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## 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 State is  
2 vulnerable to a wide range of natural and man-made hazards which  
3 threaten the life, health, and safety of its people; damage and  
4 destroy property; disrupt services and everyday business and  
5 recreational activities; and impede economic development.  
6 Growth in the State's population - especially in the numbers of  
7 businesses and persons residing in coastal areas, in the elderly  
8 population, in the number of seasonal vacationers, and in the  
9 number of persons with functional and access needs - has greatly  
10 complicated the State's ability to coordinate its emergency  
11 management resources and activities.

12           The legislature also finds that the statutes pertaining to  
13 the civil defense system of the State were enacted at a very  
14 different time in the history of Hawaii and our nation. Chapter  
15 127, Hawaii Revised Statutes, disaster relief, was enacted in  
16 1949, at a time when Hawaii's population was less than half of  
17 what it is today. Chapter 128, Hawaii Revised Statutes,

1 Hawaii's Civil Defense and Emergency Act, is based on the  
2 Federal Civil Defense Act of 1950, which was enacted for the  
3 purpose of preparing the nation for attack during the cold war  
4 era. At the federal level, the civil defense system became  
5 obsolete and has been replaced by the federal emergency  
6 management system.

7 The purpose of this Act is to bring Hawaii's emergency  
8 management laws into conformity with nationwide practices in  
9 emergency management by establishing a Hawaii emergency  
10 management agency in the state department of defense and  
11 updating and recodifying the statutes.

12 SECTION 2. The Hawaii Revised Statutes is amended by  
13 adding a new chapter to be appropriately designated and to read  
14 as follows:

15 "CHAPTER

16 EMERGENCY MANAGEMENT

17 § -1 Policy and Purpose. (a) Because of the existing  
18 and increasing possibility of the occurrence of disasters or  
19 emergencies of unprecedented size and destructiveness resulting  
20 from natural or man-made hazards, and in order to ensure that  
21 preparations of this State will be adequate to deal with such  
22 disasters or emergencies, to ensure the administration of state  
23 and federal programs providing disaster relief to individuals,

1 and generally to protect the public health, safety, and welfare  
2 and to preserve the lives and property of the people of the  
3 State, it is hereby found and declared to be necessary:

4 (1) To provide for emergency management by the State, and  
5 to authorize the creation of local organizations for  
6 emergency management in the counties of the State;

7 (2) To confer upon the governor and upon the mayors of the  
8 counties of the State the emergency powers necessary  
9 to respond to emergencies or disasters;

10 (3) To provide for the rendering of mutual aid among the  
11 counties of the State and with other states and to  
12 cooperate with the federal government with respect to  
13 the carrying out of emergency management functions;  
14 and

15 (4) To provide programs, in cooperation with other  
16 governmental agencies, the private sector and private  
17 nonprofit organizations, to educate and train the  
18 public to be prepared for emergencies.

19 (b) It is further declared to be the purpose of this  
20 chapter and the policy of the State that all emergency  
21 management functions of this State and its counties be  
22 coordinated to the maximum extent with the comparable functions  
23 of the federal government including its various departments, and

1 agencies of other states and localities, and of private agencies  
2 of every type, to the end that the most effective preparation  
3 and use may be made of the nation's manpower, resources, and  
4 facilities for dealing with any disaster that may occur.

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

17 § -2 Definitions. When used in this chapter, unless  
18 the context otherwise requires:

19 "Administrator" means the administrator of the Hawaii  
20 emergency management agency established by section -3.

21 "Agency" means the Hawaii emergency management agency  
22 established by section -3.

1 "Breach of a material term" means the failure of a party to  
2 perform an obligation under the rental agreement which  
3 constitutes the consideration for entering into the contract and  
4 includes the failure to make a timely payment of rent.

5 "Commodity" means any good or service necessary for the  
6 health, safety, and welfare of the people of Hawaii; provided  
7 that this term shall include, but not be limited to: materials;  
8 merchandise; supplies; equipment; resources; and other articles  
9 of commerce that shall include, without limitation, food; water;  
10 ice; chemicals; petroleum products; construction materials; or  
11 residential dwellings.

12 "Council" means the Hawaii advisory council on emergency  
13 management.

14 "County" means any of the political subdivisions including  
15 the counties of Hawaii, Maui, and Kauai and the city and county  
16 of Honolulu, but does not include the county of Kalawao.

17 "County agency" means an organization created in accordance  
18 with this chapter or the ordinances of a county to coordinate  
19 and manage emergency management functions in a county.

20 "Critical infrastructure" means those systems, facilities,  
21 and assets, whether physical or virtual, so vital to the county,  
22 State or the nation that the incapacity or destruction of such  
23 systems and assets would have a debilitating impact on national,

1 state, or county security, economic security, public health or  
2 safety, or any combination of those matters.

3 "Director" means the director of the Hawaii emergency  
4 management agency established by section -3, and means the  
5 adjutant general as provided in section 26-21.

6 "Emergency" means any situation for which assistance is  
7 needed to supplement state or local efforts and capabilities to  
8 save lives and to protect property and public health and safety,  
9 or to lessen or avert the threat of a catastrophe in any part of  
10 the state caused by tropical cyclone, tornado, storm, high  
11 water, flood, wind-driven water, tsunami, earthquake, volcanic  
12 eruption, landslide, mudslide, snowstorm, drought, wild-land  
13 fire, massive oil spills, explosion, radiological accidents or  
14 incidents, chemical, bacteriological, biological, airplane  
15 crashes, civil disturbances, insurrection, terrorism, vog, war,  
16 attack, or any other natural or man-made catastrophe of any kind  
17 that causes or may cause damage or injury to public or private  
18 property or persons.

19 "Emergency functions" means any and all emergency  
20 management powers, functions, roles, and all other powers,  
21 functions, and roles provided for by this chapter.

22 "Emergency management" means the preparation for and the  
23 carrying out of all emergency functions, other than functions

1 for which the military forces are primarily responsible, to  
2 prevent, protect, mitigate against, respond to, and recover from  
3 any injury or damage of any type resulting from any emergency or  
4 disaster, and to aid survivors suffering from injury or damage,  
5 resulting from disasters caused by all hazards, whether caused  
6 by nature, technology, or which are man-made

7 "Emergency management functions" mean all functions  
8 provided for by this chapter which are for the purposes stated  
9 in this chapter and, without limitation, firefighting services,  
10 police services, medical and health services, rescue  
11 engineering, public warning services, communications,  
12 radiological, chemical, and other special weapons defense,  
13 evacuation of persons from stricken or danger areas, or from  
14 security areas established by or under authority of law,  
15 emergency housing and other emergency welfare services,  
16 emergency transportation, protection of critical infrastructure  
17 of any type, and other functions related to protection, together  
18 with all other activities necessary or incidental to the  
19 preparation for and carrying out the functions and actions of  
20 this chapter.

21 "Emergency personnel" means all personnel involved in any  
22 aspect of emergency management, including state or county  
23 workers, members of the national guard ordered to active service

1 pursuant to section 121-30, persons engaged in emergency  
2 management functions pursuant to chapter 128F, volunteers, or  
3 any other agents of the county or State.

4 "Emergency period" means the period of existence of a state  
5 of emergency proclaimed by the governor or mayor, as provided in  
6 this chapter.

7 "Evacuation" means the immediate and rapid movement of  
8 people and animals away from the threat or actual occurrence of  
9 any hazard and includes vertical evacuation.

10 "Facilities", except as otherwise provided in this chapter,  
11 includes any infrastructure, buildings and other structures,  
12 shelters, land, roads, highways, thoroughfares, walks, roadways,  
13 bridges, public rights of ways, and any appurtenant facilities,  
14 structures, and materials.

15 "Fixed term lease" means a lease for real property that  
16 specifies its beginning date and its termination date as  
17 calendar dates, or contains a formula for determining the  
18 beginning and termination dates; and the application of the  
19 formula as of the date of the agreement will produce a calendar  
20 date for the beginning and termination of the lease.

21 "Highways" have the meaning as defined by section 264-1,  
22 and further include all state and county public rights of way,  
23 whether or not included in the definition.



1 "Laws" includes ordinances, rules, regulations, and orders  
2 prescribed under state or county laws or ordinances and having  
3 the force and effect of law.

4 "Materials" includes medicines, supplies, products,  
5 commodities, articles, equipment, machinery, and component  
6 parts.

7 "Mayor" means the senior elected official of the executive  
8 branch of each political subdivision in the State of Hawaii, but  
9 does not include the county of Kalawao.

10 "Necessary" means and refers to such means, measures, or  
11 other actions or determinations as are necessary in the opinion  
12 of the governor or governor's authorized representative and a  
13 mayor or the mayor's authorized representative.

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

1 "Protective device", without prejudice to any other meaning  
2 associated with the word, includes any article or substance used  
3 or useful in the protection of persons or property.

4 "Shelter" without prejudice to any other meaning associated  
5 with the word, includes any structure, excavation, or other  
6 facility or item used or useful in the protection of persons or  
7 property.

8 "States" includes the several states, the District of  
9 Columbia, and the possessions of the United States, and also  
10 includes, the State of Hawaii, and to the extent authorized by  
11 or under federal law, foreign countries and their provinces and  
12 states.

13 "Traffic control" includes plans, regulations, devices, and  
14 actions for the control of traffic to provide for the rapid and  
15 safe movement or evacuation of any people, vehicles, and  
16 materials for emergency management, and for the movement and  
17 cessation of movement of any pedestrians and vehicular traffic  
18 during, before and after emergencies, emergency management  
19 exercises, or other emergency management actions or activities.

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

1 unsanitary situation and is dangerous to the occupants or to the  
2 neighborhood.

3 "Vertical evacuation" means to move to a higher floor or  
4 higher ground to gain safety above the height of expected  
5 inundation by water.

6 § -3 Hawaii emergency management agency. (a) There is  
7 established within the department of defense the Hawaii  
8 emergency management agency. The director of Hawaii emergency  
9 management, subject to the direction and control of the  
10 governor, shall oversee the agency.

11 (b) There shall be an administrator of emergency  
12 management who shall be appointed and may be removed by the  
13 director, provided that candidates for the position of  
14 administrator shall have at least three years of experience  
15 leading emergency management efforts at the local, state or  
16 federal level. The administrator shall, in the absence of the  
17 director, have all the duties and responsibilities of the  
18 director. The administrator is the civilian head of, and is  
19 responsible for the day-to-day operations of, the emergency  
20 management agency. In the absence of the director, the  
21 administrator reports directly to the governor on emergency  
22 management issues. Chapter 76 shall not apply to the  
23 administrator.

1 (c) The director may, from funds allotted therefor, employ  
2 technical, clerical, administrative, and other personnel and  
3 make such expenditures as may be necessary.

4 (d) The director shall coordinate the activities of the  
5 agency with all county emergency management agencies, other  
6 state agencies, other states, federal agencies involved in  
7 emergency management activities, and all organizations for  
8 emergency management within the State, public or private, and  
9 shall maintain liaison with and cooperate with other emergency  
10 management agencies as provided in this chapter.

11 (e) The functions and authority heretofore exercised by  
12 the military department and the civil defense agency as  
13 heretofore constituted are transferred to the Hawaii emergency  
14 management agency established by this chapter.

15 § -4 Hawaii advisory council on emergency management.

16 To provide a public body with whom the governor may consult and  
17 by whom the governor may be advised in the performance of the  
18 governor's duties and in the exercise of the governor's powers  
19 in matters pertaining to emergency management, there shall be a  
20 Hawaii advisory council on emergency management, which is  
21 administratively attached to the Hawaii emergency management  
22 agency and shall consist of seven members to be appointed by the  
23 governor, one of whom shall be designated as chairperson. The

1 Hawaii advisory council on emergency management, on the request  
2 of the governor, shall confer with and advise the governor in  
3 regard to matters pertaining to emergency management. Members  
4 of the Hawaii advisory council on emergency management shall  
5 receive no compensation, but shall be reimbursed for their  
6 travel and other reasonable and necessary expenses incurred.  
7 Persons holding public office or employment in the state  
8 government, or any political subdivision thereof, are eligible  
9 for appointment to the Hawaii advisory council on emergency  
10 management.

11 § -5 County emergency management agency. (a) The  
12 mayor of each county has direct responsibility for emergency  
13 management within the county including the organization,  
14 administration, and operation of the county emergency management  
15 agency.

16 (b) Each county agency shall perform emergency management  
17 functions within the territorial limits of the county within  
18 which it is organized, coordinate all plans, and cooperate as  
19 closely as possible with the agency in all aspects of emergency  
20 management.

21 (c) Each county is responsible for the establishment,  
22 naming, and operation of a county emergency management agency in  
23 accordance with plans and programs of the agency and shall

1 promulgate such laws, rules, regulations and procedures, and  
2 appropriate such funding, as they deem necessary to support the  
3 county emergency management agency.

4 (d) Each county legislative body will enact laws to  
5 establish the county emergency management agency and ensure that  
6 the mayor and each county emergency management agency have the  
7 powers necessary to be recognized as an emergency management  
8 agency, receive state and federal funds, and carry out the  
9 functions of this chapter at the county level, including the  
10 following:

11 (1) To provide powers at the county level, in addition to  
12 those already provided to the mayor in section -12,  
13 emergency management functions contained in section  
14 -13(b), and additional powers in an emergency period  
15 contained in section -14(b), provided such powers  
16 and functions are limited to county laws, rules,  
17 regulations, and jurisdiction unless otherwise  
18 specifically provided for in this chapter;

19 (2) To provide, for the mayor of each county, a county-  
20 level administrator or director of emergency  
21 management, and such technical, administrative, and  
22 other personnel, office space, furniture, equipment,  
23 supplies, and funds as may be necessary to carry out

1 the purposes of this chapter. Chapter 76 shall apply  
2 to the county director or administrator of emergency  
3 management;

- 4 (3) To make appropriations and authorize expenditures for  
5 the purposes of this chapter, including the power to  
6 place under the control of the mayor, for expenditure  
7 as matching funds for federal aid, or for any purpose  
8 within the powers of the mayor, moneys appropriated by  
9 it; to make appropriations and authorize expenditures  
10 for the purposes of this chapter out of the normal  
11 revenues or fund balances or surpluses of the  
12 counties, notwithstanding any legal restrictions upon  
13 the purposes for which the funds may be expended,  
14 except that pension and retirement funds, funds set  
15 aside for the redemption of bonds or the payment of  
16 interest thereon, trust funds, loan funds, and funds  
17 received from the federal government or from any  
18 person for specific purposes shall not be affected;

- 19 (4) To ensure continuity of government during an emergency  
20 period by providing the procedure for the appointment  
21 and designation of stand-by officers for the  
22 legislative body and the elected chief executive of  
23 the county for the emergency period, who shall serve

1 in the event of the unavailability of the officers for  
2 whom they stand by;

3 (5) To establish an emergency operations center and staff  
4 it appropriately; and

5 (6) To coordinate, develop, and implement an emergency  
6 operations plan for the county.

7 § -6 **Emergency specialist reserve corps.** (a) The  
8 director may establish an emergency specialist reserve corps  
9 comprised of trained specialists to support state or county  
10 emergency requirements. The members of the emergency specialist  
11 reserve corps may include any employee of the State or county,  
12 employees hired specifically for staffing during emergency  
13 periods and exercises, or any volunteer, who shall be detailed  
14 in accordance with this chapter.

15 (b) The emergency specialist reserve corps shall support  
16 state emergency requirements and, if requested, augment county  
17 emergency staff, said specialists to be mobilized during, or in  
18 advance of, natural or man-made disasters or training events.  
19 Reserve corps personnel shall be required to attend a minimum of  
20 four days of paid training per year. Reserve corps positions  
21 shall be authorized and managed at the agency and do not need  
22 approval of the governor.



1           §     -7   **Warning point.**   (a)   The agency shall establish  
2 and operate the state warning point.   The state warning point  
3 shall be staffed to monitor warning systems and devices around  
4 the clock on a year-round basis and have the ability to provide  
5 timely warning and notification to state government officials,  
6 county warning points and, if necessary, the general public.

7           §     -8   **Status and rights of personnel.**   (a)   If any  
8 government officer or employee of the State or county is engaged  
9 in carrying out this chapter in lieu of the officer's or  
10 employee's regular office or employment, the amount of the  
11 officer's or employee's compensation shall not be adversely  
12 affected, and the officer's or employee's rights in or under the  
13 laws relating to vacations and leaves, the retirement system,  
14 civil service or the like, shall not be adversely affected.

15           (b)   All persons, including volunteers whose services have  
16 been accepted by authorized persons, while engaged in the  
17 performance of duty pursuant to this chapter, including duty  
18 performed during periods of training, shall be deemed state  
19 employees if their performance of duty is for the State, or  
20 county employees if their performance of duty is for the county,  
21 and shall have the powers, duties, rights, and privileges of  
22 such in the performance of their duties, except as, pursuant to

1 this chapter, may be prescribed by or under the authority of the  
2 governor or the mayor.

3 (c) In case of injury or death arising out of and in the  
4 performance of duty pursuant to this chapter, including duty  
5 performed during periods of training, all persons having the  
6 status of officers or employees of the State or county, pursuant  
7 to this section, and their dependents, shall be entitled to all  
8 of the benefits provided in chapter 386, including medical  
9 services and supplies, and in case of the injury or death no  
10 public official shall be excluded from the coverage of chapter  
11 386 by reason of being an elected official. For the purposes of  
12 the benefits, average weekly wages shall be computed upon the  
13 basis set forth in section 386-51, or upon the basis of earnings  
14 from the usual employment of the person, or upon the basis of  
15 earnings at the rate of \$20 per week, whichever is most  
16 favorable to the claimant or claimants. The costs thereof, in  
17 cases of state employees, shall be a charge upon the state  
18 insurance fund and, in cases of county employees, shall be a  
19 charge upon the county insurance fund; provided that the  
20 governor or mayor may effect such insurance in respect of the  
21 obligations assumed pursuant to this section and as may be  
22 available under any mutual aid agreement or act of Congress.

1 Nothing herein shall adversely affect the right of any person to  
2 receive any benefits or compensation under any act of Congress.

3 § -9 Immunities; rights. (a) Neither:

4 (1) The State;

5 (2) Any county;

6 (3) Any public utility or vital facility;

7 (4) Private agencies or entities; nor

8 (5) Except in cases of wilful misconduct, persons engaged  
9 in emergency functions pursuant to this chapter

10 (including volunteers whose services are accepted by  
11 any authorized person);

12 shall be civilly liable for the death of or injury to persons,  
13 or property damage, as a result of any act or omission in the  
14 course of the employment or duties under this chapter.

15 (b) No act or omission shall be imputed to the owner of  
16 any vehicle by reason of the owner's ownership thereof; provided  
17 that nothing herein shall preclude recovery by any person for  
18 injury or damage sustained from the operation of any vehicle  
19 which may be insured under section 41D-8 to the extent of the  
20 insurance, and unless specifically provided, insurance effected  
21 under section 41D-8 shall not include coverage of such risk  
22 during an emergency period. The governor may insure vehicles  
23 owned by the State or in the custody and use of the emergency

1 management agency, but insurance effected under section 41D-8 on  
2 vehicles used for purposes other than emergency management need  
3 not necessarily include coverage of the insured vehicle against  
4 the risk incurred or which would be incurred under this chapter  
5 as a result of the use of the insured vehicle for emergency  
6 management.

7 (c) Members of the United States army, air force, navy,  
8 marines, or coast guard on any duty or service done under or in  
9 pursuance of an order or call of the President of the United  
10 States or any proper authority, and the national guard from any  
11 other state ordered into service by any proper authority, to  
12 assist civil authorities engaged in emergency functions pursuant  
13 to this chapter shall not be liable, civilly or criminally, for  
14 any act done or caused by them in pursuance of duty in such  
15 service.

16 § -10 Political activity prohibited. No organization  
17 for emergency management established under the authority of this  
18 chapter shall participate in any form of political activity, nor  
19 shall it be employed directly or indirectly for political  
20 purposes.

21 § -11 Powers on whom conferred; delegation of powers.

22 (a) Except as otherwise expressly provided, all of the powers  
23 conferred by this chapter are conferred on the governor or

1 mayor, who may delegate to agencies, officers, employees, and  
2 other persons, or any of them, created, appointed, or employed  
3 under, or engaged in carrying out this chapter, or to any  
4 government agency, officer, or employee, state or county, or  
5 otherwise, or provide for the subdelegation of, any of the  
6 powers, except the power (1) to proclaim an emergency or  
7 emergency period or to proclaim the period terminated, or to  
8 make any other proclamation provided for by this chapter, (2) to  
9 prescribe rules having the force and effect of law, and (3) to  
10 make allotments of funds appropriated or available for the  
11 purposes of this chapter. Unless otherwise directed by the  
12 governor or mayor, all of the powers pertaining to emergency  
13 management, hereby authorized to be delegated by the governor or  
14 mayor, shall be deemed to have been delegated by the governor to  
15 the director of emergency management and the mayor to the  
16 administrator of the county agency, with the further authority  
17 to subdelegate the powers to any agency or person to whom the  
18 governor or mayor could delegate these powers.

19 (b) The powers and authority conferred upon the governor  
20 or mayor by this chapter are in addition to any other powers or  
21 authority conferred upon the governor or mayor by the laws of  
22 the United States and of the State or county for the same or a

1 like purpose, and shall not be construed as abrogating,  
2 limiting, or modifying any such powers, or authority.

3 § -12 Emergency management powers, in general. (a)

4 The governor or mayor may:

- 5 (1) Prepare comprehensive plans and programs for the  
6 protection of the State or county against natural and  
7 man-made hazards, the plans and programs to be  
8 integrated into and coordinated with the emergency  
9 management plans of the State, counties, the federal  
10 government, other states, and private entities of any  
11 type to the fullest possible extent;
- 12 (2) Identify emergency response personnel required to  
13 report for duty as directed by the department head  
14 regardless of the availability of any type of leave;
- 15 (3) Institute training, preparedness, and public  
16 information programs in coordination with the State,  
17 counties, federal government, other states, and  
18 private entities of any type;
- 19 (4) Provide or authorize suitable insignia of authority  
20 for all authorized personnel; and
- 21 (5) Direct or control, as may be necessary for emergency  
22 management:
- 23 (A) Alerts, warnings, notifications, activations,

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- 1 exercises, drills, tests, and exercises;
- 2 (B) Warnings and signals for alerts or exercises, and
- 3 any type of warning device, system, or method to
- 4 be used in connection therewith;
- 5 (C) Partial or full mobilization of emergency
- 6 management personnel for training, in advance of,
- 7 or in response to, an actual emergency;
- 8 (D) The conduct of civilians and the movement and
- 9 cessation of movement of pedestrians and
- 10 vehicular traffic during, before, and after
- 11 alerts, drills, exercises, or emergencies; and
- 12 (E) Traffic control.

13 § -13 **Emergency management functions.** (a) The

14 governor shall have the following emergency management functions  
15 and powers, irrespective of the existence of an emergency:

- 16 (1) Support requests from a mayor for assistance in
- 17 preparing for, responding to, and recovering from any
- 18 emergency or threat thereof;
- 19 (2) Lease, lend, or otherwise furnish, on such terms and
- 20 conditions as the governor may consider necessary to
- 21 promote the public welfare and protect the interest of
- 22 the State, any real or personal property of the State
- 23 government, to the President of the United States, the

- 1 heads of the armed forces, or to the emergency  
2 management agency of the United States;
- 3 (3) Enter in, participate in, or carry out mutual aid  
4 agreements or compacts for emergency management or  
5 emergency functions with the federal government and  
6 with other states;
- 7 (4) Sponsor and develop mutual aid plans and agreements  
8 for emergency management between the State, one or  
9 more counties, and other public or private agencies,  
10 for the furnishing or exchange of food, clothing,  
11 medicine, and other materials; engineering services,  
12 emergency housing; police services; health, medical,  
13 and related services; firefighting, rescue,  
14 transportation, and construction services and  
15 facilities; personnel necessary to provide or conduct  
16 these services; and such other materials, facilities,  
17 personnel, and services as may be needed. The mutual  
18 aid plans and agreements may be made with or without  
19 provisions for reimbursement of costs and expenses,  
20 and on such terms and conditions as are deemed  
21 necessary;
- 22 (5) Take possession of, use, manage, control, and  
23 reallocate any public property of the State, real or



1 personal, required by the governor for the purposes of  
2 this chapter, including, without limitation, airports,  
3 parks, playgrounds, and schools, and other public  
4 buildings. Whenever the property is so taken the  
5 governor may make such provision for the temporary  
6 accommodation of the government service affected  
7 thereby as the governor may deem advisable. Like  
8 provisions may be made at any time whenever it is  
9 necessary to relocate any government service because  
10 of any emergency condition;

11 (6) Utilize all services, materials, and facilities of  
12 nongovernmental agencies, relief organizations,  
13 community associations, and other civil groups and  
14 private agencies that may be made available;

15 (7) Receive, expend, or use contributions or grants, which  
16 shall be deemed to be trust funds, in money, property,  
17 or services, or loans of property, or special  
18 contributions or grants in money, property, or  
19 services, or loans of property, for special purposes  
20 provided for by this chapter; establish funds in the  
21 treasury for the deposit and expenditure of the  
22 moneys; procure federal aid as the same may be  
23 available, and apply the provisions of chapter 29 in

1 cases of federal aid even though not in the form of  
2 money. The contributions or grants are appropriated  
3 for the purposes of this chapter, or for the special  
4 purposes;

5 (8) Purchase, make, produce, construct, rent, lease, or  
6 procure by condemnation, or otherwise, transport,  
7 store, install, maintain, and insure, repair,  
8 renovate, restore, replace or reconstruct, and  
9 distribute, furnish or otherwise dispose of, with or  
10 without charges, materials and facilities for  
11 emergency management; and to procure federal aid  
12 therefor whenever feasible. Chapter 103D and sections  
13 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4  
14 shall not apply to any emergency management functions  
15 of and to the extent that the governor finds that the  
16 provisions, in whole or in part, impede or tend to  
17 impede the expeditious discharge of the functions, or  
18 that compliance therewith is impracticable due to  
19 existing conditions;

20 (9) Provide for the appointment, employment, training,  
21 equipping, and maintaining, with compensation, or on a  
22 volunteer basis without compensation and without  
23 regard to chapters 76, 78, and 88 of such agencies,

1 officers, and other persons as the governor deem  
2 necessary to carry out this chapter; to determine to  
3 what extent any law prohibiting the holding of more  
4 than one office or employment applies to the agencies,  
5 officers, and other persons; and subject to provisions  
6 of this chapter, to provide for the interchange of  
7 personnel, by detail, transfer or otherwise, between  
8 agencies or departments of the State;

9 (10) Make charges in such cases and in such amounts as the  
10 governor deems advisable, for any property sold, work  
11 performed, services rendered, or accommodations or  
12 facilities furnished by the State under this chapter;

13 (11) Make or authorize such contracts as may be necessary  
14 to carry out this chapter;

15 (12) Establish special accounting forms and practices  
16 whenever necessary;

17 (13) Require each public utility, or any person owning,  
18 controlling, or operating a critical infrastructure  
19 facility as identified by the governor, to protect and  
20 safeguard its or the person's property, or to provide  
21 for the protection and safeguarding; and provide for  
22 the protection and safeguarding of all critical  
23 infrastructure and key resources; provided that

1 without prejudice to the generality of the foregoing  
2 two clauses, the protecting and safeguarding may  
3 include the regulation or prohibition of public entry  
4 thereon, or the permission of the entry upon such  
5 terms and conditions as the governor may prescribe;

6 (14) Restrict the congregation of the public in stricken or  
7 danger areas or under dangerous conditions;

8 (15) Direct and control the evacuation of the civilian  
9 population; provided that only during an emergency  
10 period shall there be instituted under this sub  
11 paragraph mandatory or prohibitory requirements having  
12 the force of law.

13 (16) Order and direct government agencies, officers, and  
14 employees of the State, to take such action and employ  
15 such measures for law enforcement, medical, health,  
16 firefighting, traffic control, warnings, and signals,  
17 engineering, rescue, construction, emergency housing,  
18 and other welfare, hospitalization, transportation,  
19 water supply, public information, training, and other  
20 emergency functions as may be necessary, and utilize  
21 the services, materials, and facilities of the  
22 agencies and officers. All such agencies and officers  
23 shall cooperate with and extend their services,

- 1 materials, and facilities to the governor as the  
2 governor may request;
- 3 (17) Provide for the repair and maintenance of public  
4 property, whenever adequate provision therefor is not  
5 otherwise made; insure the property against any  
6 emergency; provide for the restoration, renovation,  
7 replacement, or reconstruction of insured property in  
8 the event of damage or loss, and make temporary  
9 restoration of public utilities and other vital  
10 facilities in the event of an emergency;
- 11 (18) The governor may assure the continuity of service by  
12 critical infrastructure and key resources, both  
13 publicly and privately owned, by regulating or, if  
14 necessary during an emergency period, to the  
15 continuation of the service thereof, by taking over  
16 and operating the same;
- 17 (19) The governor may fix or revise the hours of government  
18 business; and
- 19 (20) The governor may take any and all steps necessary or  
20 appropriate to carry out the purposes of this chapter  
21 and to provide for emergency management and other  
22 emergency management functions.

1 (b) The mayor shall have the following emergency  
2 management functions and powers, irrespective of the existence  
3 of an emergency period:

4 (1) Lease, lend, or otherwise furnish, on such terms and  
5 conditions as the mayor may consider necessary to  
6 promote the public welfare and protect the interest of  
7 the county, any real or personal property of the  
8 county government, to the governor of the State, to  
9 mayors of the other counties of the State, or to the  
10 emergency management agency of the State;

11 (2) Sponsor and develop mutual aid plans and agreements  
12 for emergency management between the one or more  
13 counties, and other public or private agencies, for  
14 the furnishing or exchange of food, clothing,  
15 medicine, and other materials; engineering services,  
16 emergency housing; police services; health, medical,  
17 and related services; firefighting, rescue,  
18 transportation, and construction services and  
19 facilities; personnel necessary to provide or conduct  
20 these services; and such other materials, facilities,  
21 personnel, and services as may be needed. The mutual  
22 aid plans and agreements may be made with or without  
23 provisions for reimbursement of costs and expenses,

- 1 and on such terms and conditions as are deemed  
2 necessary;
- 3 (3) Take possession of, use, manage, control, and  
4 reallocate any public property of the county, real or  
5 personal, required by the mayor for the purposes of  
6 this chapter, including, without limitation, parks,  
7 playgrounds, and other public buildings. Whenever the  
8 property is so taken the mayor may make such provision  
9 for the temporary accommodation of the government  
10 service affected thereby as the mayor may deem  
11 advisable. Like provisions may be made at any time  
12 whenever it is necessary to relocate any government  
13 service because of any emergency condition;
- 14 (4) Utilize all services, materials, and facilities of  
15 nongovernmental agencies, relief organizations,  
16 community associations, and other civil groups and  
17 private agencies that may be made available;
- 18 (5) Receive, expend, or use contributions or grants, which  
19 shall be deemed to be trust funds, in money, property,  
20 or services, or loans of property, or special  
21 contributions or grants in money, property, or  
22 services, or loans of property, for special purposes  
23 provided for by this chapter; establish funds in the

- 1 treasury for the deposit and expenditure of the  
2 moneys; and procure federal aid as the same may be  
3 available. The contributions or grants are  
4 appropriated for the purposes of this chapter, or for  
5 the special purposes;
- 6 (6) Purchase, make, produce, construct, rent, lease, or  
7 procure by condemnation, or otherwise, transport,  
8 store, install, maintain, and insure, repair,  
9 renovate, restore, replace or reconstruct, and  
10 distribute, furnish or otherwise dispose of, with or  
11 without charges, materials and facilities for  
12 emergency management; and to procure federal aid  
13 therefor whenever feasible. Chapter 103D and sections  
14 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4  
15 shall not apply to any emergency management functions  
16 of and to the extent that the mayor finds that the  
17 provisions, in whole or in part, impede or tend to  
18 impede the expeditious discharge of the functions, or  
19 that compliance therewith is impracticable due to  
20 existing conditions;
- 21 (7) Provide for the appointment, employment, training,  
22 equipping, and maintaining, with compensation, or on a  
23 volunteer basis without compensation and without



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1 regard to chapters 76, 78, and 88 of such agencies,  
2 officers, and other persons as the mayor deem  
3 necessary to carry out this chapter; to determine to  
4 what extent any law prohibiting the holding of more  
5 than one office or employment applies to the agencies,  
6 officers, and other persons; and subject to provisions  
7 of this chapter, to provide for the interchange of  
8 personnel, by detail, transfer or otherwise, between  
9 agencies or departments of the county;

10 (8) Make charges in such cases and in such amounts as the  
11 mayor deems advisable, for any property sold, work  
12 performed, services rendered, or accommodations or  
13 facilities furnished by the county under this chapter;

14 (9) Make or authorize such contracts as may be necessary  
15 to carry out this chapter;

16 (10) Establish special accounting forms and practices  
17 whenever necessary;

18 (11) Require each public utility, or any person owning,  
19 controlling, or operating a critical infrastructure  
20 facility as identified by the mayor, to protect and  
21 safeguard its or the person's property, or to provide  
22 for the protection and safeguarding; and provide for  
23 the protection and safeguarding of all critical

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1 infrastructure and key resources; provided that  
2 without prejudice to the generality of the foregoing  
3 two clauses, the protecting and safeguarding may  
4 include the regulation or prohibition of public entry  
5 thereon, or the permission of the entry upon such  
6 terms and conditions as the mayor may prescribe;

7 (12) Restrict the congregation of the public in stricken or  
8 danger areas or under dangerous conditions;

9 (13) To direct or control, as may be necessary for  
10 emergency management the evacuation and reception of  
11 the civilian population; provided that only during an  
12 emergency period shall there be instituted under this  
13 paragraph mandatory or prohibitory requirements having  
14 the force and effect of law;

15 (14) Order and direct government agencies, officers, and  
16 employees of the county, to take such action and  
17 employ such measures for law enforcement, medical,  
18 health, firefighting, traffic control, warnings, and  
19 signals, engineering, rescue, construction, emergency  
20 housing, and other welfare, hospitalization,  
21 transportation, water supply, public information,  
22 training, and other emergency functions as may be  
23 necessary, and utilize the services, materials, and

1 facilities of the agencies and officers. All such  
2 agencies and officers shall cooperate with and extend  
3 their services, materials, and facilities to the mayor  
4 as the mayor may request;

5 (15) Provide for the repair and maintenance of public  
6 property, whenever adequate provision therefor is not  
7 otherwise made; insure the property against any  
8 emergency; provide for the restoration, renovation,  
9 replacement, or reconstruction of insured property in  
10 the event of damage or loss, and make temporary  
11 restoration of public utilities and other vital  
12 facilities in the event of an emergency;

13 (16) The mayor may fix or revise the hours of county  
14 government business; and

15 (17) The mayor may take any and all steps necessary or  
16 appropriate to carry out the purposes of this chapter  
17 and to provide for emergency management and other  
18 emergency management functions.

19 § -14 Additional powers in an emergency period. (a)

20 In the event of an emergency period, the governor may exercise  
21 the following additional powers pertaining to emergency  
22 management:

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

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

6 (2) Relieve hardships and inequities, or obstructions to  
7 the public health, safety, or welfare, found by the  
8 governor to exist in the laws and to result from the  
9 operation of federal programs or measures taken under  
10 this chapter, the governor may suspend the laws, in  
11 whole or in part, or by alleviating the provisions of  
12 laws on such terms and conditions as the governor may  
13 impose, including, without limitation, licensing laws,  
14 quarantine laws, and laws relating to labels, grades,  
15 and standards;

16 (3) Suspend any law that impedes or tends to impede or be  
17 detrimental to the expeditious and efficient execution  
18 of, or to conflict with, emergency functions,  
19 including without limitation, laws which by this  
20 chapter specifically are made applicable to emergency  
21 management personnel;

22 (4) In the event of disaster or emergency beyond local  
23 control, assume direct operational control over all or

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1 any part of the emergency management functions within  
2 the affected area;

3 (5) Shutting off water mains, gas mains, electric power  
4 connections, or suspension of other services; and, to  
5 the extent permitted by or under federal law,  
6 suspension of electronic media transmission;

7 (6) The governor may exercise additional emergency  
8 functions, to the extent necessary to prevent  
9 hoarding, waste, or destruction of materials,  
10 supplies, commodities, accommodations, facilities, and  
11 services, to effectuate equitable distribution  
12 thereof, or to establish priorities therein as the  
13 public welfare may require, to investigate, and any  
14 other law to the contrary notwithstanding, to regulate  
15 or prohibit, by means of licensing, rationing, or  
16 otherwise, the storage, transportation, use,  
17 possession, maintenance, furnishing, sale, or  
18 distribution thereof, and any business or any  
19 transaction related thereto;

20 (7) The governor may suspend section 8-1, relating to  
21 state holidays, except the last paragraph which shall  
22 remain unaffected, and in the event of the suspension

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1 the governor may establish state holidays by  
2 proclamation;

3 (8) The governor may adjust the hours for voting to take  
4 into consideration the working hours of the voters  
5 during emergency conditions, and for the purpose to  
6 suspend those provisions of section 11-131 that fix  
7 the hours for voting, and fix other hours by stating  
8 the same in the election proclamation or notice, as  
9 the case may be; and

10 (9) Except as provided in section 134-7.2, whenever in the  
11 governor's opinion the laws of the State do not  
12 adequately provide for the common defense, public  
13 health, safety, and welfare, investigate, regulate, or  
14 prohibit the storage, transportation, use, possession,  
15 maintenance, furnishing, sale, or distribution of, as  
16 well as any transaction related to, explosives,  
17 firearms, and ammunition, inflammable materials and  
18 other objects, implements, substances, businesses, or  
19 services of a hazardous or dangerous character, or  
20 particularly capable of misuse, or obstructive of or  
21 tending to obstruct law enforcement, emergency  
22 management, or military operations, including, without  
23 limitation, intoxicating liquor and the liquor

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1 business; and authorize the seizure and forfeiture of  
2 any such objects, implements, or substances unlawfully  
3 possessed, as provided in this chapter.

4 (b) In the event of an emergency period, the mayor may  
5 exercise the following additional powers pertaining to emergency  
6 management:

7 (1) Relieve hardships and inequities, or obstructions to  
8 the public health, safety, or welfare, found by the  
9 mayor to exist in the laws of the county and to result  
10 from the operation of federal programs or measures  
11 taken under this chapter, the mayor may suspend the  
12 county laws, in whole or in part, or by alleviating  
13 the provisions of county laws on such terms and  
14 conditions as the mayor may impose, including, without  
15 limitation, county licensing laws, and county laws  
16 relating to labels, grades, and standards;

17 (2) Suspend any county law that impedes or tends to impede  
18 or be detrimental to the expeditious and efficient  
19 execution of, or to conflict with, emergency  
20 functions, including without limitation, laws which by  
21 this chapter specifically are made applicable to  
22 emergency management personnel;



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- 1           (3) Shutting off water mains, gas mains, electric power
- 2                   connections, or suspension of other services; and, to
- 3                   the extent permitted by or under federal law,
- 4                   suspension of electronic media transmission; and
- 5           (4) The mayor may exercise additional emergency functions,
- 6                   to the extent necessary to prevent hoarding, waste, or
- 7                   destruction of materials, supplies, commodities,
- 8                   accommodations, facilities, and services, to
- 9                   effectuate equitable distribution thereof, or to
- 10                  establish priorities therein as the public welfare may
- 11                  require, to investigate, and any other law to the
- 12                  contrary notwithstanding, to regulate or prohibit, by
- 13                  means of licensing, rationing, or otherwise, the
- 14                  storage, transportation, use, possession, maintenance,
- 15                  furnishing, sale, or distribution thereof, and any
- 16                  business or any transaction related thereto.

17           §     -15   **Emergency period.**   (a)   The governor may declare

18   the existence of a state of emergency in the State if the

19   governor finds that an emergency has occurred or that there is

20   danger or threat thereof and proclaims a state of emergency for

21   any portion of the State.

22           (b)   The mayor may declare the existence of a state of

23   emergency in the county if the mayor finds that an emergency has

1 occurred or that there is danger or threat thereof and proclaims  
2 a state of emergency for the county.

3 (c) The governor or mayor shall be the sole judge of the  
4 existence of the danger, threat, or circumstances giving rise to  
5 a declaration of a state of emergency.

6 (d) A period of emergency shall terminate by proclamation  
7 of the governor or mayor. If no date is set by the governor or  
8 mayor, no application for any state-level disaster-related  
9 programs shall be received six months after the issuance of the  
10 governor's or mayor's proclamation declaring an emergency.

11 § -16 Proclamations, how made; service of papers. (a)  
12 Every proclamation of the governor or mayor for which provision  
13 is made by this chapter, shall be promulgated by publication  
14 thereof, or when immediate promulgation is necessary in the  
15 opinion of the governor or mayor, who shall be the sole judge  
16 thereof, by official announcement thereof by means of television  
17 or radio broadcast, or both, internet, or such other means as  
18 may be available.

19 (b) Any process, notice, or order, service of which is  
20 provided for by this chapter, may be served by any law  
21 enforcement officer or person authorized by the governor or  
22 mayor, any other provision of law to the contrary  
23 notwithstanding.

1           §   -17   **Major disaster fund.** (a) The director shall  
2 submit requests to the legislature to appropriate from the  
3 general revenues of the State sufficient moneys as may be  
4 necessary for expenditure by or under the direction of the  
5 governor for immediate relief in the event of the occurrence of  
6 any emergency in any part of the State; provided that:

7           (1) The governor may not expend in excess of \$2,000,000  
8           for immediate relief of any single emergency;

9           (2) In addition to the funds in paragraph (1), an  
10           additional \$2,000,000 shall be available solely for  
11           the purpose of matching federal disaster relief funds  
12           when these funds become available following a  
13           presidential disaster declaration; and

14           (3) The director may use up to \$100,000 per year to  
15           support training of the emergency specialist reserve  
16           corps.

17 In expending the moneys, the governor may allot any portion  
18 thereof to any agency, office, or employee, federal, state, or  
19 county, for the more speedy and efficient relief of the  
20 conditions created by the emergency. The governor may determine  
21 whether an emergency contemplated by this section has occurred.

22           (b) Federal reimbursement moneys for disaster relief shall  
23 be deemed to be trust moneys and may be deposited into a trust

1 account with and under the control of the department of  
2 defense. These moneys and any interest earned thereon shall be  
3 used for the purpose identified in subsection (a) and shall not  
4 lapse into the general fund.

5 § -18 Allotments, etc. (a) There shall be available  
6 for allotment by the governor under this chapter:

7 (1) Any moneys appropriated for the purposes of this  
8 chapter, or reappropriated pursuant to subsection (b)  
9 and any unexpended moneys appropriated for disaster  
10 relief or administration thereof by any act, but only  
11 within the scope and purposes of the appropriations so  
12 made by the legislature;

13 (2) Contributions, as provided by section 128-10; and

14 (3) The governor's contingent fund.

15 (b) Any sums realized under this chapter from the sale of  
16 property by the State, or from work done, services rendered, or  
17 accommodations or facilities furnished by the State, or from  
18 insurance against damage or loss of property the premiums for  
19 which have been paid by the State under this chapter, shall be  
20 deemed to be trust funds for the purposes of this chapter and  
21 may be expended or allotted in the same manner as other  
22 appropriations made by or available for the purposes of this  
23 chapter.

1 (c) The governor may allot any moneys appropriated or  
2 available for the purposes of this chapter, to any agency,  
3 officer, or employee, created, appointed, or employed under this  
4 chapter, or to any government agency, officer, or employee,  
5 state or county, to whom powers or duties have been delegated  
6 pursuant to this chapter, to be expended in carrying out the  
7 provisions of this chapter, and in the case of county agencies,  
8 officers, or employees, to order the allotment paid over to be  
9 held, disbursed, and accounted for as other county funds or as  
10 the governor shall provide.

11 (d) In the event of a deficit in the general fund of the  
12 State, any appropriation made or available for the purposes of  
13 this chapter and needed for allotment under this chapter shall  
14 take priority over other appropriations from the general fund.

15 (e) Any appropriation made or available for the purposes  
16 of this chapter may be expended notwithstanding the existence of  
17 a specific or other appropriation for the same or a like  
18 purpose, and without prejudice to the expenditure of the other  
19 appropriation. The powers granted by this section are in  
20 addition to, and not restrictive of, the powers granted by any  
21 other section.

22 (f) Any order by the governor made pursuant to this  
23 section may be amended or revoked.

1           §     -19 Mitigation of hazardous situations. (a) Even in  
2 the absence of an emergency, the governor may authorize  
3 designated state agents, contractors, or representatives to  
4 enter private property at reasonable times to mitigate  
5 situations deemed by the governor to be hazardous to the health  
6 and safety of the public; provided that this section shall be  
7 applicable only to the following actions:

8           (1) Cutting, trimming, or removing dangerous trees or  
9                 branches that pose a hazard to other properties;

10          (2) Stabilizing or removing unstable rock and soil  
11                 hazards; or

12          (3) Cleaning streams and waterways to mitigate or prevent  
13                 flooding or other disasters;

14 provided further that at least ten days' notice shall be  
15 provided to the landowner and to the occupier of the private  
16 property of the governor's intention to authorize designated  
17 state employees, agents, contractors, or representatives to  
18 enter the property to mitigate the hazardous situation; provided  
19 further that the landowner or occupier shall be given a  
20 reasonable opportunity to mitigate the hazardous situation  
21 without assistance of the State before designated state or  
22 county employees, agents, contractors, or representatives may  
23 enter the property.

1 (b) Written notice sent to the landowner's last known  
2 address by certified mail, postage prepaid, return receipt  
3 requested, shall be deemed sufficient notice. If land ownership  
4 cannot be determined, notice shall be given once in a daily or  
5 weekly publication of general circulation in the county where  
6 any action or proposed action will be taken.

7 (c) If entry is refused, the governor may apply to the  
8 district court in the circuit in which the property is located  
9 for a warrant to enter the premises. The district court may  
10 issue a warrant directing the chief of the appropriate county  
11 police to assist the governor in gaining entry onto the premises  
12 during regular working hours or at other reasonable times.

13 (d) The governor may seek recovery and reimbursement, by  
14 appropriate proceedings, of all costs and expenses incurred in  
15 the mitigation of a hazardous situation under this section, and  
16 any costs and expenses imposed against any landowner shall be a  
17 lien upon the landowner's property.

18 (e) These provisions are dependent upon authorization and  
19 funding for personnel to administer the program.

20 § -20 Shelters. (a) The governor may establish  
21 guidelines for providing suitable arrangements and  
22 accommodations for the sheltering of the public and the  
23 sheltering of pet animals in public shelters under this chapter.

1 (b) County emergency management agencies shall identify,  
2 in coordination with other organizations engaged in emergency  
3 management functions relating to providing shelter, or the  
4 management or operation of a public shelter under this chapter,  
5 locations and facilities suitable for the sheltering of the  
6 public and locations and facilities suitable for the sheltering  
7 of pet animals.

8 (c) The county emergency management agency director or  
9 administrator may also identify, in coordination with private  
10 owners, operators, or controllers of real property, private  
11 locations and facilities that are suitable for use as shelters  
12 or the sheltering of pet animals.

13 (d) A public shelter identified for the sheltering of pet  
14 animals pursuant to subsection (b) need not be subject to  
15 guidelines developed for public shelters, unless the particular  
16 shelter has been specifically identified as a shelter for both  
17 pet animals and the public.

18 (e) For purposes of this section, "pet animal" shall have  
19 the same meaning as defined in section 711-1100.

20 § -21 Immunity from liability of private shelter. (a)  
21 Any individual, partnership, firm, society, unincorporated  
22 association, joint venture group, hui, joint stock company,  
23 corporation, trustee, personal representative, trust estate,



1 decedent's estate, trust, or other legal entity whether doing  
2 business for itself or in a fiduciary capacity, owning or  
3 controlling real property, that voluntarily and without  
4 compensation grants a license or privilege for, or otherwise  
5 permits, the designation by the emergency management agency of  
6 the county in which the building is located for the use of the  
7 whole or any part of the property for the purpose of sheltering  
8 persons during natural or man-made disasters, shall, together  
9 with its successors in interest, if any, not be civilly liable  
10 for negligently causing the death of or injury to any person or  
11 damage to any personal property on the property of the licensor  
12 in connection with the use of the licensed premises for the  
13 purposes designated.

14 (b) For the purposes of this section, the following shall  
15 not be considered compensation:

16 (1) Any compensation or consideration paid by or on behalf  
17 of any guest or person for transient accommodation  
18 lodging;

19 (2) Any compensation or consideration paid for any  
20 patient, resident, or ward present or residing in any  
21 hospital, community-based care home, home-based care  
22 home, or healthcare agency of any type licensed by the  
23 department of health or the department of human

1 services and used as a private shelter under this  
2 section; provided that the protections afforded by  
3 this section shall not extend beyond the use of the  
4 private shelter under this section for any other duty  
5 or standard of care owed to any patient, resident, or  
6 ward; and

7 (3) Any compensation or consideration paid by or on behalf  
8 of any minor or student of any age in any day care,  
9 preschool, elementary school, middle school, or any  
10 other educational facility used as a private shelter  
11 under this section.

12 § -22 Notice of requisition. The governor or mayor may  
13 requisition and take over any materials, facilities, real  
14 property or improvements, required for the purposes of this  
15 chapter, or requisition and take over the temporary use  
16 thereof. The requisition shall be made by serving notice  
17 thereof, which notice may be served upon any person found in  
18 occupation of the premises or having the property in the  
19 person's custody, possession, or control; provided that a like  
20 notice shall also be served upon any person who has filed with  
21 the governor or mayor, or with such person as the governor or  
22 mayor may designate for the purpose, a request for notice with  
23 respect to the property; provided further that whenever all

1 persons entitled to compensation for the property have not been  
2 served in the manner aforesaid, the governor or mayor shall  
3 publish a notice of the requisition at the earliest practicable  
4 date.

5       §     -23   **Determination of compensation.** Whenever the  
6 governor or mayor requisitions and takes over any property or  
7 the temporary use thereof, the owner, or other person entitled  
8 thereto, shall be paid as compensation for the property or use,  
9 such sum as the governor or mayor determines to be fair and  
10 just, within twenty days after it has been requisitioned and  
11 taken; provided that the compensation for temporary use may be  
12 paid in monthly or lesser installments. If any person is  
13 unwilling to accept, as full and complete compensation for the  
14 property or use, the sum determined by the governor or mayor,  
15 the person shall be paid seventy-five per cent of the sum  
16 determined by the governor or mayor, and shall be entitled to  
17 sue the State or county for such additional sum as, when added  
18 to the sum already received by the person, the person may  
19 consider fair and just compensation for such property or use, in  
20 the manner provided by chapter 661 for actions against the State  
21 and any other applicable chapter for actions against the county;  
22 provided that the suit is instituted within two years after the  
23 requisition in the case of the taking of real property in fee

1 simple, or within one year after the requisition in all other  
2 cases, subject, to sections 657-13 to 657-15, which are hereby  
3 made applicable to such a suit; except that no more than six  
4 months shall be allowed for the bringing of a suit after the  
5 appointment of a conservator of the person under disability, or  
6 the removal of the disability, or after the appointment of  
7 personal representatives; provided further that recovery shall  
8 be confined to the fair market value of the property or its fair  
9 rental value, as the case may be, without any allowance for  
10 prospective profits, punitive or other damages. Whenever the  
11 owner of property, or other person entitled to compensation on  
12 account of the requisitioning of property or the use thereof, is  
13 under a disability, or has died, and no conservator or personal  
14 representative has been appointed, the State acting through the  
15 attorney general, may apply for the appointment of a  
16 conservator, or for the appointment of a personal  
17 representative.

18 § -24 Determination of damages. The governor or mayor  
19 shall appoint a board of three disinterested certified  
20 appraisers with whom may be filed any claim for damages arising  
21 out of any failure to return private property, the temporary use  
22 of which was requisitioned, or which was leased, or any claim  
23 for damages arising out of the condition in which the private

1 property is returned; provided that no such claim shall be filed  
2 for deterioration of property resulting from ordinary wear and  
3 tear, not for any deterioration or damage except such as is  
4 shown to have resulted from the taking or use of the property.  
5 The claim shall be filed within thirty days after the return of  
6 the property or after the governor or mayor proclaims that all  
7 private property has been returned to the owners, whichever is  
8 earlier. The decision of the appraisers shall be final and  
9 binding upon the governor or mayor, and the claimant, provided  
10 that either party may file a petition in the circuit court  
11 within sixty days after the rendering of a decision of the  
12 board, praying for the decision of the court upon the claim.  
13 The petition, if filed by the State, shall be entitled in the  
14 name of the State, by the attorney general, and if filed by the  
15 county, shall be entitled in the name of the county, by its  
16 corporation counsel, and shall be heard and decided by the  
17 circuit court without the intervention of a jury. If filed by  
18 any other party, the petition shall be filed, heard, and decided  
19 in the manner provided for suits against the State. Appellate  
20 review may be had, subject to chapter 602, in the manner  
21 provided for civil appeals from the circuit courts. The court  
22 may order the joinder of other parties or may allow other  
23 parties to intervene. Any award that has become final shall be

1 paid out of any funds available under this chapter and, if not  
2 sufficient, out of the general revenues of the State as  
3 appropriated or out of the general revenues of the county as  
4 appropriated.

5       §     -25   **Investigations and surveys.** The governor or  
6 mayor may make investigations and surveys for the purpose of  
7 ascertaining facts to be used in administering this chapter, and  
8 in making the investigations and surveys may require the making  
9 or filing of schedules or statements, under oath or otherwise,  
10 may administer oaths, take evidence under oath, subpoena  
11 witnesses, make inspections, and require the production of  
12 books, papers, and records. The circuit court of any circuit or  
13 judge thereof, may enforce by proper proceedings the making or  
14 filing of the schedules or statements, the attendance and  
15 testimony of any witness subpoenaed to appear within the  
16 circuit, or the production of books, papers, and records. The  
17 proceedings shall be in addition to, and not exclusive of, any  
18 other means or methods of enforcement.

19       No person shall be excused from attending and testifying,  
20 or from producing books, papers, or records before the governor  
21 or mayor or in obedience to the subpoena of the governor or  
22 mayor, or in any cause or proceeding, criminal or otherwise,  
23 based upon or growing out of any alleged violation of this

1 chapter or any rule, regulation, or order thereunder, on the  
2 ground, or for the reason, that the testimony or evidence,  
3 documentary or otherwise, required of the person may tend to  
4 incriminate the person or subject the person to a penalty or  
5 forfeiture; but no individual shall be prosecuted or subjected  
6 to any penalty or forfeiture for or on account of any  
7 transaction, matter or thing concerning which the person is  
8 compelled after having claimed the person's privilege against  
9 self-incrimination, to testify or produce evidence, documentary  
10 or otherwise, except that any individual so testifying shall not  
11 be exempt from prosecution and punishment for perjury committed  
12 in so testifying.

13         Witnesses shall be allowed their fees and mileage as in  
14 cases in the circuit courts.

15         § -26 Rules and orders. For the purpose of carrying  
16 out any provision of this chapter, the governor or mayor may  
17 adopt rules, which may, if so stated in the rules, have the  
18 force and effect of law. All the rules, and likewise all other  
19 action taken under this chapter, shall be made and taken with  
20 due consideration of the orders, rules, regulations, actions,  
21 recommendations, and requests of federal authorities relevant  
22 thereto. In these rules reasonable classifications, exceptions,

1 and exemptions may be made and granted. Chapter 91 shall not  
2 apply to such rules.

3       The power to adopt rules having the force and effect of law  
4 shall not be deemed in derogation of the power of the governor,  
5 or the governor's duly authorized representatives, or the mayor,  
6 or the mayor's duly authorized representative, to make orders  
7 for the enforcement of this chapter or the rules issued  
8 thereunder. The rules may provide for the making of  
9 administrative findings by duly authorized representatives, or  
10 for the application of the rules by such representatives as the  
11 circumstances may require, and the issuance of orders therefor.

12       Rules adopted pursuant to this chapter shall be promulgated  
13 as herein provided, and may be made effective upon the  
14 promulgation. The rules shall be promulgated by publishing the  
15 same in a newspaper of general circulation in the State, the  
16 manner prescribed by this chapter for publication of  
17 proclamations, or, where only known persons are concerned, the  
18 same may be promulgated by service upon these persons by  
19 registered or certified mail, or by personal service; provided  
20 that when immediate promulgation of the rules is necessary in  
21 the opinion of the governor or mayor, who shall be the sole  
22 judge thereof, in lieu of publication, the same may be  
23 promulgated by radio broadcast or such other means as may be



1 available; provided further that the rules shall be published  
2 thereafter, as hereinbefore provided at the earliest practicable  
3 date.

4       §     -27   **Forfeitures.** The forfeiture of any property  
5 unlawfully possessed, pursuant to this chapter, may be adjudged  
6 upon conviction of the offender found to be unlawfully in  
7 possession of the same, where no person other than the offender  
8 is entitled to notice and hearing with respect to the  
9 forfeiture, or the forfeiture may be enforced by an appropriate  
10 civil proceeding brought in the name of the State. The district  
11 courts and circuit courts shall have concurrent jurisdiction of  
12 the civil proceedings. Any property forfeited as provided in  
13 this section may be ordered destroyed, or may be ordered  
14 delivered for public use to such agency as shall be designated  
15 by the governor or the governor's representative, or may be  
16 ordered sold, wholly or partially, for the account of the State.

17       §     -28   **Preliminary or interlocutory injunctions and**  
18 **temporary restraining orders.** Any provision of law to the  
19 contrary notwithstanding, no preliminary or interlocutory  
20 injunction, or temporary restraining order, suspending,  
21 enjoining, or restraining the enforcement, operation, or  
22 execution of, or setting aside, in whole or in part, on the  
23 ground of unconstitutionality or for any other reason or

1 reasons, any provision of this chapter or any proclamation,  
2 order, rule, or regulation prescribed, made or issued under the  
3 authority of this chapter, shall be issued or granted by any  
4 court of the State, or by any judge thereof, unless the  
5 application for the same is presented to a circuit judge, and is  
6 heard and determined by the circuit judge sitting with two other  
7 circuit judges, and unless a majority of the judges concur in  
8 granting the application. When the application is presented to  
9 a judge, the judge shall immediately notify the chief justice of  
10 the supreme court of the State; or in the event of the chief  
11 justice's absence or incapacity or a vacancy in the office, the  
12 senior associate justice, who shall forthwith assign two other  
13 circuit judges to sit with the circuit judge in hearing and  
14 determining the application. The application shall not be heard  
15 or determined before at least five days' notice of the hearing  
16 has been given to the governor and to the attorney general, the  
17 mayor and the county corporation counsel, and to such other  
18 persons as may be defendants or respondents in the suits;  
19 provided that in cases where immediate irreparable damage would  
20 otherwise ensue to the petitioner, the circuit judge to whom the  
21 application is made may, after giving notice to the governor and  
22 the attorney general or the mayor and the county corporation  
23 counsel and allowing them an opportunity to appear, grant a

1 temporary stay or suspension, in whole or in part, of the  
2 operation of the statutory provision, proclamation, order, rule,  
3 or regulation, the stay or suspension to remain in force only  
4 until the hearing and determination of the application for a  
5 preliminary or interlocutory injunction, and in any event for  
6 not more than ten days from the date of the order of the judge,  
7 provided further that if the two additional circuit judges have  
8 been assigned to the case, no temporary stay or suspension shall  
9 be ordered unless a majority of the three circuit judges shall  
10 concur. In a case of the stay or suspension, the order of the  
11 judge or judges shall contain a finding or findings, based upon  
12 evidence submitted to the judge or judges and incorporated in  
13 the order by reference thereto, that irreparable damage would  
14 result to the petitioner, and specifying the nature of the  
15 damage and why it is immediate and irreparable. The three  
16 circuit judges assigned to sit in the case may, upon a like  
17 finding and for good cause shown, appearing from reasons entered  
18 of record, continue the temporary stay or suspension for an  
19 additional ten-day period, but for only one such period unless  
20 the party against whom the order is directed consents that it  
21 may be extended for a longer period. The hearing upon an  
22 application for a preliminary or interlocutory injunction shall  
23 be given precedence and shall be in every way expedited and be

1 assigned for hearing at the earliest practicable day. If a  
2 temporary stay or suspension has been allowed, the application  
3 for a preliminary or interlocutory injunction shall be set for  
4 hearing within five days after the granting of the stay or  
5 suspension. When the matter comes on for hearing, the party who  
6 obtained the temporary stay or suspension shall proceed with the  
7 application for a preliminary or temporary injunction.  
8 Otherwise the temporary order shall be dissolved forthwith. No  
9 extension of time shall be granted without the approval of at  
10 least two of the three judges. Upon the final hearing of any  
11 such suit the same requirement as to judges and the same  
12 procedure as to expedition shall apply.

13       §     -29   **Enforcement of injunction proceedings;**  
14 **interventions.** (a) Whenever in the judgment of the governor or  
15 mayor, any person has engaged or is about to engage in any act  
16 or practice that constitutes or will constitute a violation of  
17 any provision of this chapter, or any rule of the governor or  
18 mayor issued under this chapter, having the force and effect of  
19 law, the governor or mayor may make application to the  
20 appropriate court in the name of the State or county for an  
21 order enjoining the acts or practices, or for such other order  
22 as will enforce compliance with the provisions, and upon a  
23 showing by the governor or mayor in such manner and form as is

1 usual in injunction cases, that the person has engaged or is  
2 about to engage in any such act or practice, a permanent or  
3 temporary injunction, restraining order, or other appropriate  
4 order shall be granted without bond.

5 (b) The governor may intervene in the name of the State or  
6 the mayor may intervene in the name of the county in any action  
7 or proceeding wherein a party asserts a right or relies for  
8 ground of relief or defense upon this chapter or upon any rule  
9 or regulation of the governor or mayor issued hereunder, or  
10 wherein, in the judgment of the governor or mayor, there is an  
11 issue to be presented that involves enforcement of this chapter  
12 or the rules.

13 § -30 **Misdemeanors.** Any person violating any rule of  
14 the governor or mayor prescribed and promulgated pursuant to  
15 this chapter and having the force and effect of law, shall, if  
16 it shall be so stated in the rule, be guilty of a misdemeanor.  
17 Upon conviction the person shall be fined not more than \$5,000,  
18 or imprisoned not more than one year, or both.

19 Any person who, intentionally, knowingly, or recklessly,  
20 destroys, damages, or loses any shelter or warning or signal  
21 device, shall if the same was installed or constructed by the  
22 United States, the State, or a county, or is the property of the  
23 United States, the State, or a county, be fined the cost of

1 replacement, or imprisoned not more than one year, or both. The  
2 governor or mayor, by rule, may make further provisions for the  
3 protection from misuse of shelters, protective devices, and  
4 warning and signal devices.

5 § -31 Rental or sale of essential commodities during a  
6 state disaster; prohibition against price increases. (a)

7 Whenever the governor declares an emergency for the entire State  
8 or any portion thereof, or a mayor declares an emergency for the  
9 county or any portion thereof, or when the State, or any portion  
10 thereof, is the subject of a severe weather warning:

11 (1) There shall be prohibited any increase in the selling  
12 price of any commodity, whether at the retail or  
13 wholesale level, in the area that is the subject of  
14 the declaration or the severe weather warning; and

15 (2) No landlord shall terminate any tenancy for a  
16 residential dwelling unit in the area that is the  
17 subject of a disaster declaration or a severe weather  
18 warning, except for a breach of a material term of a  
19 rental agreement or lease, or if the unit is unfit for  
20 occupancy as defined in this chapter, provided that:

21 (A) Nothing in this chapter shall be construed to  
22 extend a fixed term lease beyond its termination  
23 date, except that a periodic tenancy for a

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residential dwelling unit may be terminated by the landlord upon forty-five days written notice:

- (i) When the residential dwelling unit is sold to a bona fide purchaser for value; or
- (ii) When the landlord or an immediate family member of the landlord will occupy the residential dwelling unit; or

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

- (i) Reoccupancy shall first be offered to the same tenant or tenants upon completion of the repair; and
- (ii) The term of the fixed term lease or periodic tenancy shall be extended by a period of time equal to the duration of the repair; and
- (iii) It shall be the responsibility of the tenant or tenants to find other accommodations 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 disaster, and which can be documented, may be passed on to the  
4 consumer. In the case of a residential dwelling unit, if rent  
5 increases are contained in a written instrument that was signed  
6 by the tenant prior to the declaration or severe weather  
7 warning, the increases may take place pursuant to the written  
8 instrument.

9           (c) The prohibitions under subsection (a) shall remain in  
10 effect until twenty-four hours after the severe weather warning  
11 is canceled by the national weather service; or in the event of  
12 a declaration, the later of a date specified by the governor or  
13 mayor in the declaration or ninety-six hours after the effective  
14 date and time of the declaration, unless such prohibition is  
15 continued by a supplementary declaration issued by the governor  
16 or mayor. The effective time for this section shall be twelve  
17 noon of the effective date of the proclamation if no time is  
18 given in the proclamation.

19           (d) In any action against a merchant, landlord, or other  
20 business for violation of the price limitations in this section,  
21 the defendant shall be deemed not to have violated this section  
22 if the defendant proves all of the following:



- 1           (1) The violation of the price limitation was  
2                   unintentional;
- 3           (2) The defendant voluntarily rolled back prices to the  
4                   appropriate level upon discovering that this section  
5                   was or may have been violated; and
- 6           (3) The defendant has instituted a restitution program for  
7                   all consumers who may have paid excessive prices.
- 8           (e) Any violation of this section shall constitute unfair  
9 methods of competition and unfair and deceptive acts or  
10 practices in the conduct of any trade or commerce under section  
11 480-2 and shall be subject to a civil penalty as provided in  
12 section 480-3.1. Each item sold at a price that is prohibited  
13 by this section shall constitute a separate violation.

14           §     -32 Penalties prescribed by this chapter additional  
15 to other penalties. If conduct prohibited by or under the  
16 authority of this chapter is also made unlawful by another or  
17 other laws, the offender may be convicted as provided in this  
18 chapter or for the violation of the other law or laws.

19           §     -33 Effect of this chapter on other laws. All laws  
20 inconsistent with the provisions of this chapter, or of any rule  
21 issued under the authority of this chapter, shall be suspended  
22 during the period of time and to the extent that the emergency

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1 exists, and may be, by the governor for all laws, or mayor for  
2 county laws, designated as so suspended."

3 SECTION 3. Section 1-28.5, Hawaii Revised Statutes, is  
4 amended by amending subsection (d) to read as follows:

5 "(d) This section shall not apply to notices required by  
6 chapters 103D, 103F, \_\_\_\_\_, and 523A."

7 SECTION 4. Section 26-21, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§26-21 Department of defense. (a) The department of  
10 defense shall be headed by a single executive to be known as the  
11 adjutant general. The adjutant general shall also be the  
12 director of [~~civil defense.~~] emergency management.

13 The adjutant general is responsible for the administration,  
14 operation, and management of the Hawaii emergency management  
15 agency.

16 [~~There shall be a full-time vice-director of civil defense~~  
17 ~~who shall be appointed and may be removed by the director.~~]

18 The department shall be responsible for the defense of the  
19 State and its people from mass violence, originating from either  
20 human or natural causes.

21 The devolution of command of the military forces in the  
22 absence of the adjutant general shall be within the military  
23 establishment. The devolution of command of the [~~civil defense~~

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1 agency] Hawaii emergency management agency in the absence of the  
2 [~~director of civil defense~~] adjutant general shall be within the  
3 [~~civil defense agency.~~] Hawaii emergency management agency.

4 [~~(b) There shall be within the department of defense a~~  
5 ~~commission to be known as the civil defense advisory council~~  
6 ~~which shall sit in an advisory capacity to the director of civil~~  
7 ~~defense on matters pertaining to civil defense. The composition~~  
8 ~~of the commission shall be as heretofore provided by law for the~~  
9 ~~civil defense advisory council existing immediately prior to~~  
10 ~~November 25, 1959.~~

11 [~~(c) The functions and authority heretofore exercised by~~  
12 ~~the military department and the civil defense agency as~~  
13 ~~heretofore constituted are transferred to the department of~~  
14 ~~defense established by this chapter.]~~

15 (b) The office of veterans' services and the advisory  
16 board on veterans' services as constituted by chapter 363 are  
17 placed within the department of defense for administrative  
18 purposes."

19 SECTION 5. Section 121-30, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 "§121-30 Order to active service. In case of war,  
22 insurrection, invasion, riot, or imminent danger thereof, or any  
23 forcible obstruction to the execution of the laws, or reasonable

1 apprehension thereof, or for assistance to civil authorities in  
2 disaster relief [~~or civil defense~~], the governor may order the  
3 national guard or other component of the militia or any part  
4 thereof into active service. The governor or the governor's  
5 designated representative also may order the national guard into  
6 active service as emergency personnel for emergency management  
7 functions or in nonemergency situations for duty and training in  
8 addition to the drill and instruction required by section 121-  
9 28."

10 SECTION 6. Section 134-7.2, Hawaii Revised Statutes, is  
11 amended by amending subsections (a) and (b) to read as follows:

12 "(a) Notwithstanding any provision of chapter [~~128~~] \_\_\_ or  
13 any other law to the contrary, no person or government entity  
14 shall seize or confiscate, under any [~~civil defense~~]  
15 emergency[~~7~~] or disaster relief powers or functions conferred,  
16 or during any [~~civil defense~~] emergency period, as defined in  
17 section [~~128-27~~] \_\_\_-15, or during any time of national  
18 emergency or crisis, as defined in section 134-34, any firearm  
19 or ammunition from any individual who is lawfully permitted to  
20 carry or possess the firearm or ammunition under part I of this  
21 chapter and who carries, possesses, or uses the firearm or  
22 ammunition in a lawful manner and in accordance with the  
23 criminal laws of this State.

1 (b) Notwithstanding any provision of chapter [~~128~~] \_\_\_\_ or  
2 any other law to the contrary, no person or government entity  
3 shall suspend, revoke, or limit, under any [~~civil-defense,~~]  
4 emergency[~~7~~] or disaster relief powers or functions conferred,  
5 any lawfully acquired and maintained permit or license obtained  
6 under and in accordance with part I of this chapter."

7 SECTION 7. Section 269-16.3, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 "(a) Any utility that sustains damage to its facilities as  
10 a result of a state-declared emergency (including but not  
11 limited to [~~disaster relief and civil defense~~] emergencies as  
12 defined in [~~chapters 127 and 128~~]) chapter ) and incurs costs  
13 related to the restoration and repair of its facilities which,  
14 if assessed only on the utility ratepayers of the affected  
15 utility service territory, may result in a rate increase of more  
16 than fifteen per cent for the average ratepayer in that utility  
17 service territory, may apply to the public utilities commission  
18 in accordance with this section to recover the costs provided  
19 herein through a monthly surcharge which shall be assessed on a  
20 statewide basis and shall be based on the utility's net  
21 restoration and repair costs; provided that the surcharge shall  
22 not result in an assessment of more than fifteen per cent for  
23 the average ratepayer in each of the other utility service

1 territories and provided further that the public utilities  
2 commission shall exclude ratepayers in utility service  
3 territories with rates that may be substantially higher than  
4 other utility service territories in the State.

5 The public utilities commission shall have the authority to  
6 initially set, or subsequently revise, the surcharge to reflect  
7 the actual net restoration and repair costs incurred after  
8 deduction of amounts received from outside sources of recovery.  
9 Such outside sources of recovery shall include, but not be  
10 limited to, insurance proceeds, government grants, and  
11 shareholder contributions."

12 SECTION 8. Section 271G-10, Hawaii Revised Statutes, is  
13 amended by amending subsection (g) to read as follows:

14 "(g) The commission shall not issue any certificate that  
15 is designated as interim or temporary or that otherwise does not  
16 conform to the requirements of this chapter except in response  
17 to an emergency situation; provided that an emergency situation  
18 shall mean a state-declared emergency [~~including disaster relief~~  
19 ~~pursuant to [chapter 127 or a civil defense emergency]~~ pursuant  
20 to chapter ~~[128-]~~ \_\_\_\_\_. Any certificate issued pursuant to this  
21 subsection shall expire upon the expiration of the state-  
22 declared emergency or an earlier date determined by the  
23 commission in response to prevailing conditions. An extension

1 of a certificate granted under this subsection beyond the  
2 expiration of the state-declared emergency or date determined by  
3 the commission shall be granted only subject to the notice,  
4 hearing, and findings requirements of this chapter."

5 SECTION 9. Section 707-700, Hawaii Revised Statutes, is  
6 amended by amending the definition of "emergency worker" to read  
7 as follows:

8 "Emergency worker" means any:

- 9 (1) Law enforcement officer, including but not limited to  
10 any police officer, public safety officer, parole or  
11 probation officer, or any other officer of any county,  
12 state, federal, or military agency authorized to  
13 exercise law enforcement or police powers;
- 14 (2) Firefighter, emergency medical services personnel,  
15 emergency medical technician, ambulance crewmember, or  
16 any other emergency response personnel;
- 17 (3) Member of the Hawaii national guard on any duty or  
18 service done under or in pursuance of an order or call  
19 of the governor or the President of the United States  
20 or any proper authority;
- 21 (4) Member of the United States Army, Air Force, Navy,  
22 Marines, or Coast Guard on any duty or service done  
23 under or in pursuance of an order or call of the

- 1           President of the United States or any proper
- 2           authority;
- 3           (5) Member of the national guard from any other state
- 4           ordered into service by any proper authority; or
- 5           (6) Person engaged in [~~civil defense~~] emergency management
- 6           functions as authorized by the director of [~~civil~~
- 7           ~~defense~~] emergency management or as otherwise
- 8           authorized under chapter [~~128, or~~] \_\_\_\_\_.
- 9           ~~[(7) Person engaged in disaster relief by authorization of~~
- 10           ~~the director of disaster relief or as otherwise~~
- 11           ~~authorized under chapter 127.] "~~

12           SECTION 10. Section 707-712.7, Hawaii Revised Statutes, is

13 amended to read as follows:

14           " [+] §707-712.7 [+] **Assault against an emergency worker.**

15           (1) A person commits the offense of assault against an

16 emergency worker if the person, during the time of [~~a civil~~

17 ~~defense~~] an emergency proclaimed by the governor pursuant to

18 chapter [~~128,~~] \_\_\_\_\_, within the area covered by the [~~civil~~

19 ~~defense~~] emergency [~~or during the period of disaster relief~~

20 ~~under chapter 127]~~ :

- 21           (a) Intentionally, knowingly, or recklessly causes serious
- 22           or substantial bodily injury to an emergency worker;
- 23           or



1 (b) Intentionally, knowingly, or recklessly causes bodily  
2 injury to an emergency worker with a dangerous  
3 instrument.

4 (2) Assault against an emergency worker is a class B  
5 felony."

6 SECTION 11. Section 708-817, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "[~~+~~]§708-817[~~+~~] Burglary of a dwelling during [~~a civil~~  
9 ~~defense~~] an emergency [~~or disaster relief~~] period. (1) A  
10 person commits the offense of burglary of a dwelling during [~~a~~  
11 ~~civil defense~~] an emergency [~~or disaster relief~~] period if the  
12 person:

13 (a) Intentionally enters or remains unlawfully in a  
14 dwelling with intent to commit therein a crime against  
15 a person or against property rights; and

16 (b) Recklessly disregards a risk that the building is the  
17 dwelling of another, and the building is such a  
18 dwelling,

19 during the time of [~~a civil defense~~] an emergency proclaimed by  
20 the governor pursuant to chapter [~~1287~~] \_\_\_\_\_, within the area  
21 covered by the [~~civil defense~~] emergency [~~or during the~~] period  
22 [~~of disaster relief~~] under chapter [~~127~~] \_\_\_\_\_.

1           (2) Burglary of a dwelling during [~~a civil defense~~] an  
2 emergency [~~or disaster relief~~] period is a class A felony."

3           SECTION 12. Section 708-820, Hawaii Revised Statutes, is  
4 amended by amending subsection (1) to read as follows:

5           "(1) A person commits the offense of criminal property  
6 damage in the first degree if by means other than fire:

7           (a) The person intentionally or knowingly damages property  
8 and thereby recklessly places another person in danger  
9 of death or bodily injury;

10          (b) The person intentionally or knowingly damages the  
11 property of another, without the other's consent, in  
12 an amount exceeding \$20,000;

13          (c) The person intentionally or knowingly damages the  
14 property of another during the time of a [~~civil~~  
15 ~~defense~~] an emergency proclaimed by the governor  
16 pursuant to chapter [~~128,~~] \_\_\_\_\_, within the area  
17 covered by the [~~civil defense~~] emergency [~~or during~~  
18 ~~the period of disaster relief under chapter 127~~]; or

19          (d) The person intentionally or knowingly damages the  
20 agricultural equipment, supplies, or products or  
21 aquacultural equipment, supplies, or products of  
22 another, including trees, bushes, or any other plant  
23 and livestock of another, without the other's consent,

1 in an amount exceeding \$1,500. In calculating the  
2 amount of damages to agricultural products, the amount  
3 of damages includes future losses and the loss of  
4 future production."

5 SECTION 13. Section 708-830.5, Hawaii Revised Statutes, is  
6 amended by amending subsection (1) to read as follows:

7 "(1) A person commits the offense of theft in the first  
8 degree if the person commits theft:

- 9 (a) Of property or services, the value of which exceeds  
10 \$20,000;
- 11 (b) Of a firearm;
- 12 (c) Of dynamite or other explosive; or
- 13 (d) Of property or services during the time of [~~a civil~~  
14 ~~defense~~] an emergency proclaimed by the governor  
15 pursuant to chapter [~~128,~~] \_\_\_\_\_, within the area  
16 covered by the [~~civil-defense~~] emergency [~~or during~~  
17 ~~the period of disaster relief~~] under chapter [~~127,~~  
18 \_\_\_\_\_], the value of which exceeds \$300."

19 SECTION 14. Section 708-840, Hawaii Revised Statutes, is  
20 amended by amending subsection (1) to read as follows:

21 "(1) A person commits the offense of robbery in the first  
22 degree if, in the course of committing theft or non-consensual  
23 taking of a motor vehicle:

- 1 (a) The person attempts to kill another or intentionally  
2 or knowingly inflicts or attempts to inflict serious  
3 bodily injury upon another;
- 4 (b) The person is armed with a dangerous instrument and:  
5 (i) The person uses force against the person of  
6 anyone present with intent to overcome that  
7 person's physical resistance or physical power of  
8 resistance; or  
9 (ii) The person threatens the imminent use of force  
10 against the person of anyone present with intent  
11 to compel acquiescence to the taking of or  
12 escaping with the property;
- 13 (c) The person uses force against the person of anyone  
14 present with the intent to overcome that person's  
15 physical resistance or physical power of resistance  
16 during the time of [~~a civil defense~~] an emergency  
17 proclaimed by the governor pursuant to chapter [~~128,~~]  
18 \_\_\_\_\_, within the area covered by the [~~civil defense~~]  
19 emergency [~~or during the period of disaster relief~~  
20 ~~under chapter 127~~]; or  
21 (d) The person threatens the imminent use of force against  
22 the person of anyone present with intent to compel  
23 acquiescence to the taking of or escaping with the

1 property during the time of [~~a civil defense~~] an  
2 emergency proclaimed by the governor pursuant to  
3 chapter [128,] \_\_\_\_\_, within the area covered by the  
4 [~~civil defense~~] emergency [~~or during the period of~~  
5 ~~disaster relief under chapter 127~~]."

6 SECTION 15. Chapter 127, Hawaii Revised Statutes, is  
7 repealed.

8 SECTION 16. Chapter 128, Hawaii Revised Statutes, is  
9 repealed.

10 SECTION 17. Section 209-9, Hawaii Revised Statutes, is  
11 repealed.

12 [~~§209-9 Rental or sale of essential commodities during a~~  
13 ~~state disaster; prohibition against price increases. (a)~~  
14 ~~Whenever the governor declares a state disaster for the entire~~  
15 ~~State or any portion thereof, or when the State, or any portion~~  
16 ~~thereof, is the subject of a severe weather warning:~~

17 ~~(1) There shall be prohibited any increase in the selling~~  
18 ~~price of any commodity, whether at the retail or~~  
19 ~~wholesale level, in the area that is the subject of~~  
20 ~~the disaster declaration or the severe weather~~  
21 ~~warning; and~~

22 ~~(2) No landlord shall terminate any tenancy for a~~  
23 ~~residential dwelling unit in the area that is the~~

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1 ~~subject of a disaster declaration or a severe weather~~  
2 ~~warning, except for a breach of a material term of a~~  
3 ~~rental agreement or lease, or if the unit is unfit for~~  
4 ~~occupancy as defined in this chapter, provided that:~~  
5 ~~(A) Nothing in this chapter shall be construed to~~  
6 ~~extend a fixed term lease beyond its termination~~  
7 ~~date, except that a periodic tenancy for a~~  
8 ~~residential dwelling unit may be terminated by~~  
9 ~~the landlord upon forty five days written notice:~~  
10 ~~(i) When the residential dwelling unit is sold to a~~  
11 ~~bona fide purchaser for value; or~~  
12 ~~(ii) When the landlord or an immediate family member of~~  
13 ~~the landlord will occupy the residential dwelling~~  
14 ~~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:~~  
21 ~~(i) Reoccupancy shall first be offered to the same~~  
22 ~~tenant or tenants upon completion of the repair;~~  
23 ~~and~~

1           ~~(ii) The term of the fixed term lease or periodic~~  
2                   ~~tenancy shall be extended by a period of time~~  
3                   ~~equal to the duration of the repair, and~~

4           ~~(iii) It shall be the responsibility of the tenant or~~  
5                   ~~tenants to find other accommodations during the~~  
6                   ~~period of repair.~~

7           ~~As used in this section, "breach of a material term" means~~  
8           ~~the failure of a party to perform an obligation under the rental~~  
9           ~~agreement which constitutes the consideration for entering into~~  
10           ~~the contract and includes the failure to make a timely payment~~  
11           ~~of rent. For the purpose of this subsection:~~

12           ~~"Fixed term lease" means a lease for real property that~~  
13           ~~specifies its beginning date and its termination date as~~  
14           ~~calendar dates, or contains a formula for determining the~~  
15           ~~beginning and termination dates, and the application of the~~  
16           ~~formula as of the date of the agreement will produce a calendar~~  
17           ~~date for the beginning and termination of the lease.~~

18           ~~"Periodic tenancy" means a tenancy wherein real property is~~  
19           ~~leased for an indefinite time with monthly or other periodic~~  
20           ~~rent reserved. A periodic tenancy may be created by express~~  
21           ~~agreement of the parties, or by implication upon the expiration~~  
22           ~~of a fixed term lease when neither landlord nor tenant provides~~  
23           ~~the other with written notice of termination and the tenant~~

1 ~~retains possession of the premises for any period of time after~~  
2 ~~the expiration of the original term.~~

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

8 ~~(b) Notwithstanding this section, any additional operating~~  
9 ~~expenses incurred by the seller or landlord because of the state~~  
10 ~~disaster, and which can be documented, may be passed on to the~~  
11 ~~consumer. In the case of a residential dwelling unit, if rent~~  
12 ~~increases are contained in a written instrument which was signed~~  
13 ~~by the tenant prior to the disaster declaration or severe~~  
14 ~~weather warning, the increases may take place pursuant to the~~  
15 ~~written instrument.~~

16 ~~(c) The prohibitions under subsection (a) shall remain in~~  
17 ~~effect until twenty four hours after the severe weather warning~~  
18 ~~is canceled by the National Weather Service, or in the event of~~  
19 ~~a disaster declaration, until the declaration is altered,~~  
20 ~~amended, revised, or revoked by the governor.~~

21 ~~(d) In any action against a merchant, landlord, or other~~  
22 ~~business for violation of the price limitations in this section,~~



1 ~~the defendant shall be deemed not to have violated this section~~  
2 ~~if the defendant proves all of the following:~~

3 ~~(1) The violation of the price limitation was~~  
4 ~~unintentional;~~

5 ~~(2) The defendant voluntarily rolled back prices to the~~  
6 ~~appropriate level upon discovering that this section~~  
7 ~~was or may have been violated; and~~

8 ~~(3) The defendant has instituted a restitution program for~~  
9 ~~all consumers who may have paid excessive prices.~~

10 ~~(c) Any violation of this section shall constitute unfair~~  
11 ~~methods of competition and unfair and deceptive acts or~~  
12 ~~practices in the conduct of any trade [or] commerce under~~  
13 ~~section 480-2 and shall be subject to a civil penalty as~~  
14 ~~provided in section 480-3.1. Each item sold at a price that is~~  
15 ~~prohibited by this section shall constitute a separate~~  
16 ~~violation." ]~~

17 SECTION 18. The functions and authority heretofore  
18 exercised by the civil defense agency of the department of  
19 defense as heretofore constituted are transferred to the Hawaii  
20 emergency management agency and placed within the department of  
21 defense for administrative purposes.

22 All rights, powers, functions, and duties of the civil  
23 defense agency of the department of defense are transferred to

1 the Hawaii emergency management agency and the Hawaii emergency  
2 management agency is placed within the department of defense for  
3 administrative purposes.

4 No officer or employee of the State having tenure shall  
5 suffer any loss of salary, seniority, prior service credit,  
6 vacation, sick leave, or other employee benefit or privilege as  
7 a consequence of this Act, and such officer or employee may be  
8 transferred or appointed to a civil service position without the  
9 necessity of examination; provided that the officer or employee  
10 possesses the minimum qualifications for the position to which  
11 transferred or appointed; and provided that subsequent changes  
12 in status may be made pursuant to applicable civil service and  
13 compensation laws.

14 An officer or employee of the State who does not have  
15 tenure and who may be transferred or appointed to a civil  
16 service position as a consequence of this Act shall become a  
17 civil service employee without the loss of salary, seniority,  
18 prior service credit, vacation, sick leave, or other employee  
19 benefits or privileges and without the necessity of examination;  
20 provided that such officer or employee possesses the minimum  
21 qualifications for the position to which transferred or  
22 appointed.

1           If an office or position held by an officer or employee  
2 having tenure is abolished, the officer or employee shall not  
3 thereby be separated from public employment, but shall remain in  
4 the employment of the State with the same pay and classification  
5 and shall be transferred to some other office or position for  
6 which the officer or employee is eligible under the personnel  
7 laws of the State as determined by the head of the department or  
8 the governor.

9           All rules, policies, procedures, guidelines, and other  
10 material adopted or developed by the civil defense agency of the  
11 department of defense, or the department of defense on behalf of  
12 the civil defense agency, to implement provisions of the Hawaii  
13 Revised Statutes that are reenacted or made applicable to the  
14 Hawaii emergency management agency by this Act, shall remain in  
15 full force and effect until amended or repealed by the Hawaii  
16 emergency management agency. In the interim, every reference to  
17 the civil defense agency of the department of defense in any  
18 rules, policies, procedures, guidelines, and other material is  
19 amended to refer to the Hawaii emergency management agency.

20           All deeds, leases, contracts, loans, agreements, permits,  
21 or other documents executed or entered into by or on behalf of  
22 the civil defense agency of the department of defense, or the  
23 department of defense on behalf of the civil defense agency,

1 pursuant to the provisions of the Hawaii Revised Statutes, which  
2 are reenacted or made applicable to the Hawaii emergency  
3 management agency, by this Act, shall remain in full force and  
4 effect. Effective upon approval of this Act, every reference to  
5 the civil defense agency of the department of defense or the  
6 department of defense for its civil defense agency, shall be  
7 construed as a reference to the Hawaii emergency management  
8 agency.

9 All appropriations, records, equipment, machines, files,  
10 supplies, contracts, books, papers, documents, maps, and other  
11 personal property heretofore made, used, acquired, or held by  
12 the civil defense agency of the department of defense relating  
13 to the functions transferred to the Hawaii emergency shall be  
14 transferred with functions to which they relate.

15 If any part of this Act is found to be in conflict with  
16 federal requirements that are a prescribed condition for the  
17 allocation of federal funds to the State, the conflicting part  
18 of this Act is inoperative solely to the extent of the conflict  
19 and with respect to the agencies directly affected, and this  
20 funding does not affect the operation of the remainder of this  
21 Act in its application to the agencies concerned. The rules  
22 under this Act shall meet federal requirements that are a

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1 necessary condition to the receipt of federal funds by the  
2 State.

3 SECTION 19. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 20. This Act shall take effect upon its approval;  
6 provided that those portions of section 2 relating to the  
7 establishment of the county emergency management agency shall  
8 take effect on July 1, 2015, or when county enabling legislation  
9 is signed into law, whichever is earlier.

10  
11  
12

INTRODUCED BY:   
BY REQUEST

JAN 22 2013

H .B. NO. 849

**Report Title:**

Department of Defense; Emergency Management

**Description:**

Recodifies Hawaii's emergency management statutes by updating the statutes, clarifying the relationship between the state and county emergency management agencies, and delineating the emergency management functions and powers of the Governor and mayors.

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

JUSTIFICATION SHEET

DEPARTMENT: Defense

TITLE: A BILL FOR AN ACT RELATING TO EMERGENCY MANAGEMENT

PURPOSE: To recodify Hawaii's emergency management laws and bring them into conformity with nationwide practices in emergency management

MEANS: Add one chapter to the Hawaii Revised Statutes; amend sections 26-21, 121-30, 1-28.5, 134-7.2, 269-16.3, 271G-10, 707-700, 707-712.7, 708-817, 708-830.5, and 708-840, Hawaii Revised Statutes; and repeal chapters 127 and 128 and section 209-9, Hawaii Revised Statutes.

JUSTIFICATION: The current statutes governing emergency management and civil defense operations were enacted over 60 years ago and were based on the Civil Defense Act of 1950. These statutes are out of date and are no longer in keeping with the tenets of modern emergency management. Additionally, with sections 1-9 of chapter 127, Hawaii Revised Statutes suspended, there has been confusion as to the power and authority of the governor during disasters.

This bill will clarify powers and authorities of the Governor and the mayors in emergency management, establish county offices of emergency management independent from state control on a day-to-day basis, clarify the responsibilities that the mayors have in performing emergency management in their counties, and outline minimal requirements for the county emergency management agencies.

Impact on the public: The new emergency management statute will use modern language to clarify roles and responsibilities, and will align the state emergency management structure with the way we actually do business. It will also clearly delineate the authority, powers and functions of the Governor and mayors, ensuring that there are no gaps during response to and recovery from, a disaster.

Impact on the department and other agencies:  
Passage of this measure will rename the State Civil Defense Agency to the Hawaii Emergency Management Agency, and establish county emergency management agencies independent from state control on a day-to-day basis.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: DEF-110

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE  
DATE: This Act shall take effect upon its approval; provided that those portions of section 2 relating to the establishment of the county emergency management agency shall take effect on July 1, 2015, or when county enabling legislation is signed into law, whichever is earlier.