
A BILL FOR AN ACT

RELATING TO EMERGENCY MANAGEMENT.

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

1 SECTION 1. While it is the policy of the legislature to
2 encourage the private sector to assist in emergencies or
3 disasters, the legislature finds that there is an added need to
4 encourage the public to assist in providing emergency shelter
5 during emergencies or disasters. In many cases, the public is
6 reluctant to make facilities or property available to a person
7 for use as a shelter because of liability concerns.

8 In 2012, the legislature passed Act 291 which exempted a
9 private property owner who provides emergency access to a person
10 in good faith during a disaster from liability for injury or
11 damage. The false alert of an inbound ballistic missile on
12 January 13, 2018, has shown that this protection may not apply
13 to certain businesses because those in the shelter may be guests
14 or tenants. The legislature finds that there is a need to
15 clarify that the compensation paid by guests or tenants should
16 not disqualify these property owners from the protections
17 afforded by the legislature.



1 The false alert has also shown that there may be
2 circumstances where shelter is provided to the public in
3 facilities or properties that are also in the business of
4 selling commodities and that this protection may not apply to
5 these businesses if they attempt to sell commodities to those
6 people being sheltered. The legislature finds that there is a
7 need to clarify that while persons are sheltered, the owner of
8 property made available as a shelter should be allowed to sell
9 commodities if the use of the shelter is required over a period
10 of time.

11 The purpose of this Act is to clarify that:

- 12 (1) Hotels, apartments, condominiums, hospitals,
13 healthcare facilities, and any facility that is
14 receiving compensation shall not disqualify the
15 facility from the civil liability exemption for
16 providing emergency access to land, shelter, and
17 subsistence during a disaster pursuant to section 663-
18 10.7, Hawaii Revised Statutes; and
- 19 (2) Owners of properties made available for shelter use
20 are not excluded from the provisions of section 663-
21 10.7, Hawaii Revised Statutes, if the owner sells



1 commodities to those in the shelter; provided the
2 owner is not engaged in price gouging.

3 SECTION 2. Section 663-10.7, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) For the purposes of this section:

6 "Commodity" means any good necessary for the health,
7 safety, and welfare of the people of Hawaii; provided that this
8 term shall include, but not be limited to: materials,
9 merchandise, supplies, equipment, resources, and other articles
10 of commerce that shall include food, water, ice, medication,
11 chemicals, or petroleum products.

12 "Disaster" means a nonroutine event that exceeds the
13 capacity of persons in the affected area to respond to it in
14 such a way as to save lives, preserve property, or to maintain
15 the social, ecological, economic, or political stability of the
16 affected area.

17 "Emergency" means a situation in which the life or health
18 of a person is in jeopardy due to a disaster requiring immediate
19 assistance.

20 "Owner" means the possessor of a fee interest, or a tenant,
21 lessee, occupant, person, group, club, partnership, family,



1 organization, entity, or corporation that has control,
2 possession, or use of the land, and its members, agents,
3 partners, representatives, shareholders, and employees.

4 "Remuneration" does not mean:

5 (1) Any compensation or consideration paid by or on behalf
6 of any guest or person for transient accommodation
7 lodging;

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

19 (3) Any compensation or consideration paid by or on behalf
20 of any minor or student of any age in any day care,
21 preschool, elementary school, middle school, or any



1 other educational facility used as a private shelter
2 under this section; and

3 (4) Any compensation or consideration paid to an owner for
4 any commodity by a person being sheltered during the
5 disaster or emergency; provided there shall be
6 prohibited any increase in the selling price of any
7 commodity, whether at the retail or wholesale level,
8 in the private property being used as a shelter."

9 SECTION 3. New statutory material is underscored.

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

11
INTRODUCED BY:


BY REQUEST

JAN 24 2018



H.B. NO. 2645

Report Title:

Emergency Management; Emergency Shelter; Civil Liability
Exemption; Disasters; Commodity; Remuneration

Description:

Clarifies that a civil liability exemption for providing emergency access during a disaster applies to facilities receiving compensation and to owners who sell commodities to people seeking emergency access shelter on the owner's property; provided that the owner does not engage in price gouging.

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