
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 governor and the
2 county mayors may exercise their emergency powers under
3 chapter 127A, Hawaii Revised Statutes, to impose rules that are
4 intended to protect the health and safety of the community
5 during statewide or local emergencies. These emergency powers
6 are important to make swift policy changes for the benefit of
7 the public and to address short periods of states of emergency
8 where public welfare and safety are threatened.

9 The legislature also finds that a prohibition on the
10 increase of prices of essential commodities during states of
11 emergency is automatically triggered when an emergency
12 proclamation is issued. While this is intended to provide a
13 benefit to the public by freezing prices in the short term,
14 during extended states of emergency, such as during the
15 coronavirus disease 2019 (COVID-19) global pandemic, the
16 duration of the statewide emergency proclamation created



1 it subjected all commodities to the price gouging statute for
2 two years.

3 The legislature further finds that, in order to provide
4 clear guidance to industries that provide commodities, the
5 proclamation of a state of emergency or local state of emergency
6 should clearly identify the specific commodities that are
7 subject to the emergency declaration and a time certain for the
8 proclamation to terminate.

9 Accordingly, the purpose of this Act is to amend
10 chapter 127A-30, Hawaii Revised Statutes, to specify that a
11 prohibition on the increase of prices of essential commodities
12 during a state of emergency expires seventy-two hours after the
13 effective date and time of the initial declaration or any
14 supplemental declaration, unless the governor or mayor
15 specifically includes within a proclamation the commodities that
16 are subject to the declaration.

17 SECTION 2. Section 127A-30, Hawaii Revised Statutes, is
18 amended as follows:

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

20 "(a) Whenever the governor declares a state of emergency
21 for the entire State or any portion thereof, or a mayor declares



1 a local state of emergency for the county or any portion
2 thereof, or when the State, or any portion thereof, is the
3 subject of a severe [~~weather~~] warning:

4 (1) There shall be prohibited any increase in the selling
5 price of any commodity, whether at the retail or
6 wholesale level, in the area that is the subject of
7 the proclamation or [~~the~~] severe [~~weather~~] warning;
8 and

9 (2) No landlord shall terminate any tenancy for a
10 residential dwelling unit in the area that is the
11 subject of the proclamation or [~~the~~] severe [~~weather~~]
12 warning, except for a breach of a material term of a
13 rental agreement or lease, or if the unit is unfit for
14 occupancy as defined in this chapter; provided that:

15 (A) Nothing in this chapter shall be construed to
16 extend a fixed-term lease beyond its termination
17 date, except that a periodic tenancy for a
18 residential dwelling unit may be terminated by
19 the landlord upon forty-five days' written
20 notice:



- 1 (i) When the residential dwelling unit is sold
- 2 to a bona fide purchaser for value; or
- 3 (ii) When the landlord or an immediate family
- 4 member of the landlord will occupy the
- 5 residential dwelling unit; or
- 6 (B) Under a fixed-term lease or a periodic tenancy,
- 7 upon forty-five days' written notice, a landlord
- 8 may require a tenant or tenants to relocate
- 9 during the actual and continuous period of any
- 10 repair to render a residential dwelling unit fit
- 11 for occupancy; provided that:
- 12 (i) Reoccupancy shall first be offered to the
- 13 same tenant or tenants upon completion of
- 14 the repair;
- 15 (ii) The term of the fixed-term lease or periodic
- 16 tenancy shall be extended by a period of
- 17 time equal to the duration of the repair;
- 18 and
- 19 (iii) It shall be the responsibility of the tenant
- 20 or tenants to find other accommodations
- 21 during the period of repair.



1 (b) Notwithstanding this section, any additional operating
2 expenses incurred by the seller or landlord because of the
3 emergency ~~[or]~~, disaster or ~~[the]~~ severe ~~[weather, and which]~~
4 warning that can be documented~~[7]~~ may be passed on to the
5 consumer. In the case of a residential dwelling unit, if rent
6 increases are contained in a written instrument that was signed
7 by the tenant ~~[prior to]~~ before the declaration or severe
8 ~~[weather]~~ warning, the increases may take place pursuant to the
9 written instrument.

10 (c) The prohibitions under subsection (a) shall remain in
11 effect until twenty-four hours after the severe ~~[weather]~~
12 warning is canceled by the National Weather Service~~[7]~~, Pacific
13 Tsunami Warning Center, United States Geological Survey, or
14 other public authority, as applicable; or in the event of a
15 declaration, ~~[the later of a date specified by the governor or~~
16 ~~mayor in the declaration or ninety-six]~~ seventy-two hours after
17 the effective date and time of the declaration, unless ~~[such~~
18 ~~prohibition is continued by a supplementary declaration issued~~
19 ~~by]~~ the governor or mayor~~[-]~~ identifies within the proclamation,
20 or any supplementary proclamation, the specific types of
21 commodities to be subject to the prohibition and the specific



1 time period during which the prohibition shall apply. Any
2 proclamation issued under this chapter that fails to state the
3 time at which it will take effect, shall take effect at [twelve]
4 noon of the day on which it takes effect."

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

6 "(f) As used in this section:

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

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

18 "Fixed-term lease" means a lease for real property that
19 specifies its beginning date and its termination date as
20 calendar dates, or contains a formula for determining the
21 beginning and termination dates; and the application of the



1 formula as of the date of the agreement will produce a calendar
2 date for the beginning and termination of the lease.

3 "Periodic tenancy" means a tenancy wherein real property is
4 leased for an indefinite time with monthly or other periodic
5 rent reserved. A periodic tenancy may be created by express
6 agreement of the parties, or by implication upon the expiration
7 of a fixed-term lease when neither landlord nor tenant provides
8 the other with written notice of termination and the tenant
9 retains possession of the premises for any period of time after
10 the expiration of the original term.

11 "Severe warning" means the issuance, by the National
12 Weather Service, Pacific Tsunami Warning Center, United States
13 Geological Survey, or other public authority, of a public
14 notification that a dangerous condition exists that could impact
15 the State, or any portion of it, within a specified period of
16 time. "Severe warning" includes warnings of coastal inundation,
17 high surf, flash flooding, volcano, tsunami, or hurricane.

18 "Unfit for occupancy" means that a residential dwelling
19 unit has been damaged to the extent that the appropriate county
20 agency determines that the unit creates a dangerous or



H.B. NO. 523

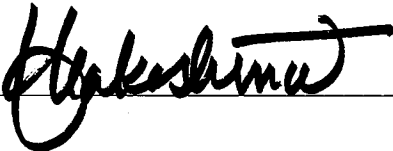
1 unsanitary situation and is dangerous to the occupants or [~~te~~
2 ~~the~~] neighborhood."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

6

INTRODUCED BY:



JAN 20 2023



H.B. NO. 523

Report Title:

Emergency Management; Prices; Gouging; Declarations;
Proclamations

Description:

Specifies that a prohibition on the increase of prices of essential commodities during a state of emergency expires 72 hours after the effective date and time of the initial declaration or any supplemental declaration, unless the governor or mayor specifically includes within a proclamation the commodities that are subject to the declaration.

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