapter, shall be made and taken with
2 due consideration of the orders, rules, regulations, actions,
3 recommendations, and requests of federal authorities relevant
4 thereto. In these rules, reasonable classifications,
5 exceptions, and exemptions may be made and granted. Such rules
6 shall not be subject to chapter 91."

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

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

10

INTRODUCED BY:

A large, stylized handwritten signature in black ink, appearing to be 'R. A. ...', is written over a horizontal line.

JAN 26 2021



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Report Title:

Emergency Management; Powers; Proclamation; State of Emergency;
Local State of Emergency; Scope and Duration; Advise and Consent

Description:

During a state of emergency or local state of emergency, provides parameters for delegation of powers and scope and duration of suspension of laws. Provides an advise and consent process for an emergency proclamation to extend beyond one hundred twenty days. Provides a legislative means for an emergency proclamation to be terminated.

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