
A BILL FOR AN ACT

RELATING TO EMERGENCY POWERS.

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

1 SECTION 1. 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~~] that 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 2. Section 127A-13, Hawaii Revised Statutes, is
16 amended to read as follows:



1 "§127A-13 Additional powers in an emergency period. (a)

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

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



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

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



- 1 (3) Suspend any law that impedes or tends to impede or be
2 detrimental to the expeditious and efficient execution
3 of, or to conflict with, emergency functions,
4 including laws which by this chapter specifically are
5 made applicable to emergency personnel; provided that
6 any suspension of law shall be no broader and for no
7 longer than required for expeditious and efficient
8 execution of emergency functions, and any suspension
9 of laws shall identify the sections of laws suspended
10 and, for each section, shall specify the emergency
11 functions facilitated with justification based on
12 protecting the public health, safety, and welfare,
13 and, in particular, careful regard to the public's
14 right to know under chapters 92 and 92F;
- 15 (4) Suspend the provisions of any regulatory law
16 prescribing the procedures for out-of-state utilities
17 to conduct business in the State including any
18 licensing laws applicable to out-of-state utilities or
19 their respective employees, as well as any order,
20 rule, or regulation of any state agency, if strict
21 compliance with the provisions of any such law, order,



- 1 rule, or regulation would in any way prevent, hinder,
2 or delay necessary action of a state utility in coping
3 with the emergency or disaster with assistance that
4 may be provided under a mutual assistance agreement;
- 5 (5) In the event of disaster or emergency beyond local
6 control, or an event which, in the opinion of the
7 governor, is such as to make state operational control
8 necessary, or upon request of the local entity, assume
9 direct operational control over all or any part of the
10 emergency management functions within the affected
11 area;
- 12 (6) Shut off water mains, gas mains, electric power
13 connections, or suspend other services, and, to the
14 extent permitted by or under federal law, suspend
15 electronic media transmission;
- 16 (7) Direct and control the mandatory evacuation of the
17 civilian population;
- 18 (8) Exercise additional emergency functions to the extent
19 necessary to prevent hoarding, waste, or destruction
20 of materials, supplies, commodities, accommodations,
21 facilities, and services, to effectuate equitable



- 1 distribution thereof, or to establish priorities
2 therein as the public welfare may require; to
3 investigate; and notwithstanding any other law to the
4 contrary, to regulate or prohibit, by means of
5 licensing, rationing, or otherwise, the storage,
6 transportation, use, possession, maintenance,
7 furnishing, sale, or distribution thereof, and any
8 business or any transaction related thereto;
- 9 (9) Suspend section 8-1, relating to state holidays,
10 except the last paragraph relating to holidays
11 declared by the president, which shall remain
12 unaffected, and in the event of the suspension, the
13 governor may establish state holidays by proclamation;
- 14 (10) Adjust the hours for voting to take into consideration
15 the working hours of the voters during the emergency
16 period, and suspend those provisions of section 11-131
17 that fix the hours for voting, and fix other hours by
18 stating the same in the election proclamation or
19 notice, as the case may be;
- 20 (11) Assure the continuity of service by critical
21 infrastructure facilities, both publicly and privately



1 owned, by regulating or, if necessary to the
2 continuation of the service thereof, by taking over
3 and operating the same; and
4 (12) Except as provided in section 134-7.2, whenever in the
5 governor's opinion, the laws of the State do not
6 adequately provide for the common defense, public
7 health, safety, and welfare[7]; investigate, regulate,
8 or prohibit the storage, transportation, use,
9 possession, maintenance, furnishing, sale, or
10 distribution of, as well as any transaction related
11 to, explosives, firearms, and ammunition, inflammable
12 materials and other objects, implements, substances,
13 businesses, or services of a hazardous or dangerous
14 character, or particularly capable of misuse[7]; or
15 obstructive of or tending to obstruct law enforcement,
16 emergency management, or military operations,
17 including intoxicating liquor and the liquor business;
18 and authorize the seizure and forfeiture of any such
19 objects, implements, or substances unlawfully
20 possessed, as provided in this chapter.



1 (b) In the event of a local state of emergency declared by
2 the mayor pursuant to [§]section[§] 127A-14, the mayor may
3 exercise the following additional powers pertaining to emergency
4 management during the emergency period:

5 (1) Relieve hardships and inequities, or obstructions to
6 the public health, safety, or welfare, found by the
7 mayor to exist in the laws of the county and to result
8 from the operation of federal programs or measures
9 taken under this chapter, by suspending the county
10 laws, in whole or in part, or by alleviating the
11 provisions of county laws on such terms and conditions
12 as the mayor may impose, including county licensing
13 laws[?] and county laws relating to labels, grades,
14 and standards;

15 (2) Suspend any county law that impedes or tends to impede
16 or be detrimental to the expeditious and efficient
17 execution of, or to conflict with, emergency
18 functions, including laws which by this chapter
19 specifically are made applicable to emergency
20 personnel; provided that any suspension of law shall
21 be no broader and for no longer than required for



1 expeditious and efficient execution of emergency
2 functions, and any suspension of laws shall identify
3 the sections of laws suspended and, for each section,
4 shall specify the emergency functions facilitated with
5 justification based on protecting the public health,
6 safety, and welfare, and, in particular, careful
7 regard to the public's right to know under chapters 92
8 and 92F;

- 9 (3) Shut off water mains, gas mains, electric power
10 connections, or suspend other services; and, to the
11 extent permitted by or under federal law, suspend
12 electronic media transmission;
- 13 (4) Direct and control the mandatory evacuation of the
14 civilian population; and
- 15 (5) Exercise additional emergency functions, to the extent
16 necessary to prevent hoarding, waste, or destruction
17 of materials, supplies, commodities, accommodations,
18 facilities, and services, to effectuate equitable
19 distribution thereof, or to establish priorities
20 therein as the public welfare may require; to
21 investigate; and any other county law to the contrary



1 notwithstanding, to regulate or prohibit, by means of
2 licensing, rationing, or otherwise, the storage,
3 transportation, use, possession, maintenance,
4 furnishing, sale, or distribution thereof, and any
5 business or any transaction related thereto."

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

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

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

18 (c) [~~The~~] Except as provided in subsections (e) and (f),
19 the governor or mayor shall be the sole judge of the existence
20 of the danger, threat, or circumstances giving rise to a
21 declaration of a state of emergency in the State or a local



1 state of emergency in the county, as applicable. This section
2 shall not limit the power and authority of the governor under
3 section 127A-13(a)(5).

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

9 (e) A proclamation of a state of emergency shall terminate
10 upon the earliest of the following:

11 (1) Automatically, sixty days after the issuance of the
12 proclamation of a state of emergency;

13 (2) By the date that is less than sixty days as specified
14 in the proclamation of a state of emergency; or

15 (3) By a separate and subsequent proclamation of the
16 governor specifying another termination date within
17 the sixty-day period identified in paragraph (1);

18 provided that upon a request made by the governor to the
19 legislature no less than twelve days before the expiration of
20 the proclamation, the legislature may by concurrent resolution
21 adopt an extension of the state of emergency to a date certain



1 or deny any request for an extension of the state of emergency;
2 provided further that if the legislature fails to take action on
3 the governor's request by a concurrent resolution before the
4 expiration of the state of emergency, the state of emergency
5 shall automatically be extended for sixty days.

6 (f) A separate proclamation by the governor for a state of
7 emergency arising from the same emergency or disaster in which a
8 previous emergency proclamation expired may be authorized for a
9 period of up to sixty days upon request of the governor and
10 adoption of a concurrent resolution by the legislature."

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 upon its approval.



Report Title:

Governor's Emergency Powers; Proclamation; State of Emergency; Automatic Termination; Extension; Reauthorization; Concurrent Resolution

Description:

Clarifies that the powers granted for emergency purposes shall not be inconsistent with the state constitution. Provides parameters for the duration of suspension of laws and requires justification for the suspension. Requires approval of the legislature by concurrent resolution to extend to a date certain, or deny the extension of, a proclamation of a state of emergency timely requested by the governor beyond sixty days of its issuance, unless the legislature fails to take action, in which case the state of emergency is automatically extended for sixty days. Allows the authorization of the issuance of a separate proclamation arising from the same emergency or disaster as a previous proclamation that expired, upon request of the governor and adoption of a concurrent resolution by the legislature. (SD1)

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