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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,  
18 Hawaii's Civil Defense and Emergency Act, is based on the



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4 obsolete and has been replaced by the federal emergency  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

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

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

14 "CHAPTER

15 EMERGENCY MANAGEMENT

16 § -1 **Policy and Purpose.** (a) Because of the existing  
17 and increasing possibility of the occurrence of disasters or  
18 emergencies of unprecedented size and destructiveness resulting  
19 from natural or man-made hazards, and in order to ensure that  
20 preparations of this State will be adequate to deal with such  
21 disasters or emergencies, to ensure the administration of state  
22 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



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

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

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

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



1 "Agency" means the Hawaii emergency management agency  
2 established by section -3.

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

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

14 "Council" means the Hawaii advisory council on emergency  
15 management.

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

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



1 "Critical infrastructure" means those systems, facilities,  
2 and assets, whether physical or virtual, so vital to the county,  
3 State or the nation that the incapacity or destruction of such  
4 systems and assets would have a debilitating impact on national,  
5 state, or county security, economic security, public health or  
6 safety, or any combination of those matters.

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

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



1 "Emergency functions" means any and all emergency  
2 management powers, functions, roles, and all other powers,  
3 functions, and roles provided for by this chapter.

4 "Emergency management" means the preparation for and the  
5 carrying out of all emergency functions, other than functions  
6 for which the military forces are primarily responsible, to  
7 prevent, protect, mitigate against, respond to, and recover from  
8 any injury or damage of any type resulting from any emergency or  
9 disaster, and to aid survivors suffering from injury or damage,  
10 resulting from disasters caused by all hazards, whether caused  
11 by nature, technology, or which are man-made

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



1 with all other activities necessary or incidental to the  
2 preparation for and carrying out the functions and actions of  
3 this chapter.

4 "Emergency personnel" means all personnel involved in any  
5 aspect of emergency management, including state or county  
6 workers, members of the national guard ordered to active service  
7 pursuant to section 121-30, persons engaged in emergency  
8 management functions pursuant to chapter 128F, volunteers, or  
9 any other agents of the county or State.

10 "Emergency period" means the period of existence of a state  
11 of emergency proclaimed by the governor or mayor, as provided in  
12 this chapter.

13 "Evacuation" means the immediate and rapid movement of  
14 people and animals away from the threat or actual occurrence of  
15 any hazard and includes vertical evacuation.

16 "Facilities", except as otherwise provided in this chapter,  
17 includes any infrastructure, buildings and other structures,  
18 shelters, land, roads, highways, thoroughfares, walks, roadways,  
19 bridges, public rights of ways, and any appurtenant facilities,  
20 structures, and materials.

21 "Fixed term lease" means a lease for real property that  
22 specifies its beginning date and its termination date as





1 calendar dates, or contains a formula for determining the  
2 beginning and termination dates; and the application of the  
3 formula as of the date of the agreement will produce a calendar  
4 date for the beginning and termination of the lease.

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

8 "Laws" includes ordinances, rules, regulations, and orders  
9 prescribed under state or county laws or ordinances and having  
10 the force and effect of law.

11 "Materials" includes medicines, supplies, products,  
12 commodities, articles, equipment, machinery, and component  
13 parts.

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

17 "Necessary" means and refers to such means, measures, or  
18 other actions or determinations as are necessary in the opinion  
19 of the governor or governor's authorized representative and a  
20 mayor or the mayor's authorized representative.

21 "Periodic tenancy" means a tenancy wherein real property is  
22 leased for an indefinite time with monthly or other periodic



1 rent reserved. A periodic tenancy may be created by express  
2 agreement of the parties, or by implication upon the expiration  
3 of a fixed term lease when neither landlord nor tenant provides  
4 the other with written notice of termination and the tenant  
5 retains possession of the premises for any period of time after  
6 the expiration of the original term.

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

10 "Shelter" without prejudice to any other meaning associated  
11 with the word, includes any structure, excavation, or other  
12 facility or item used or useful in the protection of persons or  
13 property.

14 "States" includes the several states, the District of  
15 Columbia, and the possessions of the United States, and also  
16 includes, the State of Hawaii, and to the extent authorized by  
17 or under federal law, foreign countries and their provinces and  
18 states.

19 "Traffic control" includes plans, regulations, devices, and  
20 actions for the control of traffic to provide for the rapid and  
21 safe movement or evacuation of any people, vehicles, and  
22 materials for emergency management, and for the movement and



1 cessation of movement of any pedestrians and vehicular traffic  
2 during, before and after emergencies, emergency management  
3 exercises, or other emergency management actions or activities.

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

9 "Vertical evacuation" means to move to a higher floor or  
10 higher ground to gain safety above the height of expected  
11 inundation by water.

12 § -3 **Hawaii emergency management agency.** (a) There is  
13 established within the department of defense the Hawaii  
14 emergency management agency. The director of Hawaii emergency  
15 management, subject to the direction and control of the  
16 governor, shall oversee the agency.

17 (b) There shall be an administrator of emergency  
18 management who shall be appointed and may be removed by the  
19 director, provided that candidates for the position of  
20 administrator shall have at least three years of experience  
21 leading emergency management efforts at the local, state or  
22 federal level. The administrator shall, in the absence of the



1 director, have all the duties and responsibilities of the  
2 director. The administrator is the civilian head of, and is  
3 responsible for the day-to-day operations of, the emergency  
4 management agency. In the absence of the director, the  
5 administrator reports directly to the governor on emergency  
6 management issues. Chapter 76 shall not apply to the  
7 administrator.

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

11 (d) The director shall coordinate the activities of the  
12 agency with all county emergency management agencies, other  
13 state agencies, other states, federal agencies involved in  
14 emergency management activities, and all organizations for  
15 emergency management within the State, public or private, and  
16 shall maintain liaison with and cooperate with other emergency  
17 management agencies as provided in this chapter.

18 (e) The functions and authority heretofore exercised by  
19 the military department and the civil defense agency as  
20 heretofore constituted are transferred to the Hawaii emergency  
21 management agency established by this chapter.



1           §     -4   **Hawaii advisory council on emergency management.**

2   To provide a public body with whom the governor may consult and  
3   by whom the governor may be advised in the performance of the  
4   governor's duties and in the exercise of the governor's powers  
5   in matters pertaining to emergency management, there shall be a  
6   Hawaii advisory council on emergency management, which is  
7   administratively attached to the Hawaii emergency management  
8   agency and shall consist of seven members to be appointed by the  
9   governor, one of whom shall be designated as chairperson. The  
10   Hawaii advisory council on emergency management, on the request  
11   of the governor, shall confer with and advise the governor in  
12   regard to matters pertaining to emergency management. Members  
13   of the Hawaii advisory council on emergency management shall  
14   receive no compensation, but shall be reimbursed for their  
15   travel and other reasonable and necessary expenses incurred.  
16   Persons holding public office or employment in the state  
17   government, or any political subdivision thereof, are eligible  
18   for appointment to the Hawaii advisory council on emergency  
19   management.

20           §     -5   **County emergency management agency.** (a) The  
21   mayor of each county has direct responsibility for emergency  
22   management within the county including the organization,



1 administration, and operation of the county emergency management  
2 agency.

3 (b) Each county agency shall perform emergency management  
4 functions within the territorial limits of the county within  
5 which it is organized, coordinate all plans, and cooperate as  
6 closely as possible with the agency in all aspects of emergency  
7 management.

8 (c) Each county is responsible for the establishment,  
9 naming, and operation of a county emergency management agency in  
10 accordance with plans and programs of the agency and shall  
11 promulgate such laws, rules, regulations and procedures, and  
12 appropriate such funding, as they deem necessary to support the  
13 county emergency management agency.

14 (d) Each county legislative body will enact laws to  
15 establish the county emergency management agency and ensure that  
16 the mayor and each county emergency management agency have the  
17 powers necessary to be recognized as an emergency management  
18 agency, receive state and federal funds, and carry out the  
19 functions of this chapter at the county level, including the  
20 following:

21 (1) To provide powers at the county level, in addition to  
22 those already provided to the mayor in section -12,



1 emergency management functions contained in section  
2 -13(b), and additional powers in an emergency period  
3 contained in section -14(b), provided such powers  
4 and functions are limited to county laws, rules,  
5 regulations, and jurisdiction unless otherwise  
6 specifically provided for in this chapter;

7 (2) To provide, for the mayor of each county, a county-  
8 level administrator or director of emergency  
9 management, and such technical, administrative, and  
10 other personnel, office space, furniture, equipment,  
11 supplies, and funds as may be necessary to carry out  
12 the purposes of this chapter. Chapter 76 shall apply  
13 to the director or administrator of emergency  
14 management;

15 (3) To make appropriations and authorize expenditures for  
16 the purposes of this chapter, including the power to  
17 place under the control of the mayor, for expenditure  
18 as matching funds for federal aid, or for any purpose  
19 within the powers of the mayor, moneys appropriated by  
20 it; to make appropriations and authorize expenditures  
21 for the purposes of this chapter out of the normal  
22 revenues or fund balances or surpluses of the



1 counties, notwithstanding any legal restrictions upon  
2 the purposes for which the funds may be expended,  
3 except that pension and retirement funds, funds set  
4 aside for the redemption of bonds or the payment of  
5 interest thereon, trust funds, loan funds, and funds  
6 received from the federal government or from any  
7 person for specific purposes shall not be affected;

8 (4) To ensure continuity of government during an emergency  
9 period by providing the procedure for the appointment  
10 and designation of stand-by officers for the  
11 legislative body and the elected chief executive of  
12 the county for the emergency period, who shall serve  
13 in the event of the unavailability of the officers for  
14 whom they stand by;

15 (5) To establish an emergency operations center and staff  
16 it appropriately; and

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

19 § -6 **Emergency specialist reserve corps.** (a) The  
20 director may establish an emergency specialist reserve corps  
21 comprised of trained specialists to support state or county  
22 emergency requirements. The members of the emergency specialist





1 reserve corps may include any employee of the State or county,  
2 employees hired specifically for staffing during emergency  
3 periods and exercises, or any volunteer, who shall be detailed  
4 in accordance with this chapter.

5 (b) The emergency specialist reserve corps shall support  
6 state emergency requirements and, if requested, augment county  
7 emergency staff, said specialists to be mobilized during, or in  
8 advance of, natural or man-made disasters or training events.  
9 Reserve corps personnel shall be required to attend a minimum of  
10 four days of paid training per year. Reserve corps positions  
11 shall be authorized and managed at the agency and do not need  
12 approval of the governor.

13 § -7 **Warning point.** The agency shall establish and  
14 operate the state warning point. The state warning point shall  
15 be staffed to monitor warning systems and devices around the  
16 clock on a year-round basis and have the ability to provide  
17 timely warning and notification to state government officials,  
18 county warning points and, if necessary, the general public.

19 § -8 **Status and rights of personnel.** (a) If any  
20 government officer or employee of the State or county is engaged  
21 in carrying out this chapter in lieu of the officer's or  
22 employee's regular office or employment, the amount of the



1 officer's or employee's compensation shall not be adversely  
2 affected, and the officer's or employee's rights in or under the  
3 laws relating to vacations and leaves, the retirement system,  
4 civil service or the like, shall not be adversely affected.

5 (b) All persons, including volunteers whose services have  
6 been accepted by authorized persons, while engaged in the  
7 performance of duty pursuant to this chapter, including duty  
8 performed during periods of training, shall be deemed state  
9 employees if their performance of duty is for the State, or  
10 county employees if their performance of duty is for the county,  
11 and shall have the powers, duties, rights, and privileges of  
12 such in the performance of their duties, except as, pursuant to  
13 this chapter, may be prescribed by or under the authority of the  
14 governor or the mayor.

15 (c) In case of injury or death arising out of and in the  
16 performance of duty pursuant to this chapter, including duty  
17 performed during periods of training, all persons having the  
18 status of officers or employees of the State or county, pursuant  
19 to this section, and their dependents, shall be entitled to all  
20 of the benefits provided in chapter 386, including medical  
21 services and supplies, and in case of the injury or death no  
22 public official shall be excluded from the coverage of chapter



1 386 by reason of being an elected official. For the purposes of  
2 the benefits, average weekly wages shall be computed upon the  
3 basis set forth in section 386-51, or upon the basis of earnings  
4 from the usual employment of the person, or upon the basis of  
5 earnings at the rate of \$20 per week, whichever is most  
6 favorable to the claimant or claimants. The costs thereof, in  
7 cases of state employees, shall be a charge upon the state  
8 insurance fund and, in cases of county employees, shall be a  
9 charge upon the county insurance fund; provided that the  
10 governor or mayor may effect such insurance in respect of the  
11 obligations assumed pursuant to this section and as may be  
12 available under any mutual aid agreement or act of Congress.  
13 Nothing herein shall adversely affect the right of any person to  
14 receive any benefits or compensation under any act of Congress.

15 § -9 Immunities; rights. (a) Neither:  
16 (1) The State;  
17 (2) Any county;  
18 (3) Any public utility or vital facility;  
19 (4) Private agencies or entities; nor  
20 (5) Except in cases of willful misconduct, persons engaged  
21 in emergency functions pursuant to this chapter



1 (including volunteers whose services are accepted by  
2 any authorized person);

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

6 (b) No act or omission shall be imputed to the owner of  
7 any vehicle by reason of the owner's ownership thereof; provided  
8 that nothing herein shall preclude recovery by any person for  
9 injury or damage sustained from the operation of any vehicle  
10 which may be insured under section 41D-8 to the extent of the  
11 insurance, and unless specifically provided, insurance effected  
12 under section 41D-8 shall not include coverage of such risk  
13 during an emergency period. The governor may insure vehicles  
14 owned by the State or in the custody and use of the emergency  
15 management agency, but insurance effected under section 41D-8 on  
16 vehicles used for purposes other than emergency management need  
17 not necessarily include coverage of the insured vehicle against  
18 the risk incurred or which would be incurred under this chapter  
19 as a result of the use of the insured vehicle for emergency  
20 management.

21 (c) Members of the United States army, air force, navy,  
22 marines, or coast guard on any duty or service done under or in



1 pursuance of an order or call of the President of the United  
2 States or any proper authority, and the national guard from any  
3 other state ordered into service by any proper authority, to  
4 assist civil authorities engaged in emergency functions pursuant  
5 to this chapter shall not be liable, civilly or criminally, for  
6 any act done or caused by them in pursuance of duty in such  
7 service.

8       §     -10   **Political activity prohibited.**   No organization  
9 for emergency management established under the authority of this  
10 chapter shall participate in any form of political activity, nor  
11 shall it be employed directly or indirectly for political  
12 purposes.

13       §     -11   **Powers on whom conferred; delegation of powers.**

14 (a) Except as otherwise expressly provided, all of the powers  
15 conferred by this chapter are conferred on the governor or  
16 mayor, who may delegate to agencies, officers, employees, and  
17 other persons, or any of them, created, appointed, or employed  
18 under, or engaged in carrying out this chapter, or to any  
19 government agency, officer, or employee, state or county, or  
20 otherwise, or provide for the subdelegation of, any of the  
21 powers, except the power (1) to proclaim an emergency or  
22 emergency period or to proclaim the period terminated, or to



1 make any other proclamation provided for by this chapter, (2) to  
2 prescribe rules having the force and effect of law, and (3) to  
3 make allotments of funds appropriated or available for the  
4 purposes of this chapter. Unless otherwise directed by the  
5 governor or mayor, all of the powers pertaining to emergency  
6 management, hereby authorized to be delegated by the governor or  
7 mayor, shall be deemed to have been delegated by the governor to  
8 the director of emergency management and the mayor to the  
9 administrator of the county agency, with the further authority  
10 to subdelegate the powers to any agency or person to whom the  
11 governor or mayor could delegate these powers.

12 (b) The powers and authority conferred upon the governor  
13 or mayor by this chapter are in addition to any other powers or  
14 authority conferred upon the governor or mayor by the laws of  
15 the United States and of the State or county for the same or a  
16 like purpose, and shall not be construed as abrogating,  
17 limiting, or modifying any such powers, or authority.

18 § -12 **Emergency management powers, in general.** (a)

19 The governor or mayor may:

20 (1) Prepare comprehensive plans and programs for the  
21 protection of the State or county against natural and  
22 man-made hazards, the plans and programs to be



- 1 integrated into and coordinated with the emergency  
2 management plans of the State, counties, the federal  
3 government, other states, and private entities of any  
4 type to the fullest possible extent;
- 5 (2) Identify emergency response personnel required to  
6 report for duty as directed by the department head  
7 regardless of the availability of any type of leave;
- 8 (3) Institute training, preparedness, and public  
9 information programs in coordination with the State,  
10 counties, federal government, other states, and  
11 private entities of any type;
- 12 (4) Provide or authorize suitable insignia of authority  
13 for all authorized personnel; and
- 14 (5) Direct or control, as may be necessary for emergency  
15 management:
- 16 (A) Alerts, warnings, notifications, activations,  
17 exercises, drills, tests, and exercises;
- 18 (B) Warnings and signals for alerts or exercises, and  
19 any type of warning device, system, or method to  
20 be used in connection therewith;



1 (C) Partial or full mobilization of emergency  
2 management personnel for training, in advance of,  
3 or in response to, an actual emergency;

4 (D) The conduct of civilians and the movement and  
5 cessation of movement of pedestrians and  
6 vehicular traffic during, before, and after  
7 alerts, drills, exercises, or emergencies; and

8 (E) Traffic control.

9 § -13 **Emergency management functions.** (a) The  
10 governor shall have the following emergency management functions  
11 and powers, irrespective of the existence of an emergency:

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





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



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

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

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



1 regard to chapters 76, 78, and 88 of such agencies,  
2 officers, and other persons as the governor 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 State;

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

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

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

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



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

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

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

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



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

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

14 (18) The governor may assure the continuity of service by  
15 critical infrastructure and key resources, both  
16 publicly and privately owned, by regulating or, if  
17 necessary during an emergency period, to the  
18 continuation of the service thereof, by taking over  
19 and operating the same;

20 (19) The governor may fix or revise the hours of government  
21 business; and



1           (20) The governor may take any and all steps necessary or  
2           appropriate to carry out the purposes of this chapter  
3           and to provide for emergency management and other  
4           emergency management functions.

5           (b) The mayor shall have the following emergency  
6 management functions and powers, irrespective of the existence  
7 of an emergency period:

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

15          (2) Sponsor and develop mutual aid plans and agreements  
16          for emergency management between the one or more  
17          counties, and other public or private agencies, for  
18          the furnishing or exchange of food, clothing,  
19          medicine, and other materials; engineering services,  
20          emergency housing; police services; health, medical,  
21          and related services; firefighting, rescue,  
22          transportation, and construction services and



1 facilities; personnel necessary to provide or conduct  
2 these services; and such other materials, facilities,  
3 personnel, and services as may be needed. The mutual  
4 aid plans and agreements may be made with or without  
5 provisions for reimbursement of costs and expenses,  
6 and on such terms and conditions as are deemed  
7 necessary;

8 (3) Take possession of, use, manage, control, and  
9 reallocate any public property of the county, real or  
10 personal, required by the mayor for the purposes of  
11 this chapter, including, without limitation, parks,  
12 playgrounds, and other public buildings. Whenever the  
13 property is so taken the mayor may make such provision  
14 for the temporary accommodation of the government  
15 service affected thereby as the mayor may deem  
16 advisable. Like provisions may be made at any time  
17 whenever it is necessary to relocate any government  
18 service because of any emergency condition;

19 (4) Utilize all services, materials, and facilities of  
20 nongovernmental agencies, relief organizations,  
21 community associations, and other civil groups and  
22 private agencies that may be made available;





1           (5) Receive, expend, or use contributions or grants, which  
2           shall be deemed to be trust funds, in money, property,  
3           or services, or loans of property, or special  
4           contributions or grants in money, property, or  
5           services, or loans of property, for special purposes  
6           provided for by this chapter; establish funds in the  
7           treasury for the deposit and expenditure of the  
8           moneys; and procure federal aid as the same may be  
9           available. The contributions or grants are  
10          appropriated for the purposes of this chapter, or for  
11          the special purposes;

12          (6) Purchase, make, produce, construct, rent, lease, or  
13          procure by condemnation, or otherwise, transport,  
14          store, install, maintain, and insure, repair,  
15          renovate, restore, replace or reconstruct, and  
16          distribute, furnish or otherwise dispose of, with or  
17          without charges, materials and facilities for  
18          emergency management; and to procure federal aid  
19          therefor whenever feasible. Chapter 103D and sections  
20          103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4  
21          shall not apply to any emergency management functions  
22          of and to the extent that the mayor finds that the



1 provisions, in whole or in part, impede or tend to  
2 impede the expeditious discharge of the functions, or  
3 that compliance therewith is impracticable due to  
4 existing conditions;

5 (7) Provide for the appointment, employment, training,  
6 equipping, and maintaining, with compensation, or on a  
7 volunteer basis without compensation and without  
8 regard to chapters 76, 78, and 88 of such agencies,  
9 officers, and other persons as the mayor deem  
10 necessary to carry out this chapter; to determine to  
11 what extent any law prohibiting the holding of more  
12 than one office or employment applies to the agencies,  
13 officers, and other persons; and subject to provisions  
14 of this chapter, to provide for the interchange of  
15 personnel, by detail, transfer or otherwise, between  
16 agencies or departments of the county;

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

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



- 1           (10) Establish special accounting forms and practices  
2                   whenever necessary;
- 3           (11) Require each public utility, or any person owning,  
4                   controlling, or operating a critical infrastructure  
5                   facility as identified by the mayor, to protect and  
6                   safeguard its or the person's property, or to provide  
7                   for the protection and safeguarding; and provide for  
8                   the protection and safeguarding of all critical  
9                   infrastructure and key resources; provided that  
10                  without prejudice to the generality of the foregoing  
11                  two clauses, the protecting and safeguarding may  
12                  include the regulation or prohibition of public entry  
13                  thereon, or the permission of the entry upon such  
14                  terms and conditions as the mayor may prescribe;
- 15          (12) Restrict the congregation of the public in stricken or  
16                  danger areas or under dangerous conditions;
- 17          (13) To direct or control, as may be necessary for  
18                  emergency management the evacuation and reception of  
19                  the civilian population; provided that only during an  
20                  emergency period shall there be instituted under this  
21                  paragraph mandatory or prohibitory requirements having  
22                  the force and effect of law;



- 1           (14) Order and direct government agencies, officers, and  
2           employees of the county, to take such action and  
3           employ such measures for law enforcement, medical,  
4           health, firefighting, traffic control, warnings, and  
5           signals, engineering, rescue, construction, emergency  
6           housing, and other welfare, hospitalization,  
7           transportation, water supply, public information,  
8           training, and other emergency functions as may be  
9           necessary, and utilize the services, materials, and  
10          facilities of the agencies and officers. All such  
11          agencies and officers shall cooperate with and extend  
12          their services, materials, and facilities to the mayor  
13          as the mayor may request;
- 14          (15) Provide for the repair and maintenance of public  
15          property, whenever adequate provision therefor is not  
16          otherwise made; insure the property against any  
17          emergency; provide for the restoration, renovation,  
18          replacement, or reconstruction of insured property in  
19          the event of damage or loss, and make temporary  
20          restoration of public utilities and other vital  
21          facilities in the event of an emergency;



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

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

7 § -14 **Additional powers in an emergency period.** (a)

8 In the event of an emergency period, the governor may exercise  
9 the following additional powers pertaining to emergency  
10 management:

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



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

17 (2) Relieve hardships and inequities, or obstructions to  
18 the public health, safety, or welfare, found by the  
19 governor to exist in the laws and to result from the  
20 operation of federal programs or measures taken under  
21 this chapter, the governor may suspend the laws, in  
22 whole or in part, or by alleviating the provisions of



- 1 laws on such terms and conditions as the governor may  
2 impose, including, without limitation, licensing laws,  
3 quarantine laws, and laws relating to labels, grades,  
4 and standards;
- 5 (3) Suspend any law that impedes or tends to impede or be  
6 detrimental to the expeditious and efficient execution  
7 of, or to conflict with, emergency functions,  
8 including without limitation, laws which by this  
9 chapter specifically are made applicable to emergency  
10 management personnel;
- 11 (4) In the event of disaster or emergency beyond local  
12 control, assume direct operational control over all or  
13 any part of the emergency management functions within  
14 the affected area;
- 15 (5) Shutting off water mains, gas mains, electric power  
16 connections, or suspension of other services; and, to  
17 the extent permitted by or under federal law,  
18 suspension of electronic media transmission;
- 19 (6) The governor may exercise additional emergency  
20 functions, to the extent necessary to prevent  
21 hoarding, waste, or destruction of materials,  
22 supplies, commodities, accommodations, facilities, and



1 services, to effectuate equitable distribution  
2 thereof, or to establish priorities therein as the  
3 public welfare may require, to investigate, and any  
4 other law to the contrary notwithstanding, to regulate  
5 or prohibit, by means of licensing, rationing, or  
6 otherwise, the storage, transportation, use,  
7 possession, maintenance, furnishing, sale, or  
8 distribution thereof, and any business or any  
9 transaction related thereto;

10 (7) The governor may suspend section 8-1, relating to  
11 state holidays, except the last paragraph which shall  
12 remain unaffected, and in the event of the suspension  
13 the governor may establish state holidays by  
14 proclamation;

15 (8) The governor may adjust the hours for voting to take  
16 into consideration the working hours of the voters  
17 during emergency conditions, and for the purpose to  
18 suspend those provisions of section 11-131 that fix  
19 the hours for voting, and fix other hours by stating  
20 the same in the election proclamation or notice, as  
21 the case may be; and





1 (9) Except as provided in section 134-7.2, whenever in the  
2 governor's opinion the laws of the State do not  
3 adequately provide for the common defense, public  
4 health, safety, and welfare, investigate, regulate, or  
5 prohibit the storage, transportation, use, possession,  
6 maintenance, furnishing, sale, or distribution of, as  
7 well as any transaction related to, explosives,  
8 firearms, and ammunition, inflammable materials and  
9 other objects, implements, substances, businesses, or  
10 services of a hazardous or dangerous character, or  
11 particularly capable of misuse, or obstructive of or  
12 tending to obstruct law enforcement, emergency  
13 management, or military operations, including, without  
14 limitation, intoxicating liquor and the liquor  
15 business; and authorize the seizure and forfeiture of  
16 any such objects, implements, or substances unlawfully  
17 possessed, as provided in this chapter.

18 (b) In the event of an emergency period, the mayor may  
19 exercise the following additional powers pertaining to emergency  
20 management:

21 (1) Relieve hardships and inequities, or obstructions to  
22 the public health, safety, or welfare, found by the



1 mayor to exist in the laws of the county and to result  
2 from the operation of federal programs or measures  
3 taken under this chapter, the mayor may suspend the  
4 county laws, in whole or in part, or by alleviating  
5 the provisions of county laws on such terms and  
6 conditions as the mayor may impose, including, without  
7 limitation, county licensing laws, and county laws  
8 relating to labels, grades, and standards;

9 (2) Suspend any county law that impedes or tends to impede  
10 or be detrimental to the expeditious and efficient  
11 execution of, or to conflict with, emergency  
12 functions, including without limitation, laws which by  
13 this chapter specifically are made applicable to  
14 emergency management personnel;

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

19 (4) The mayor may exercise additional emergency functions,  
20 to the extent necessary to prevent hoarding, waste, or  
21 destruction of materials, supplies, commodities,  
22 accommodations, facilities, and services, to



1 effectuate equitable distribution thereof, or to  
2 establish priorities therein as the public welfare may  
3 require, to investigate, and any other law to the  
4 contrary notwithstanding, to regulate or prohibit, by  
5 means of licensing, rationing, or otherwise, the  
6 storage, transportation, use, possession, maintenance,  
7 furnishing, sale, or distribution thereof, and any  
8 business or any transaction related thereto.

9 § -15 **Emergency period.** (a) The governor may declare  
10 the existence of a state of emergency in the State if the  
11 governor finds that an emergency has occurred or that there is  
12 danger or threat thereof and proclaims a state of emergency for  
13 any portion of the State.

14 (b) The mayor may declare the existence of a state of  
15 emergency in the county if the mayor finds that an emergency has  
16 occurred or that there is danger or threat thereof and proclaims  
17 a state of emergency for the county.

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

21 (d) A period of emergency shall terminate by proclamation  
22 of the governor or mayor. If no date is set by the governor or



1 mayor, no application for any state-level disaster-related  
2 programs shall be received six months after the issuance of the  
3 governor's or mayor's proclamation declaring an emergency.

4       §     **-16 Proclamations, how made; service of papers.** (a)

5 Every proclamation of the governor or mayor for which provision  
6 is made by this chapter, shall be promulgated by publication  
7 thereof, or when immediate promulgation is necessary in the  
8 opinion of the governor or mayor, who shall be the sole judge  
9 thereof, by official announcement thereof by means of television  
10 or radio broadcast, or both, internet, or such other means as  
11 may be available.

12       (b) Any process, notice, or order, service of which is  
13 provided for by this chapter, may be served by any law  
14 enforcement officer or person authorized by the governor or  
15 mayor, any other provision of law to the contrary  
16 notwithstanding.

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



- 1           (1) The governor may not expend in excess of \$2,000,000  
2           for immediate relief of any single emergency;
- 3           (2) In addition to the funds in paragraph (1), an  
4           additional \$2,000,000 shall be available solely for  
5           the purpose of matching federal disaster relief funds  
6           when these funds become available following a  
7           presidential disaster declaration; and
- 8           (3) The director may use up to \$100,000 per year to  
9           support training of the emergency specialist reserve  
10          corps.

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

16          (b) Federal reimbursement moneys for disaster relief shall  
17 be deemed to be trust moneys and may be deposited into a trust  
18 account with and under the control of the department of  
19 defense. These moneys and any interest earned thereon shall be  
20 used for the purpose identified in subsection (a) and shall not  
21 lapse into the general fund.



1           §   -18 Allotments, etc. (a) There shall be available  
2 for allotment by the governor under this chapter:

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

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

10          (3) The governor's contingent fund.

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

20          (c) The governor may allot any moneys appropriated or  
21 available for the purposes of this chapter, to any agency,  
22 officer, or employee, created, appointed, or employed under this



1 chapter, or to any government agency, officer, or employee,  
2 state or county, to whom powers or duties have been delegated  
3 pursuant to this chapter, to be expended in carrying out the  
4 provisions of this chapter, and in the case of county agencies,  
5 officers, or employees, to order the allotment paid over to be  
6 held, disbursed, and accounted for as other county funds or as  
7 the governor shall provide.

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

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

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

21 § -19 Mitigation of hazardous situations. (a) Even in  
22 the absence of an emergency, the governor may authorize



1 designated state agents, contractors, or representatives to  
2 enter private property at reasonable times to mitigate  
3 situations deemed by the governor to be hazardous to the health  
4 and safety of the public; provided that this section shall be  
5 applicable only to the following actions:

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

8 (2) Stabilizing or removing unstable rock and soil  
9 hazards; or

10 (3) Cleaning streams and waterways to mitigate or prevent  
11 flooding or other disasters;

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



1 accommodations for the sheltering of the public and the  
2 sheltering of pet animals in public shelters under this chapter.

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

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

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

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



1           §     -21   Immunity from liability of private shelter.   (a)

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

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

20           (1) Any compensation or consideration paid by or on behalf  
21               of any guest or person for transient accommodation  
22               lodging;



1           (2) Any compensation or consideration paid for any  
2           patient, resident, or ward present or residing in any  
3           hospital, community-based care home, home-based care  
4           home, or healthcare agency of any type licensed by the  
5           department of health or the department of human  
6           services and used as a private shelter under this  
7           section; provided that the protections afforded by  
8           this section shall not extend beyond the use of the  
9           private shelter under this section for any other duty  
10          or standard of care owed to any patient, resident, or  
11          ward; and

12          (3) Any compensation or consideration paid by or on behalf  
13          of any minor or student of any age in any day care,  
14          preschool, elementary school, middle school, or any  
15          other educational facility used as a private shelter  
16          under this section.

17          §    **-22 Notice of requisition.** The governor or mayor may  
18          requisition and take over any materials, facilities, real  
19          property or improvements, required for the purposes of this  
20          chapter, or requisition and take over the temporary use  
21          thereof. The requisition shall be made by serving notice  
22          thereof, which notice may be served upon any person found in



1 occupation of the premises or having the property in the  
2 person's custody, possession, or control; provided that a like  
3 notice shall also be served upon any person who has filed with  
4 the governor or mayor, or with such person as the governor or  
5 mayor may designate for the purpose, a request for notice with  
6 respect to the property; provided further that whenever all  
7 persons entitled to compensation for the property have not been  
8 served in the manner aforesaid, the governor or mayor shall  
9 publish a notice of the requisition at the earliest practicable  
10 date.

11       §     -23   **Determination of compensation.** Whenever the  
12 governor or mayor requisitions and takes over any property or  
13 the temporary use thereof, the owner, or other person entitled  
14 thereto, shall be paid as compensation for the property or use,  
15 such sum as the governor or mayor determines to be fair and  
16 just, within twenty days after it has been requisitioned and  
17 taken; provided that the compensation for temporary use may be  
18 paid in monthly or lesser installments. If any person is  
19 unwilling to accept, as full and complete compensation for the  
20 property or use, the sum determined by the governor or mayor,  
21 the person shall be paid seventy-five per cent of the sum  
22 determined by the governor or mayor, and shall be entitled to



1 sue the State or county for such additional sum as, when added  
2 to the sum already received by the person, the person may  
3 consider fair and just compensation for such property or use, in  
4 the manner provided by chapter 661 for actions against the State  
5 and any other applicable chapter for actions against the county;  
6 provided that the suit is instituted within two years after the  
7 requisition in the case of the taking of real property in fee  
8 simple, or within one year after the requisition in all other  
9 cases, subject, to sections 657-13 to 657-15, which are hereby  
10 made applicable to such a suit; except that no more than six  
11 months shall be allowed for the bringing of a suit after the  
12 appointment of a conservator of the person under disability, or  
13 the removal of the disability, or after the appointment of  
14 personal representatives; provided further that recovery shall  
15 be confined to the fair market value of the property or its fair  
16 rental value, as the case may be, without any allowance for  
17 prospective profits, punitive or other damages. Whenever the  
18 owner of property, or other person entitled to compensation on  
19 account of the requisitioning of property or the use thereof, is  
20 under a disability, or has died, and no conservator or personal  
21 representative has been appointed, the State acting through the  
22 attorney general, may apply for the appointment of a



1 conservator, or for the appointment of a personal  
2 representative.

3       §     -24   **Determination of damages.**   The governor or mayor  
4 shall appoint a board of three disinterested certified  
5 appraisers with whom may be filed any claim for damages arising  
6 out of any failure to return private property, the temporary use  
7 of which was requisitioned, or which was leased, or any claim  
8 for damages arising out of the condition in which the private  
9 property is returned; provided that no such claim shall be filed  
10 for deterioration of property resulting from ordinary wear and  
11 tear, not for any deterioration or damage except such as is  
12 shown to have resulted from the taking or use of the property.  
13 The claim shall be filed within thirty days after the return of  
14 the property or after the governor or mayor proclaims that all  
15 private property has been returned to the owners, whichever is  
16 earlier. The decision of the appraisers shall be final and  
17 binding upon the governor or mayor, and the claimant, provided  
18 that either party may file a petition in the circuit court  
19 within sixty days after the rendering of a decision of the  
20 board, praying for the decision of the court upon the claim.  
21 The petition, if filed by the State, shall be entitled in the  
22 name of the State, by the attorney general, and if filed by the



1 county, shall be entitled in the name of the county, by its  
2 corporation counsel, and shall be heard and decided by the  
3 circuit court without the intervention of a jury. If filed by  
4 any other party, the petition shall be filed, heard, and decided  
5 in the manner provided for suits against the State. Appellate  
6 review may be had, subject to chapter 602, in the manner  
7 provided for civil appeals from the circuit courts. The court  
8 may order the joinder of other parties or may allow other  
9 parties to intervene. Any award that has become final shall be  
10 paid out of any funds available under this chapter and, if not  
11 sufficient, out of the general revenues of the State as  
12 appropriated or out of the general revenues of the county as  
13 appropriated.

14 § -25 **Investigations and surveys.** The governor or  
15 mayor may make investigations and surveys for the purpose of  
16 ascertaining facts to be used in administering this chapter, and  
17 in making the investigations and surveys may require the making  
18 or filing of schedules or statements, under oath or otherwise,  
19 may administer oaths, take evidence under oath, subpoena  
20 witnesses, make inspections, and require the production of  
21 books, papers, and records. The circuit court of any circuit or  
22 judge thereof, may enforce by proper proceedings the making or





1 filing of the schedules or statements, the attendance and  
2 testimony of any witness subpoenaed to appear within the  
3 circuit, or the production of books, papers, and records. The  
4 proceedings shall be in addition to, and not exclusive of, any  
5 other means or methods of enforcement.

6 No person shall be excused from attending and testifying,  
7 or from producing books, papers, or records before the governor  
8 or mayor or in obedience to the subpoena of the governor or  
9 mayor, or in any cause or proceeding, criminal or otherwise,  
10 based upon or growing out of any alleged violation of this  
11 chapter or any rule, regulation, or order thereunder, on the  
12 ground, or for the reason, that the testimony or evidence,  
13 documentary or otherwise, required of the person may tend to  
14 incriminate the person or subject the person to a penalty or  
15 forfeiture; but no individual shall be prosecuted or subjected  
16 to any penalty or forfeiture for or on account of any  
17 transaction, matter or thing concerning which the person is  
18 compelled after having claimed the person's privilege against  
19 self-incrimination, to testify or produce evidence, documentary  
20 or otherwise, except that any individual so testifying shall not  
21 be exempt from prosecution and punishment for perjury committed  
22 in so testifying.



1           Witnesses shall be allowed their fees and mileage as in  
2 cases in the circuit courts.

3           §     **-26 Rules and orders.** For the purpose of carrying  
4 out any provision of this chapter, the governor or mayor may  
5 adopt rules, which may, if so stated in the rules, have the  
6 force and effect of law. All the rules, and likewise all other  
7 action taken under this chapter, shall be made and taken with  
8 due consideration of the orders, rules, regulations, actions,  
9 recommendations, and requests of federal authorities relevant  
10 thereto. In these rules reasonable classifications, exceptions,  
11 and exemptions may be made and granted. Chapter 91 shall not  
12 apply to such rules.

13           The power to adopt rules having the force and effect of law  
14 shall not be deemed in derogation of the power of the governor,  
15 or the governor's duly authorized representatives, or the mayor,  
16 or the mayor's duly authorized representative, to make orders  
17 for the enforcement of this chapter or the rules issued  
18 thereunder. The rules may provide for the making of  
19 administrative findings by duly authorized representatives, or  
20 for the application of the rules by such representatives as the  
21 circumstances may require, and the issuance of orders therefor.



1 Rules adopted pursuant to this chapter shall be promulgated  
2 as herein provided, and may be made effective upon the  
3 promulgation. The rules shall be promulgated by publishing the  
4 same in a newspaper of general circulation in the State, the  
5 manner prescribed by this chapter for publication of  
6 proclamations, or, where only known persons are concerned, the  
7 same may be promulgated by service upon these persons by  
8 registered or certified mail, or by personal service; provided  
9 that when immediate promulgation of the rules is necessary in  
10 the opinion of the governor or mayor, who shall be the sole  
11 judge thereof, in lieu of publication, the same may be  
12 promulgated by radio broadcast or such other means as may be  
13 available; provided further that the rules shall be published  
14 thereafter, as hereinbefore provided at the earliest practicable  
15 date.

16 § -27 **Forfeitures.** The forfeiture of any property  
17 unlawfully possessed, pursuant to this chapter, may be adjudged  
18 upon conviction of the offender found to be unlawfully in  
19 possession of the same, where no person other than the offender  
20 is entitled to notice and hearing with respect to the  
21 forfeiture, or the forfeiture may be enforced by an appropriate  
22 civil proceeding brought in the name of the State. The district



1 courts and circuit courts shall have concurrent jurisdiction of  
2 the civil proceedings. Any property forfeited as provided in  
3 this section may be ordered destroyed, or may be ordered  
4 delivered for public use to such agency as shall be designated  
5 by the governor or the governor's representative, or may be  
6 ordered sold, wholly or partially, for the account of the State.

7       **§ -28 Preliminary or interlocutory injunctions and**  
8 **temporary restraining orders.** Any provision of law to the  
9 contrary notwithstanding, no preliminary or interlocutory  
10 injunction, or temporary restraining order, suspending,  
11 enjoining, or restraining the enforcement, operation, or  
12 execution of, or setting aside, in whole or in part, on the  
13 ground of unconstitutionality or for any other reason or  
14 reasons, any provision of this chapter or any proclamation,  
15 order, rule, or regulation prescribed, made or issued under the  
16 authority of this chapter, shall be issued or granted by any  
17 court of the State, or by any judge thereof, unless the  
18 application for the same is presented to a circuit judge, and is  
19 heard and determined by the circuit judge sitting with two other  
20 circuit judges, and unless a majority of the judges concur in  
21 granting the application. When the application is presented to  
22 a judge, the judge shall immediately notify the chief justice of



1 the supreme court of the State; or in the event of the chief  
2 justice's absence or incapacity or a vacancy in the office, the  
3 senior associate justice, who shall forthwith assign two other  
4 circuit judges to sit with the circuit judge in hearing and  
5 determining the application. The application shall not be heard  
6 or determined before at least five days' notice of the hearing  
7 has been given to the governor and to the attorney general, the  
8 mayor and the county corporation counsel, and to such other  
9 persons as may be defendants or respondents in the suits;  
10 provided that in cases where immediate irreparable damage would  
11 otherwise ensue to the petitioner, the circuit judge to whom the  
12 application is made may, after giving notice to the governor and  
13 the attorney general or the mayor and the county corporation  
14 counsel and allowing them an opportunity to appear, grant a  
15 temporary stay or suspension, in whole or in part, of the  
16 operation of the statutory provision, proclamation, order, rule,  
17 or regulation, the stay or suspension to remain in force only  
18 until the hearing and determination of the application for a  
19 preliminary or interlocutory injunction, and in any event for  
20 not more than ten days from the date of the order of the judge,  
21 provided further that if the two additional circuit judges have  
22 been assigned to the case, no temporary stay or suspension shall



1 be ordered unless a majority of the three circuit judges shall  
2 concur. In a case of the stay or suspension, the order of the  
3 judge or judges shall contain a finding or findings, based upon  
4 evidence submitted to the judge or judges and incorporated in  
5 the order by reference thereto, that irreparable damage would  
6 result to the petitioner, and specifying the nature of the  
7 damage and why it is immediate and irreparable. The three  
8 circuit judges assigned to sit in the case may, upon a like  
9 finding and for good cause shown, appearing from reasons entered  
10 of record, continue the temporary stay or suspension for an  
11 additional ten-day period, but for only one such period unless  
12 the party against whom the order is directed consents that it  
13 may be extended for a longer period. The hearing upon an  
14 application for a preliminary or interlocutory injunction shall  
15 be given precedence and shall be in every way expedited and be  
16 assigned for hearing at the earliest practicable day. If a  
17 temporary stay or suspension has been allowed, the application  
18 for a preliminary or interlocutory injunction shall be set for  
19 hearing within five days after the granting of the stay or  
20 suspension. When the matter comes on for hearing, the party who  
21 obtained the temporary stay or suspension shall proceed with the  
22 application for a preliminary or temporary injunction.



1 Otherwise the temporary order shall be dissolved forthwith. No  
2 extension of time shall be granted without the approval of at  
3 least two of the three judges. Upon the final hearing of any  
4 such suit the same requirement as to judges and the same  
5 procedure as to expedition shall apply.

6       **§ -29 Enforcement of injunction proceedings;**  
7 **interventions.** (a) Whenever in the judgment of the governor or  
8 mayor, any person has engaged or is about to engage in any act  
9 or practice that constitutes or will constitute a violation of  
10 any provision of this chapter, or any rule of the governor or  
11 mayor issued under this chapter, having the force and effect of  
12 law, the governor or mayor may make application to the  
13 appropriate court in the name of the State or county for an  
14 order enjoining the acts or practices, or for such other order  
15 as will enforce compliance with the provisions, and upon a  
16 showing by the governor or mayor in such manner and form as is  
17 usual in injunction cases, that the person has engaged or is  
18 about to engage in any such act or practice, a permanent or  
19 temporary injunction, restraining order, or other appropriate  
20 order shall be granted without bond.

21       (b) The governor may intervene in the name of the State or  
22 the mayor may intervene in the name of the county in any action



1 or proceeding wherein a party asserts a right or relies for  
2 ground of relief or defense upon this chapter or upon any rule  
3 or regulation of the governor or mayor issued hereunder, or  
4 wherein, in the judgment of the governor or mayor, there is an  
5 issue to be presented that involves enforcement of this chapter  
6 or the rules.

7 § -30 **Misdemeanors.** Any person violating any rule of  
8 the governor or mayor prescribed and promulgated pursuant to  
9 this chapter and having the force and effect of law, shall, if  
10 it shall be so stated in the rule, be guilty of a misdemeanor.  
11 Upon conviction the person shall be fined not more than \$5,000,  
12 or imprisoned not more than one year, or both.

13 Any person who, intentionally, knowingly, or recklessly,  
14 destroys, damages, or loses any shelter or warning or signal  
15 device, shall if the same was installed or constructed by the  
16 United States, the State, or a county, or is the property of the  
17 United States, the State, or a county, be fined the cost of  
18 replacement, or imprisoned not more than one year, or both. The  
19 governor or mayor, by rule, may make further provisions for the  
20 protection from misuse of shelters, protective devices, and  
21 warning and signal devices.





1           §     -31   Rental or sale of essential commodities during a  
2   state disaster; prohibition against price increases.   (a)

3   Whenever the governor declares an emergency for the entire State  
4   or any portion thereof, or a mayor declares an emergency for the  
5   county or any portion thereof, or when the State, or any portion  
6   thereof, is the subject of a severe weather warning:

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

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

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



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



1 (b) Notwithstanding this section, any additional operating  
2 expenses incurred by the seller or landlord because of the  
3 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



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



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

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

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

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

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



1           "§121-30 Order to active service. In case of war,  
2 insurrection, invasion, riot, or imminent danger thereof~~[7-0F]~~;  
3 a public disaster or danger from flood, fire, storm, earthquake,  
4 civil disturbances, or terrorist events; or any forcible  
5 obstruction to the execution of the laws, or reasonable  
6 apprehension thereof~~[7]~~; or for assistance to civil authorities  
7 in disaster relief or civil defense, the governor may order the  
8 national guard or other component of the militia or any part  
9 thereof into active service. The governor or the governor's  
10 designated representative ~~[also]~~ may also order the national  
11 guard into active service ~~[in]~~:

- 12           (1) In nonemergency situations for duty and training in  
13           addition to the drill and instruction required by  
14           section 121-28[-];
- 15           (2) To provide support to other states in response to a  
16           request for assistance under the Emergency Management  
17           Assistance Compact under chapter 128F; and
- 18           (3) To detect, prevent, prepare for, investigate, respond  
19           to, or recover from any of the events for which an  
20           order to active service may be made."

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



1           "(a) Notwithstanding any provision of chapter [~~128~~] \_\_\_ or  
2 any other law to the contrary, no person or government entity  
3 shall seize or confiscate, under any [~~civil-defense~~]  
4 emergency[~~7~~] or disaster relief powers or functions conferred,  
5 or during any [~~civil-defense~~] emergency period, as defined in  
6 section [~~128-27~~] \_\_\_\_\_-15, or during any time of national  
7 emergency or crisis, as defined in section 134-34, any firearm  
8 or ammunition from any individual who is lawfully permitted to  
9 carry or possess the firearm or ammunition under part I of this  
10 chapter and who carries, possesses, or uses the firearm or  
11 ammunition in a lawful manner and in accordance with the  
12 criminal laws of this State.

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

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

21           "(a) Any utility that sustains damage to its facilities as  
22 a result of a state-declared emergency (including but not





1 limited to [~~disaster relief and civil defense~~] emergencies as  
2 defined in [~~chapters 127 and 128~~] chapter ) and incurs costs  
3 related to the restoration and repair of its facilities which,  
4 if assessed only on the utility ratepayers of the affected  
5 utility service territory, may result in a rate increase of more  
6 than fifteen per cent for the average ratepayer in that utility  
7 service territory, may apply to the public utilities commission  
8 in accordance with this section to recover the costs provided  
9 herein through a monthly surcharge which shall be assessed on a  
10 statewide basis and shall be based on the utility's net  
11 restoration and repair costs; provided that the surcharge shall  
12 not result in an assessment of more than fifteen per cent for  
13 the average ratepayer in each of the other utility service  
14 territories and provided further that the public utilities  
15 commission shall exclude ratepayers in utility service  
16 territories with rates that may be substantially higher than  
17 other utility service territories in the State.

18       The public utilities commission shall have the authority to  
19 initially set, or subsequently revise, the surcharge to reflect  
20 the actual net restoration and repair costs incurred after  
21 deduction of amounts received from outside sources of recovery.  
22 Such outside sources of recovery shall include, but not be



1 limited to, insurance proceeds, government grants, and  
2 shareholder contributions."

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

5 "(g) The commission shall not issue any certificate that  
6 is designated as interim or temporary or that otherwise does not  
7 conform to the requirements of this chapter except in response  
8 to an emergency situation; provided that an emergency situation  
9 shall mean a state-declared emergency [~~including disaster relief~~  
10 ~~pursuant to [chapter 127 or a civil defense emergency]~~ pursuant  
11 to chapter {~~128.~~} \_\_\_\_\_. Any certificate issued pursuant to this  
12 subsection shall expire upon the expiration of the state-  
13 declared emergency or an earlier date determined by the  
14 commission in response to prevailing conditions. An extension  
15 of a certificate granted under this subsection beyond the  
16 expiration of the state-declared emergency or date determined by  
17 the commission shall be granted only subject to the notice,  
18 hearing, and findings requirements of this chapter."

19 SECTION 9. Section 601-1.5, Hawaii Revised Statutes, is  
20 amended by amending its title and subsections (a) and (b) to  
21 read as follows:



1           "~~{}~~§601-1.5~~{}~~ [~~Civil defense emergency~~] Emergency  
2 **period; suspension of deadlines.**

3           (a) During a period of [~~civil defense~~] emergency  
4 proclaimed by the governor [~~under section 128-7~~], the chief  
5 justice shall be authorized to order the suspension, tolling,  
6 extension, or granting of relief from deadlines, time schedules,  
7 or filing requirements imposed by otherwise applicable statutes,  
8 rules, or court orders, in civil or criminal cases or  
9 administrative matters, in any judicial circuit affected by the  
10 governor's proclamation. The chief justice shall determine the  
11 judicial circuits so affected.

12           (b) The order shall be limited to an initial duration of  
13 not more than thirty days; provided that the order may be  
14 modified or extended for such period of time as the chief  
15 justice deems necessary due to an ongoing [~~civil defense~~]  
16 emergency."

17           SECTION 10. Section 707-700, Hawaii Revised Statutes, is  
18 amended by amending the definition of "emergency worker" to read  
19 as follows:

20           ""Emergency worker" means any:

21           (1) Law enforcement officer, including but not limited to  
22           any police officer, public safety officer, parole or



- 1           probation officer, or any other officer of any county,  
2           state, federal, or military agency authorized to  
3           exercise law enforcement or police powers;
- 4           (2) Firefighter, emergency medical services personnel,  
5           emergency medical technician, ambulance crewmember, or  
6           any other emergency response personnel;
- 7           (3) Member of the Hawaii national guard on any duty or  
8           service done under or in pursuance of an order or call  
9           of the governor or the President of the United States  
10          or any proper authority;
- 11          (4) Member of the United States Army, Air Force, Navy,  
12          Marines, or Coast Guard on any duty or service done  
13          under or in pursuance of an order or call of the  
14          President of the United States or any proper  
15          authority;
- 16          (5) Member of the national guard from any other state  
17          ordered into service by any proper authority; or
- 18          (6) Person engaged in [~~civil defense~~] emergency management  
19          functions as authorized by the director of [~~civil~~  
20          ~~defense~~] emergency management or as otherwise  
21          authorized under chapter [~~128; or~~



1       ~~(7) Person engaged in disaster relief by authorization of~~  
2           ~~the director of disaster relief or as otherwise~~  
3           ~~authorized under chapter 127.] \_\_\_\_."~~

4       SECTION 11. Section 707-712.7, Hawaii Revised Statutes, is  
5 amended to read as follows:

6       "~~+~~§707-712.7~~+~~ **Assault against an emergency worker.**

7       (1) A person commits the offense of assault against an  
8 emergency worker if the person, during the time of [~~a civil~~  
9 ~~defense~~] an emergency proclaimed by the governor pursuant to  
10 chapter [~~128,~~] \_\_\_\_\_, within the area covered by the [~~civil~~  
11 ~~defense~~] emergency [~~or during the period of disaster relief~~  
12 ~~under chapter 127]~~:

13       (a) Intentionally, knowingly, or recklessly causes serious  
14 or substantial bodily injury to an emergency worker;

15       or

16       (b) Intentionally, knowingly, or recklessly causes bodily  
17 injury to an emergency worker with a dangerous  
18 instrument.

19       (2) Assault against an emergency worker is a class B  
20 felony."

21       SECTION 12. Section 708-817, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "~~[§]708-817[§]~~ Burglary of a dwelling during [~~a civil~~  
2 ~~defense~~] an emergency [~~or disaster relief~~] period. (1) A  
3 person commits the offense of burglary of a dwelling during [~~a~~  
4 ~~civil defense~~] an emergency [~~or disaster relief~~] period if the  
5 person:

6           (a) Intentionally enters or remains unlawfully in a  
7 dwelling with intent to commit therein a crime against  
8 a person or against property rights; and

9           (b) Recklessly disregards a risk that the building is the  
10 dwelling of another, and the building is such a  
11 dwelling,

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

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

18           SECTION 13. Section 708-820, Hawaii Revised Statutes, is  
19 amended by amending subsection (1) to read as follows:

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



- 1 (a) The person intentionally or knowingly damages property  
2 and thereby recklessly places another person in danger  
3 of death or bodily injury;
- 4 (b) The person intentionally or knowingly damages the  
5 property of another, without the other's consent, in  
6 an amount exceeding \$20,000;
- 7 (c) The person intentionally or knowingly damages the  
8 property of another during the time of a [~~civil~~  
9 ~~defense~~] an emergency proclaimed by the governor  
10 pursuant to chapter [~~128,~~] \_\_\_\_, within the area  
11 covered by the [~~civil defense~~] emergency [~~or during~~  
12 ~~the period of disaster relief under chapter 127~~]; or
- 13 (d) The person intentionally or knowingly damages the  
14 agricultural equipment, supplies, or products or  
15 aquacultural equipment, supplies, or products of  
16 another, including trees, bushes, or any other plant  
17 and livestock of another, without the other's consent,  
18 in an amount exceeding \$1,500. In calculating the  
19 amount of damages to agricultural products, the amount  
20 of damages includes future losses and the loss of  
21 future production."



1 SECTION 14. Section 708-830.5, Hawaii Revised Statutes, is  
2 amended by amending subsection (1) to read as follows:

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

5 (a) Of property or services, the value of which exceeds  
6 \$20,000;

7 (b) Of a firearm;

8 (c) Of dynamite or other explosive; or

9 (d) Of property or services during the time of [~~a civil~~  
10 ~~defense~~] an emergency proclaimed by the governor  
11 pursuant to chapter [~~128~~]\_\_\_\_\_, within the area  
12 covered by the [~~civil defense~~] emergency [~~or during~~  
13 ~~the period of disaster relief~~] under chapter [~~127~~]  
14 \_\_\_\_\_, the value of which exceeds \$300."

15 SECTION 15. Section 708-840, Hawaii Revised Statutes, is  
16 amended by amending subsection (1) to read as follows:

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

20 (a) The person attempts to kill another or intentionally  
21 or knowingly inflicts or attempts to inflict serious  
22 bodily injury upon another;





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



1 chapter [~~128,~~] \_\_\_\_\_, within the area covered by the  
2 [~~civil defense~~] emergency [~~or during the period of~~  
3 ~~disaster relief under chapter 127~~]."

4 SECTION 16. Chapter 127, Hawaii Revised Statutes, is  
5 repealed.

6 SECTION 17. Chapter 128, Hawaii Revised Statutes, is  
7 repealed.

8 SECTION 18. Section 209-9, Hawaii Revised Statutes, is  
9 repealed.

10 [~~"§209-9 Rental or sale of essential commodities during a~~  
11 ~~state disaster; prohibition against price increases. (a)~~  
12 ~~Whenever the governor declares a state disaster for the entire~~  
13 ~~State or any portion thereof, or when the State, or any portion~~  
14 ~~thereof, is the subject of a severe weather warning:~~

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

20 (2) ~~No landlord shall terminate any tenancy for a~~  
21 ~~residential dwelling unit in the area that is the~~  
22 ~~subject of a disaster declaration or a severe weather~~



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

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

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

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

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

20 ~~(i) Reoccupancy shall first be offered to the same~~  
21 ~~tenant or tenants upon completion of the repair;~~  
22 ~~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~~



1 ~~the other with written notice of termination and the tenant~~  
2 ~~retains possession of the premises for any period of time after~~  
3 ~~the expiration of the original term.~~

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

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

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



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

5       ~~(1) The violation of the price limitation was~~  
6       ~~unintentional;~~

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

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

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

19       SECTION 19. The functions and authority heretofore  
20 exercised by the civil defense agency of the department of  
21 defense as heretofore constituted are transferred to the Hawaii



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

3 All rights, powers, functions, and duties of the civil  
4 defense agency of the department of defense are transferred to  
5 the Hawaii emergency management agency and the Hawaii emergency  
6 management agency is placed within the department of defense for  
7 administrative purposes.

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

18 An officer or employee of the State who does not have  
19 tenure and who may be transferred or appointed to a civil  
20 service position as a consequence of this Act shall become a  
21 civil service employee without the loss of salary, seniority,  
22 prior service credit, vacation, sick leave, or other employee



1 benefits or privileges and without the necessity of examination;  
2 provided that such officer or employee possesses the minimum  
3 qualifications for the position to which transferred or  
4 appointed.

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

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





1 rules, policies, procedures, guidelines, and other material is  
2 amended to refer to the Hawaii emergency management agency.

3 All deeds, leases, contracts, loans, agreements, permits,  
4 or other documents executed or entered into by or on behalf of  
5 the civil defense agency of the department of defense, or the  
6 department of defense on behalf of the civil defense agency,  
7 pursuant to the provisions of the Hawaii Revised Statutes, which  
8 are reenacted or made applicable to the Hawaii emergency  
9 management agency, by this Act, shall remain in full force and  
10 effect. Effective upon approval of this Act, every reference to  
11 the civil defense agency of the department of defense or the  
12 department of defense for its civil defense agency, shall be  
13 construed as a reference to the Hawaii emergency management  
14 agency.

15 All appropriations, records, equipment, machines, files,  
16 supplies, contracts, books, papers, documents, maps, and other  
17 personal property heretofore made, used, acquired, or held by  
18 the civil defense agency of the department of defense relating  
19 to the functions transferred to the Hawaii emergency shall be  
20 transferred with functions to which they relate.

21 If any part of this Act is found to be in conflict with  
22 federal requirements that are a prescribed condition for the



1 allocation of federal funds to the State, the conflicting part  
2 of this Act is inoperative solely to the extent of the conflict  
3 and with respect to the agencies directly affected, and this  
4 funding does not affect the operation of the remainder of this  
5 Act in its application to the agencies concerned. The rules  
6 under this Act shall meet federal requirements that are a  
7 necessary condition to the receipt of federal funds by the  
8 State.

9 SECTION 20. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 21. This Act shall take effect on July 1, 2050;  
12 provided that those portions of section 2 relating to the  
13 establishment of the county emergency management agency shall  
14 take effect on July 1, 2015, or when county enabling legislation  
15 is signed into law, whichever is earlier.



**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. Effective July 1, 2050. (HB849 HD1)

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

