
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 coronavirus disease 2019 (COVID-19) and its variants created a
3 great challenge to global health, the economy, and our way of
4 life. The governor and county mayors have had to exercise their
5 emergency powers under chapter 127A, Hawaii Revised Statutes, to
6 impose rules aimed to control the spread of COVID-19. The
7 enforcement of those rules has been critical to efforts to limit
8 the spread of COVID-19, protect the health and safety of the
9 community, manage medical resources, and promote economic
10 recovery. The COVID-19 pandemic has highlighted the importance
11 of clear legal frameworks for state and county emergency
12 management to ensure that the State and counties are ready for
13 any type of emergency.

14 The legislature further finds that chapter 127A, Hawaii
15 Revised Statutes, should clearly specify and articulate the
16 bases for emergency actions.

17 The purpose of this Act is to:



- (1) Clarify that powers granted for emergency purposes shall not be inconsistent with the state constitution;
- (2) Provide parameters for the duration of the suspension of laws and require justification for the suspension;
- (3) Authorize the governor to require counties to obtain the approval of the governor or director of the Hawaii emergency management agency before issuing any emergency order, rule, or proclamation;
- (4) Clarify the legal framework governing the extension and termination of emergency periods;
- (5) Authorize the legislature and county councils to terminate, in part or in whole, a state of emergency or local state of emergency, as applicable, by an affirmative two-thirds vote;
- (6) Clarify that the governor and mayors may re-declare a state of emergency or local state of emergency, as applicable, that has been terminated; and
- (7) Specify when certain prohibitions during an emergency or a severe warning expire.

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



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

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

15 "**§127A-13 Additional powers in an emergency period.** (a)
16 In the event of a state of emergency declared by the governor
17 pursuant to section 127A-14, the governor may exercise the
18 following additional powers pertaining to emergency management
19 during the emergency period:

20 (1) Provide for and require the quarantine or segregation
21 of persons who are affected with or believed to have



1 been exposed to any infectious, communicable, or other
2 disease that is, in the governor's opinion, dangerous
3 to the public health and safety, or persons who are
4 the source of other contamination, in any case where,
5 in the governor's opinion, the existing laws are not
6 adequate to assure the public health and safety;
7 provide for the care and treatment of the persons;
8 supplement the provisions of sections 325-32 to 325-38
9 concerning compulsory immunization programs; provide
10 for the isolation or closing of property [~~which~~] that
11 is a source of contamination or is in a dangerous
12 condition in any case where, in the governor's
13 opinion, the existing laws are not adequate to assure
14 the public health and safety, and designate as public
15 nuisances acts, practices, conduct, or conditions that
16 are dangerous to the public health or safety or to
17 property; authorize that public nuisances be summarily
18 abated and, if need be, that the property be
19 destroyed[~~r~~] by any police officer or authorized
20 person, or provide for the cleansing or repair of
21 property, and if the cleansing or repair is to be at



1 the expense of the owner, the procedure therefor shall
2 follow as nearly as may be the provisions of section
3 322-2, which shall be applicable; and ~~[further,]~~
4 authorize, without the permission of the owners or
5 occupants, entry on private premises for any such
6 purposes;

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

17 (3) ~~[Suspend]~~ Except as provided in section 127A-,
18 suspend any law that impedes or tends to impede or be
19 detrimental to the expeditious and efficient execution
20 of, or to conflict with, emergency functions,
21 including laws ~~[which]~~ that by this chapter



specifically are made applicable to emergency personnel; provided that any suspension of law shall be no broader and last no longer than the governor deems necessary for the execution of emergency management functions, and any suspension of law shall identify the section of law suspended and, for each section, shall specify the emergency management functions facilitated and justify the suspension based on protecting the public health, safety, and welfare; provided further that any suspension of any law that requires permits, authorizations, or approvals from any state or county agency may continue beyond the emergency period to allow for the completion of any repairs, reconstruction, rebuilding, or construction of any state or county infrastructure, facilities, or properties that would otherwise be delayed by any such permit, authorization, or approval;

- (4) Suspend the provisions of any regulatory law prescribing the procedures for out-of-state utilities to conduct business in the State, including any licensing laws applicable to out-of-state utilities or



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

9 (5) In the event of a disaster or an emergency beyond
10 local control~~[, or]~~; an event ~~[which,]~~ that, in the
11 opinion of the governor, ~~[is such as to make]~~ makes
12 state operational control or coordination
13 necessary~~[,]~~; or upon request of the ~~[local entity,~~
14 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 before issuing any emergency
21 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
15 the governor's opinion, the laws of the State do not
16 adequately provide for the common defense[~~7~~] or 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[7] 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]~~ Except as provided in section 127A- ,
5 suspend any county law that impedes or tends to impede
6 or be detrimental to the expeditious and efficient
7 execution of, or to conflict with, emergency
8 functions, including laws [which] that by this chapter
9 specifically are made applicable to emergency
10 personnel; provided that any suspension of law shall
11 be no broader and last no longer than the mayor deems
12 necessary for the execution of emergency management
13 functions, and any suspension of law shall identify
14 the section of law suspended and, for each section,
15 shall specify the emergency management functions
16 facilitated and justify the suspension based on
17 protecting the public health, safety, and welfare;
18 provided further that any suspension of any law that
19 requires permits, authorizations, or approvals from
20 any state or county agency may continue beyond the
21 emergency period to allow for the completion of any



repairs, reconstruction, rebuilding, or construction
of any state or county infrastructure, facilities, or
properties that would otherwise be delayed by any such
permit, authorization, or approval;

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

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

(5) Exercise additional emergency functions, to the extent
necessary to prevent hoarding, waste, or destruction
of materials, supplies, commodities, accommodations,
facilities, and services, to effectuate equitable
distribution thereof, or to establish priorities
therein as the public welfare may require; to
investigate; and notwithstanding any other county law
to the contrary [~~notwithstanding~~], to regulate or
prohibit, by means of licensing, rationing, or
otherwise, the storage, transportation, use,
possession, maintenance, furnishing, sale, or



1 distribution thereof, and any business or any
2 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, an extension, or a termination of a state of
19 emergency in the State or a local state of emergency in the
20 county, as applicable. This section shall not limit the power
21 and 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 part or in whole, declared by the
10 governor pursuant to this section. A county council may, by an
11 affirmative vote of two-thirds of the members to which the
12 county council is entitled, terminate a local state of
13 emergency, in part or in whole, declared by the mayor pursuant
14 to this section.

15 (f) Notwithstanding subsections (d) and (e):

16 (1) The governor may re-declare the existence of a state
17 of emergency in the State pursuant to this chapter if
18 an emergency or a disaster has occurred or there is
19 imminent danger or threat of an emergency or a
20 disaster in any portion of the State; and



1 (2) A mayor may re-declare the existence of a local state
2 of emergency in the county pursuant to this chapter if
3 an emergency or a disaster has occurred or there is
4 imminent danger or threat of an emergency or a
5 disaster in any portion of the county."

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

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

9 "(a) Whenever the governor declares a state of emergency
10 for the entire State or any portion thereof, or a mayor declares
11 a local state of emergency for the county or any portion
12 thereof, or when the State, or any portion thereof, is the
13 subject of a severe [~~weather~~] warning:

14 (1) There shall be prohibited any increase in the selling
15 price of any commodity, whether at the retail or
16 wholesale level, in the area that is the subject of
17 the proclamation or [~~the~~] severe [~~weather~~] warning;
18 and

19 (2) No landlord shall terminate any tenancy for a
20 residential dwelling unit in the area that is the
21 subject of the proclamation or [~~the~~] severe [~~weather~~]



1 warning, except for a breach of a material term of a
2 rental agreement or lease, or if the unit is unfit for
3 occupancy as defined in this chapter; provided that:

4 (A) Nothing in this chapter shall be construed to
5 extend a fixed-term lease beyond its termination
6 date, except that a periodic tenancy for a
7 residential dwelling unit may be terminated by
8 the landlord upon forty-five days' written
9 notice:

10 (i) When the residential dwelling unit is sold
11 to a bona fide purchaser for value; or

12 (ii) When the landlord or an immediate family
13 member of the landlord will occupy the
14 residential dwelling unit; or

15 (B) Under a fixed-term lease or [a] periodic tenancy,
16 upon forty-five days' written notice, a landlord
17 may require a tenant or tenants to relocate
18 during the actual and continuous period of any
19 repair to render a residential dwelling unit fit
20 for occupancy; provided that:



- 1 (i) Reoccupancy shall first be offered to the
2 same tenant or tenants upon completion of
3 the repair;
- 4 (ii) The term of the fixed-term lease or periodic
5 tenancy shall be extended by a period of
6 time equal to the duration of the repair;
7 and
- 8 (iii) It shall be the responsibility of the tenant
9 or tenants to find other accommodations
10 during the period of repair.
- 11 (b) Notwithstanding this section, any additional operating
12 expenses incurred by the seller or landlord because of the
13 emergency ~~[or]~~, disaster, or ~~[the]~~ severe ~~[weather, and which]~~
14 warning that can be documented~~[7]~~ may be passed on to the
15 consumer. In the case of a residential dwelling unit, if rent
16 increases are contained in a written instrument that was signed
17 by the tenant ~~[prior to]~~ before the declaration or severe
18 ~~[weather]~~ warning, the increases may take place pursuant to the
19 written instrument.
- 20 (c) The prohibitions under subsection (a) shall remain in
21 effect until twenty-four hours after the severe ~~[weather]~~



1 warning is canceled by the National Weather Service~~[+]~~, Pacific
2 Tsunami Warning Center, United States Geological Survey, or
3 other public authority, as applicable; or in the event of a
4 declaration, ~~[the later of a date specified by the governor or~~
5 ~~mayor in the declaration or ninety-six]~~ seventy-two hours after
6 the effective date and time of the declaration, unless ~~[such]~~
7 the prohibition is identified and continued ~~[by a supplementary~~
8 ~~declaration issued]~~ by the governor or mayor~~[-]~~ in the
9 proclamation or any supplementary proclamation. Any
10 proclamation issued under this chapter that fails to state the
11 time at which it will take effect, shall take effect at ~~[twelve]~~
12 noon ~~[of]~~ on the day on which it takes effect."

13 2. By amending subsection (f) to read as follows:

14 "(f) As used in this section:

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

19 "Commodity" means any good or service necessary for the
20 health, safety, and welfare of the people of Hawaii; provided
21 that this term shall include~~[-]~~ but not be limited to:



1 materials; merchandise; supplies; equipment; resources; and
2 other articles of commerce that shall include food; water; ice;
3 chemicals; petroleum products; construction materials; or
4 residential dwellings.

5 "Fixed-term lease" means a lease for real property that
6 specifies its beginning date and its termination date as
7 calendar dates, or contains a formula for determining the
8 beginning and termination dates; and the application of the
9 formula as of the date of the agreement will produce a calendar
10 date for the beginning and termination of the lease.

11 "Periodic tenancy" means a tenancy wherein real property is
12 leased for an indefinite time with monthly or other periodic
13 rent reserved. A periodic tenancy may be created by express
14 agreement of the parties, or by implication upon the expiration
15 of a fixed-term lease when neither landlord nor tenant provides
16 the other with written notice of termination and the tenant
17 retains possession of the premises for any period of time after
18 the expiration of the original term.

19 "Severe warning" means the issuance by the National Weather
20 Service, Pacific Tsunami Warning Center, United States
21 Geological Survey, or other public authority of a public



1 notification that a dangerous condition exists that could impact
2 the State, or any portion of it, within a specified period of
3 time. "Severe warning" includes but is not limited to warnings
4 of coastal inundation, high surf, flash flooding, volcano,
5 tsunami, or hurricane.

6 "Unfit for occupancy" means that a residential dwelling
7 unit has been damaged to the extent that the appropriate county
8 agency determines that the unit creates a dangerous or
9 unsanitary situation and is dangerous to the occupants or [~~to~~
10 ~~the~~] neighborhood."

11 SECTION 6. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 7. This Act shall take effect on July 1, 2050.



Report Title:

Emergency Management; State of Emergency; Emergency Powers;
Price Control

Description:

Clarifies that powers granted for emergency purposes shall not inconsistent with the state constitution. Provides for greater clarity and specificity regarding the scope of suspensions of law. Authorizes the governor to require counties to obtain approval before issuing any emergency order, rule, or proclamation. Clarifies the legal framework governing the extension and termination of emergency periods. Allows the legislature and county councils to terminate a state of emergency or local state of emergency. Clarifies that the governor and mayors may re-declare a state of emergency or local state of emergency that has been terminated. Specifies when certain prohibitions during an emergency or a severe warning expire. Defines "severe warning". Effective 7/1/2050. (HD2)

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

