
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 emergence of
2 coronavirus disease 2019 (COVID-19) and its variants created a
3 great challenge to global health, the economy, and our way of
4 life. The governor and county mayors have had to exercise their
5 emergency powers under chapter 127A, Hawaii Revised Statutes, to
6 impose rules aimed to control the spread of COVID-19. The
7 enforcement of those rules has been critical to efforts to limit
8 the spread of COVID-19, protect the health and safety of the
9 community, manage medical resources, and promote economic
10 recovery. The COVID-19 pandemic has highlighted the importance
11 of clear legal frameworks for state and county emergency
12 management to ensure that the State and counties are ready for
13 any type of emergency.

14 The legislature further finds that chapter 127A, Hawaii
15 Revised Statutes, should clearly specify and articulate the
16 bases for emergency actions.

17 The purpose of this Act is to:



- 1 (1) Prohibit the governor or mayor from suspending
2 requests for public records for vital specifics during
3 a state of emergency;
- 4 (2) Allow for a reasonable delay in a department or state
5 agency's response to a request as a result of
6 extenuated circumstances;
- 7 (3) Clarify that powers granted for emergency purposes
8 shall not be inconsistent with the state constitution;
- 9 (4) Define "severe warning";
- 10 (5) Authorize the governor to require counties to obtain
11 the approval of the governor or director of the Hawaii
12 emergency management agency before issuing any
13 emergency order, rule, or proclamation;
- 14 (6) Provide parameters for the duration of the suspension
15 of laws and require justification for the suspension;
- 16 (7) Authorize the legislature to terminate a state of
17 emergency in part or in whole, by an affirmative two-
18 thirds vote; and
- 19 (8) Specify that prohibitions on price increases of
20 essential commodities during a severe warning expires
21 seventy-two hours after the effective date and time of



1 the initial declaration or any supplemental
2 proclamation.

3 SECTION 2. Chapter 127A, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 **"§127A- Suspension of certain record requests;**

7 **prohibited.** (a) The governor or a mayor shall not, through any
8 proclamation or declaration of emergency or any rule or order
9 adopted pursuant to this chapter, suspend agency response
10 deadlines for requests to:

11 (1) Public records pursuant to part II of chapter 92F; or

12 (2) Vital statistics records pursuant to sections 338-18.

13 (b) Due to extenuating circumstances, there may be a
14 reasonable delay in a department or state or county agency's
15 response to a request for records under this section; provided
16 that an agency shall not deny a request at any time, regardless
17 of whether an emergency has been declared, unless an exemption
18 to disclosure is allowed pursuant to chapter 92F or section
19 338-18, as applicable."

20 SECTION 3. Section 127A-1, Hawaii Revised Statutes, is
21 amended by amending subsection (c) to read as follows:



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

13 SECTION 4. Section 127A-2, Hawaii Revised Statutes, is
14 amended by adding a new definition to be appropriately inserted
15 and to read as follows:

16 "Severe warning" means the issuance by the National
17 Weather Service, Pacific Tsunami Warning Center, United States
18 Geological Survey, or other public authority of a public
19 notification that a dangerous condition exists that could impact
20 the State, or any portion of it, within a specified period of
21 time. "Severe warning" includes but is not limited to warnings



1 of coastal inundation, high surf, flash flooding, volcano,
2 tsunami, or hurricane."

3 SECTION 5. Section 127A-13, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§127A-13 Additional powers in an emergency period. (a)**

6 In the event of a state of emergency declared by the governor
7 pursuant to section 127A-14, the governor may exercise the
8 following additional powers pertaining to emergency management
9 during the emergency period:

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



1 is a source of contamination or is in a dangerous
2 condition in any case where, in the governor's
3 opinion, the existing laws are not adequate to assure
4 the public health and safety, and designate as public
5 nuisances acts, practices, conduct, or conditions that
6 are 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 shall be applicable; and further, authorize
15 without the permission of the owners or occupants,
16 entry on private premises for any 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, by suspending the laws, in whole or in



1 part, or by alleviating, ~~[the provisions of laws on~~
2 ~~such]~~ subject to terms and conditions [as] that the
3 governor may ~~[impose]~~ specify, the provisions of laws,
4 including licensing laws, quarantine laws, and laws
5 relating to labels, grades, and standards;

6 (3) ~~[Suspend]~~ Except as provided in section 127A- ,
7 suspend any law that impedes or tends to impede or be
8 detrimental to the expeditious and efficient execution
9 of, or to conflict with, emergency functions,
10 including laws ~~[which]~~ that by this chapter
11 specifically are made applicable to emergency
12 personnel; provided that any suspension of law shall
13 be no broader and last no longer than the governor
14 deems necessary for the execution of emergency
15 management functions, and any suspension of law shall
16 identify the section of law suspended and, for each
17 section, shall specify the emergency management
18 functions facilitated and justify the suspension based
19 on protecting the public health, safety, and welfare;
20 provided further that any suspension of any law that
21 requires permits, authorizations, or approvals from



1 any state or county agency may continue beyond the
2 emergency period to allow for the completion of any
3 repairs, reconstruction, rebuilding, or construction
4 of any state or county infrastructure, facilities, or
5 properties that would otherwise be delayed by any such
6 permit, authorization, or approval;

7 (4) Suspend the provisions of any regulatory law
8 prescribing the procedures for out-of-state utilities
9 to conduct business in the State including any
10 licensing laws applicable to out-of-state utilities or
11 their respective employees, as well as any order,
12 rule, or regulation of any state agency, if strict
13 compliance with the provisions of any such law, order,
14 rule, or regulation would in any way prevent, hinder,
15 or delay necessary action of a state utility in coping
16 with the emergency or disaster with assistance that
17 may be provided under a mutual assistance agreement;

18 (5) In the event of disaster or emergency beyond local
19 control, ~~[or]~~ an event ~~[which,]~~ that, in the opinion
20 of the governor, ~~[is such as to make]~~ makes state



operational control or coordination necessary, or upon request of the [~~local entity, assume~~] county:

(A) Assume direct operational control over all or any part of the emergency management functions within the affected area; and

(B) Notwithstanding sections 127A-14 and 127A-25, require the county to obtain the approval of the governor or director prior to issuing any emergency order, rule, or proclamation under this chapter;

- (6) Shut off water mains, gas mains, electric power connections, or suspend other services, and, to the extent permitted by or under federal law, suspend electronic media transmission;
- (7) Direct and control the mandatory evacuation of the civilian population;
- (8) Exercise additional emergency functions to the extent necessary to prevent hoarding, waste, or destruction of materials, supplies, commodities, accommodations, facilities, and services, to effectuate equitable distribution thereof, or to establish priorities



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

8 (9) Suspend section 8-1, relating to state holidays,
9 except the last paragraph relating to holidays
10 declared by the president, which shall remain
11 unaffected, and in the event of the suspension, the
12 governor may establish state holidays by proclamation;

13 (10) Adjust the hours for voting to take into consideration
14 the working hours of the voters during the emergency
15 period, and suspend those provisions of section 11-131
16 that fix the hours for voting, and fix other hours by
17 stating the same in the election proclamation or
18 notice, as the case may be;

19 (11) Assure the continuity of service by critical
20 infrastructure facilities, both publicly and privately
21 owned, by regulating or, if necessary to the



1 continuation of the service thereof, by taking over
2 and operating the same; and

3 (12) Except as provided in section 134-7.2, whenever in the
4 governor's opinion, the laws of the State do not
5 adequately provide for the common defense, public
6 health, safety, and welfare, investigate, regulate, or
7 prohibit the storage, transportation, use, possession,
8 maintenance, furnishing, sale, or distribution of, as
9 well as any transaction related to, explosives,
10 firearms, and ammunition, inflammable materials and
11 other objects, implements, substances, businesses, or
12 services of a hazardous or dangerous character, or
13 particularly capable of misuse, or obstructive of or
14 tending to obstruct law enforcement, emergency
15 management, or military operations, including
16 intoxicating liquor and the liquor business; and
17 authorize the seizure and forfeiture of any such
18 objects, implements, or substances unlawfully
19 possessed, as provided in this chapter.

20 (b) In the event of a local state of emergency declared by
21 the mayor pursuant to [‡]section[‡] 127A-14, the mayor may



1 exercise the following additional powers pertaining to emergency
2 management during the emergency period:

3 (1) Relieve hardships and inequities, or obstructions to
4 the public health, safety, or welfare, found by the
5 mayor to exist in the laws of the county and to result
6 from the operation of federal programs or measures
7 taken under this chapter, by suspending the county
8 laws, in whole or in part, or by alleviating ~~[the~~
9 ~~provisions of county laws on such]~~, subject to terms
10 and conditions [as] that the mayor may ~~[impose]~~
11 specify, the provisions of county laws, including
12 county licensing laws[~~r~~] and county laws relating to
13 labels, grades, and standards;

14 (2) ~~[Suspend]~~ Except as provided in section 127A-,
15 suspend any county law that impedes or tends to impede
16 or be detrimental to the expeditious and efficient
17 execution of, or to conflict with, emergency
18 functions, including laws ~~[which]~~ that by this chapter
19 specifically are made applicable to emergency
20 personnel; provided that any suspension of law shall
21 be no broader and last no longer than the mayor deems



necessary for the execution of emergency management functions, and any suspension of law shall identify the section of law suspended and, for each section, shall specify the emergency management functions facilitated and justify the suspension based on protecting the public health, safety, and welfare; provided further that any suspension of any law that requires permits, authorizations, or approvals from any state or county agency may continue beyond the emergency period to allow for the completion of any repairs, reconstruction, rebuilding, or construction of any state or county infrastructure, facilities, or properties that would otherwise be delayed by any such permit, authorization, or approval;

(3) Shut off water mains, gas mains, electric power connections, or suspend other services; and, to the extent permitted by or under federal law, suspend electronic media transmission;

(4) Direct and control the mandatory evacuation of the civilian population; and



(5) Exercise additional emergency functions, to the extent necessary to prevent hoarding, waste, or destruction of materials, supplies, commodities, accommodations, facilities, and services, to effectuate equitable distribution thereof, or to establish priorities therein as the public welfare may require; to investigate; and any other county law to the contrary notwithstanding, to regulate or prohibit, by means of licensing, rationing, or otherwise, the storage, transportation, use, possession, maintenance, furnishing, sale, or distribution thereof, and any business or any transaction related thereto."

SECTION 6. Section 127A-14, Hawaii Revised Statutes, is amended to read as follows:

"§127A-14 State of emergency. (a) The governor may declare the existence of a state of emergency in the State by proclamation if the governor finds that an emergency or disaster has occurred or that there is imminent danger or threat of an emergency or disaster in any portion of the State.

(b) A mayor may declare the existence of a local state of emergency in the county by proclamation if the mayor finds that



1 an emergency or disaster has occurred or that there is imminent
2 danger or threat of an emergency or disaster in any portion of
3 the county.

4 (c) ~~[The]~~ Except as provided in subsection (e), the
5 governor or mayor shall be the sole judge of the existence of
6 the danger, threat, or circumstances giving rise to a
7 declaration, extension, or termination of a state of emergency
8 in the State or a local state of emergency in the county, as
9 applicable. This section shall not limit the power and
10 authority of the governor under section 127A-13(a)(5).

11 (d) A state of emergency and a local state of emergency
12 shall terminate automatically sixty days after the issuance of a
13 proclamation of a state of emergency or local state of
14 emergency, respectively, ~~[or]~~ unless extended or terminated by a
15 separate or supplementary proclamation of the governor or
16 mayor~~[, whichever occurs first]~~.

17 (e) The legislature may, by an affirmative vote of two-
18 thirds of the members to which each house is entitled, terminate
19 a state of emergency, in part or in whole, declared by the
20 governor pursuant to this section."



1 SECTION 7. Section 127A-30, Hawaii Revised Statutes, is
2 amended by amending subsections (a) to (c) to read as follows:

3 "(a) Whenever the governor declares a state of emergency
4 for the entire State or any portion thereof, or a mayor declares
5 a local state of emergency for the county or any portion
6 thereof, or when the State, or any portion thereof, is the
7 subject of a severe [~~weather~~] warning:

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

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

18 (A) Nothing in this chapter shall be construed to
19 extend a fixed-term lease beyond its termination
20 date, except that a periodic tenancy for a
21 residential dwelling unit may be terminated by



1 the landlord upon forty-five days' written
2 notice:

3 (i) When the residential dwelling unit is sold
4 to a bona fide purchaser for value; or

5 (ii) When the landlord or an immediate family
6 member of the landlord will occupy the
7 residential dwelling unit; or

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

14 (i) Reoccupancy shall first be offered to the
15 same tenant or tenants upon completion of
16 the repair;

17 (ii) The term of the fixed-term lease or periodic
18 tenancy shall be extended by a period of
19 time equal to the duration of the repair;
20 and



1 (iii) It shall be the responsibility of the tenant
2 or tenants to find other accommodations
3 during the period of repair.

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

12 (c) The prohibitions under subsection (a) shall remain in
13 effect until twenty-four hours after the severe [~~weather~~]
14 warning is canceled by the National Weather Service; or in the
15 event of a declaration, [~~the later of a date specified by the~~
16 ~~governor or mayor in the declaration or ninety-six~~] seventy-two
17 hours after the effective date and time of the declaration,
18 unless [~~such~~] the prohibition is identified and continued [~~by a~~
19 ~~supplementary declaration issued~~] by the governor or mayor[~~-~~] in
20 the proclamation or any supplementary proclamation. Any
21 proclamation issued under this chapter that fails to state the



1 time at which it will take effect, shall take effect at twelve
2 noon of the day on which it takes effect."

3 SECTION 8. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 9. This Act shall take effect upon on July 1,
6 2050.



Report Title:

Emergency Management; State of Emergency; Emergency Powers;
Price Control

Description:

Prohibits the governor or mayor from suspending requests for public records or vital statistics records during a state of emergency. Allows for a reasonable delay in a department or state or county agency's response to a request as a result of extenuated circumstances. Clarifies that powers granted for emergency purposes shall not be construed as permitting actions inconsistent with the state constitution. Provides for greater clarity and specificity regarding the scope of suspensions of law. Clarifies that Hawaii's emergency management system includes coordination between State and county emergency management functions, where appropriate. Clarifies the legal framework governing the extension and termination of emergency periods. Defines "severe warning". Allows the legislature to, by an affirmative vote of two-thirds of the members to which each house is entitled, terminate a state of emergency, in part or in whole, declared by the governor. Effective 7/1/2050.

(HD1)

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

