

---

---

# A BILL FOR AN ACT

RELATING TO EMERGENCY MANAGEMENT.

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

**PART I**

1  
2 SECTION 1. The legislature finds that there is a need to  
3 encourage owners of private property to assist in times of  
4 emergencies or disasters by providing emergency shelter to the  
5 public. In many cases, owners of private property are reluctant  
6 to make their property or facilities available to the general  
7 public for use as emergency shelter due to concerns about  
8 liability. The legislature also finds that it is the policy of  
9 the State to encourage the private sector to assist their  
10 communities during emergencies or disasters. Consistent with  
11 this policy, Act 291, Session Laws of Hawaii 2012 (Act 291),  
12 exempts from civil liability for injury or damage an owner of  
13 private property who provides, in good faith, emergency access  
14 to land, shelter, or subsistence during a disaster, without  
15 remuneration or expectation of remuneration, with certain  
16 exceptions.



1       The legislature further finds that the ballistic missile  
2 alert that was broadcast in error to the public on January 13,  
3 2018, has raised questions about whether the exemption from  
4 civil liability provided by Act 291 applies to certain types of  
5 property owners. More specifically, it is unclear whether a  
6 property owner who provides shelter during a disaster is exempt  
7 from civil liability if the persons being sheltered are paying  
8 guests of a transient accommodation, wards of healthcare  
9 facilities, students of an educational facility, or buyers of  
10 commodities sold by the property owner. The legislature  
11 believes that the compensation paid by or on behalf of guests,  
12 wards, students, or buyers of commodities should not disqualify  
13 a private property owner from receiving the exemption afforded  
14 by Act 291. Additionally, due to the possibility that the  
15 persons being sheltered may be required to remain sheltered for  
16 an extended period of time, the legislature believes that a  
17 private property owner's sale of a commodity to a person being  
18 sheltered should not disqualify the owner from receiving the  
19 exemption under Act 291.



1           Accordingly, the purpose of this part is to clarify that,  
2 with respect to eligibility for the exemption from civil  
3 liability provided by section 663-10.7, Hawaii Revised Statutes:

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

5                 (A) Property used as a transient accommodation;

6                 (B) Licensed hospital, care home, or healthcare  
7                         agency; or

8                 (C) Day care, preschool, or educational facility,  
9                         is not "remuneration" and shall not disqualify the  
10                        owner from receiving the exemption; and

11           (2) Compensation received by the owner for the owner's  
12                 sale of a commodity to a person being sheltered shall  
13                         not disqualify the owner from receiving the exemption;  
14                         provided that the owner does not violate the  
15                         prohibition against "price gouging" under section  
16                         127A-30, Hawaii Revised Statutes.

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

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

20                         "Commodity" means any good necessary for the health,  
21 safety, and welfare of the people of Hawaii; provided that this



1 term shall include but not be limited to materials, merchandise,  
2 supplies, equipment, resources, and other articles of commerce  
3 that shall include food, water, ice, medication, chemicals, or  
4 petroleum products.

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

10 "Emergency" means a situation in which the life or health  
11 of a person is in jeopardy due to a disaster requiring immediate  
12 assistance.

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

18 "Remuneration" does not include any compensation or other  
19 consideration:



- 1        (1) Paid by or on behalf of any guest or person for  
2        transient accommodations, as defined in section  
3        237D-1;
- 4        (2) Paid for any patient, resident, or ward present or  
5        residing in any hospital, community-based care home,  
6        home-based care home, or healthcare agency of any type  
7        licensed by the department of health or the department  
8        of human services that is being provided as emergency  
9        shelter under this section; provided that the  
10       protections afforded by this section shall not extend  
11       beyond the use of the emergency shelter under this  
12       section for any other duty or standard of care owed to  
13       any patient, resident, or ward;
- 14       (3) Paid by or on behalf of any minor or student of any  
15       age in any day care, preschool, elementary school,  
16       middle school, or any other educational facility that  
17       is being provided as emergency shelter under this  
18       section; or
- 19       (4) Paid to the owner by a person being sheltered during  
20       the disaster for any commodity sold by the owner;



1 provided that the owner's conduct does not violate  
2 section 127A-30."

3 PART II

4 SECTION 3. The purpose of this part is to:

5 (1) Require the owners of buildings open to the public to:

6 (A) Provide shelter to visiting members of the public  
7 in cases of emergency or disaster; and

8 (B) Inform the appropriate county emergency  
9 management agency of the designated shelter area;  
10 and

11 (2) Provide immunity from civil liability for owners of  
12 buildings open to the public to provide shelter to  
13 visiting members of the public in cases of emergency  
14 or disaster.

15 SECTION 4. Chapter 127A, Hawaii Revised Statutes, is  
16 amended by adding a new section to be appropriately designated  
17 and to read as follows:

18 "§127A- Designated shelter in buildings open to the  
19 public; immunities. (a) In cases of emergency or disaster, the  
20 owner of any building open to the public shall provide shelter  
21 in or on the premises of the building to any member of the



1 public visiting or conducting business in or on the premises of  
2 the building at the onset of an emergency or disaster.

3 (b) The owner of each building open to the public shall  
4 inform the appropriate county emergency management agency of the  
5 area designated for use as shelter in cases of emergency or  
6 disaster pursuant to subsection (a) in a manner to be determined  
7 by the county emergency management agency.

8 (c) No building owner subject to the duties of this  
9 section shall be civilly liable for the death or injury to any  
10 person or damage to any personal property as a result of any act  
11 done pursuant to the duties of this section."

12 **PART III**

13 SECTION 5. This Act does not affect rights and duties that  
14 matured, penalties that were incurred, and proceedings that were  
15 begun before its effective date.

16 SECTION 6. New statutory material is underscored.

17 SECTION 7. This Act shall take effect on July 1, 2050.

18



**Report Title:**

Disasters; Emergency Shelter; Exemption from Civil Liability; Requirements; Limitations; Remuneration; Buildings Open to Public

**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. Requires the owners of buildings open to the public to provide shelter to visiting members of the public in cases of emergency or disaster. Requires the owners of buildings open to the public to inform the appropriate county emergency management agency of the designated shelter area. Provides immunity from civil liability for owners of buildings open to the public who provide shelter to visiting members of the public in cases of emergency or disaster. Effective 7/1/2050. (SD1)

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

