

JAN 24 2018

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 there is a need to
2 encourage owners of private property to assist in times of
3 emergencies or disasters by providing emergency shelter to the
4 public. In many cases, owners of private property are reluctant
5 to make their property or facilities available to the general
6 public for use as emergency shelter due to concerns about
7 liability. The legislature also finds that it is the policy of
8 the State to encourage the private sector to assist their
9 communities during emergencies or disasters. Consistent with
10 this policy, Act 291, Session Laws of Hawaii 2012, exempts from
11 civil liability for injury or damage an owner of private
12 property who provides, in good faith, emergency access to land,
13 shelter, or subsistence during a disaster, without remuneration
14 or expectation of remuneration, with certain exceptions.

15 The legislature further finds that the ballistic missile
16 alert that was broadcast in error to the public on January 13,
17 2018, has raised questions about whether the exemption from



1 civil liability provided by Act 291 applies to certain types of
2 property owners. More specifically, it is unclear whether a
3 property owner who provides shelter during a disaster is exempt
4 from civil liability if the persons being sheltered are paying
5 guests of a transient accommodation, wards of healthcare
6 facilities, students of an educational facility, or buyers of
7 commodities sold by the property owner. The legislature
8 believes that the compensation paid by or on behalf of guests,
9 wards, students, or buyers of commodities should not disqualify
10 a private property owner from receiving the exemption afforded
11 by Act 291. Additionally, due to the possibility that the
12 persons being sheltered may be required to remain sheltered for
13 an extended period of time, the legislature believes that a
14 private property owner's sale of a commodity to a person being
15 sheltered should not disqualify the owner from receiving the
16 exemption under Act 291.

17 Accordingly, the purpose of this Act is to clarify that,
18 with respect to eligibility for the exemption from civil
19 liability provided by section 663-10.7, Hawaii Revised Statutes:

20 (1) Compensation received by the owner of a:

21 (A) Property used as a transient accommodation;



- 1 (B) Licensed hospital, care home, or healthcare
2 agency; or
- 3 (C) Day care, preschool, or educational facility,
4 is not "remuneration" and shall not disqualify the
5 owner from receiving the exemption; and
- 6 (2) Compensation received by the owner for the owner's
7 sale of a commodity to a person being sheltered shall
8 not disqualify the owner from receiving the exemption;
9 provided that the owner does not violate the
10 prohibition against "price gouging" under section
11 127A-30, Hawaii Revised Statutes.

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

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

15 "Commodity" means any good necessary for the health,
16 safety, and welfare of the people of Hawaii; provided that this
17 term shall include but not be limited to materials, merchandise,
18 supplies, equipment, resources, and other articles of commerce
19 that shall include food, water, ice, medication, chemicals, or
20 petroleum products.



1 "Disaster" means a nonroutine event that exceeds the
2 capacity of persons in the affected area to respond to it in
3 such a way as to save lives, preserve property, or to maintain
4 the social, ecological, economic, or political stability of the
5 affected area.

6 "Emergency" means a situation in which the life or health
7 of a person is in jeopardy due to a disaster requiring immediate
8 assistance.

9 "Owner" means the possessor of a fee interest, or a tenant,
10 lessee, occupant, person, group, club, partnership, family,
11 organization, entity, or corporation that has control,
12 possession, or use of the land, and its members, agents,
13 partners, representatives, shareholders, and employees.

14 "Remuneration" does not include any compensation or other
15 consideration:

16 (1) Paid by or on behalf of any guest or person for
17 transient accommodations, as defined in section
18 237D-1;

19 (2) Paid for any patient, resident, or ward present or
20 residing in any hospital, community-based care home,
21 home-based care home, or healthcare agency of any type



1 licensed by the department of health or the department
2 of human services that is being provided as emergency
3 shelter under this section; provided that the
4 protections afforded by this section shall not extend
5 beyond the use of the emergency shelter under this
6 section for any other duty or standard of care owed to
7 any patient, resident, or ward;

8 (3) Paid by or on behalf of any minor or student of any
9 age in any day care, preschool, elementary school,
10 middle school, or any other educational facility that
11 is being provided as emergency shelter under this
12 section; or

13 (4) Paid to the owner by a person being sheltered during
14 the disaster for any commodity sold by the owner;
15 provided that the owner's conduct does not violate
16 section 127A-30."

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

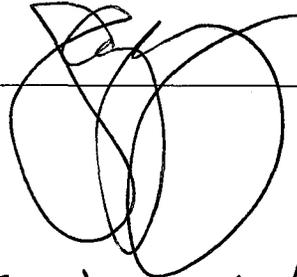
20 SECTION 4. New statutory material is underscored.



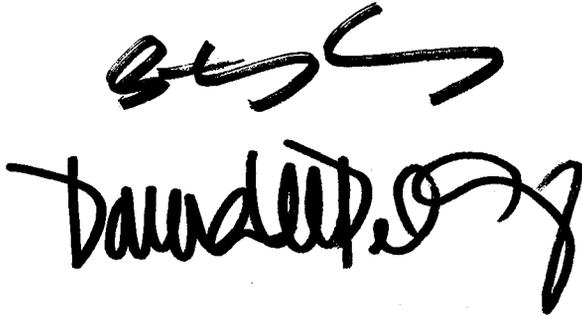
1 SECTION 5. This Act shall take effect upon its approval.

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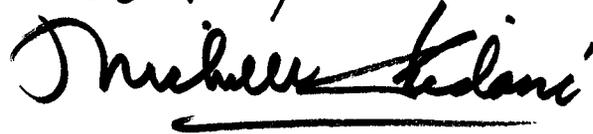
INTRODUCED BY: _____



Anne Mercedes Ki



Will Egan



Breene Hunt



S.B. NO. 3083

Report Title:

Disasters; Emergency Shelter; Exemption from Civil Liability; Requirements; Limitations; Remuneration

Description:

Clarifies that certain types of remuneration received by an owner of private property who in good faith provides emergency access to land, shelter, or subsistence during a disaster shall not disqualify the owner from receiving the exemption provided under section 663-10.7, HRS, from civil liability for any resulting injury or damage.

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

