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DEPARTMENT OF DEFENSE
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STATE OF HAWAI'I
DEPARTMENT OF DEFENSE
HAWAI'I EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON HOUSE BILL 1902,
RELATING TO EMERGENCY MANAGEMENT

BEFORE THE SENATE COMMITTEE ON
WATER AND LAND

BY

JAMES DS. BARROS
ADMINISTRATOR
HAWAI'I EMERGENCY MANAGEMENT AGENCY

JANUARY 30, 2024

Aloha Chair Ichiyama, Vice-Chair Poepoe, and Members of the Committee:

Thank you for the opportunity to submit testimony to **SUPPORT** HB1902.

Following the August 8, 2023, Maui Wildfires, agencies, and organizations from across the state and nation came together to help the victims of this devastating event. Throughout the process it pointed out the need for all these interested parties on the federal, state, county, and Non-Governmental-Organization (NGO) level must identify the importance and proper framework of duties and responsibilities to prepare, mitigate and recover from catastrophic events.

The Hawai'i Emergency Management Agency (HI-EMA) supports HB 1902 because it is addressing these issues in a comprehensive manner. This measure will help integrate a matrix of responsibilities into an emergency management program. The intent is a working model to respond appropriately to the factors faced during a disaster. Furthermore, it sets up a way of addressing challenges the state may face during difficult times. HB 1902 recommends to the legislature, state agencies, local officials, and NGOs a unified plan to address responses when an emergency is declared by the governor and/or mayors. The overall intent is to help all parties understand and find ways of reducing impacts before, during and after an emergency.

The state of Hawai'i faces a wide variety of potentially catastrophic natural disasters including, hurricane, wildfire, tsunami, and earthquakes. Man-caused events are also important to emphasize that require awareness and mitigation. HI-EMA recognizes the importance of

education, preparedness, and resiliency. HI-EMA works with the Federal Emergency Management Agency, counties, and NGOs to coordinate these important efforts. The goal is a community that understands its role in case of an emergency and can collectively respond responsibly.

HI-EMA believes HB1902 is an essential step in the path of readiness to meet the challenges we face daily.

Thank you for the opportunity to provide testimony on House Bill 1902.

James Barros: james.barros@hawaii.gov; 808-733-4300

January 30, 2024

The Honorable Linda Ichiyama, Chair

House Committee on Water & Land
State Capitol, Conference Room 430 & Videoconference

RE: House Bill 1902, Relating to Emergency Management

HEARING: Tuesday, January 30, 2024, at 9:00 a.m.

Aloha Chair Ichiyama, Vice Chair Poepoe, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its over 11,000 members. HAR **strongly supports** House Bill 1902, which clarifies that the Governor's and mayors' emergency management powers shall be consistent with the state constitution. Clarifies the scope of the comprehensive emergency management plan. Clarifies the powers of the Governor and mayors to extend or terminate a state of emergency. Shortens the duration of price control periods from ninety-six hours to seventy-two hours.

Under Hawai'i Revised Statutes §127A-30, whenever the Governor or a Mayor for their respective county declares a state of emergency, it automatically triggers a prohibition on "any increase in the selling price of any commodity, whether at the retail or wholesale level, in the area that is the subject of the proclamation or the severe weather warning." This provision also applies to rental housing.

The original intent of the price freeze protections was likely to protect the public in times of natural disasters or other calamities to allow them access to important goods, such as food, water, gas, housing, etc. without the fear of being unable to afford these products. However, the use of Emergency Proclamations has expanded in recent years and there is almost always an active Emergency Proclamation at any given time. Both consumers and businesses are often confused on whether price freezing needs to happen in a given situation and on what products. A broader interpretation of the law suggests that these price controls could apply to all goods and services in the state, including contracts, during any state of emergency or active proclamation. These differences in interpretation have led to confusion and inconsistent business practices.

While we are grateful the Administration has begun to specify which commodities the price freeze statute applies to in the Governor's recent Emergency Proclamations, we believe a permanent legislative fix is necessary to help provide needed clarity to both business and consumers.

We commend the Legislature for introducing this measure and strongly support its passage. Mahalo for the opportunity to testify.

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**TESTIMONY OF TINA YAMAKI, PRESIDENT
RETAIL MERCHANTS OF HAWAII
January 30, 2024
Re: HB 1902 RELATING TO EMERGENCY MANAGEMENT**

Good morning, Chair Ichiyama and members of the House Committee on Water and Land. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901 and is a statewide, not for profit trade organization committed to supporting the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, on-line sellers, local, national, and international retailers, chains, and everyone in between.

We are in SUPPORT of HB 1902 Relating to Emergency Management. This measure clarifies that the Governor's and mayors' emergency management powers shall be consistent with the state constitution. Clarifies the scope of the comprehensive emergency management plan. Clarifies the powers of the Governor and mayors to extend or terminate a state of emergency. Shortens the duration of price control periods from ninety-six hours to seventy-two hours.

As the law currently reads, when an emergency proclamation is issued HRS 127A-30 is automatically invoked and requires pricing of all commodities to be frozen as of the date of the proclamation. If the proclamation continues to be extended over and over for a period of time, as we seen during the recent COVID pandemic, this automatic price freeze trigger can lead to nonsensical results, particularly where the governor or mayor does not specify the commodities that are subject to the price freeze.

We are aware that emergencies and disasters vary and there may be a need to freeze prices for certain items. However, retailers are uncertain as to how this provision applies and to which commodities. We are especially in support of the proposed language that would require the governor and the mayor to specify the type of goods and products that would be subject to a price freeze 72 hours after the initial emergency proclamation. This will provide certainty to businesses of their obligations under emergency declarations.

We would like to point out the majority of the retailers during any time of impending or during an emergency or disaster do NOT price gouge their customers for items that include but are not limited to bottled water, toilet paper, cleaning supplies or batteries. Retailers are falsely accused of price gouging when customers pick up items in larger quantities or higher end products that cost more than the smaller sized or generic ones. In addition, with social media, retailers are even more aware of keeping their prices stable.

Mahalo again for this opportunity to testify.

Jan. 30, 2024, 9 a.m.
Hawaii State Capitol
Conference Room 430 and Videoconference

To: House Committee on Water & Land
Rep. Linda Ichiyama, Chair
Rep. Mahina Poepoe, Vice-Chair

From: Grassroot Institute of Hawaii
Ted Kefalas, Director of Strategic Campaigns

RE: HB1902 — RELATING TO EMERGENCY MANAGEMENT

Comments only

Aloha Chair Ichiyama, Vice-Chair Poepoe and other members of the Committee,

The Grassroot Institute of Hawaii would like to offer its comments on [HB1902](#), which would amend the state's emergency-management statute to state that the powers granted for emergency purposes must be consistent with the Hawaii Constitution; clarify the powers of the governor and mayors to extend an emergency via proclamation; and shorten the duration of price control periods in an emergency .

We agree that the emergency management statute is in need of an update, but we are concerned about the potential effect of these amendments. The requirement that the exercise of emergency powers be consistent with the Hawaii Constitution is a welcome addition, but we think it does not go far enough to protect civil liberties.

In particular, the clause allowing the governor or mayors to extend an emergency via proclamation would exacerbate a problem in the state's current emergency-management law that was not apparent until the COVID-19 lockdowns, which is the lack of a meaningful legislative check on the governor's emergency powers.

Currently, the law includes a 60-day limit on emergencies, but it does not address what should happen if an emergency exceeds that limit. This bill would make that problem even more severe by guaranteeing that the

governor and mayors would be able to extend their emergency proclamations indefinitely, with little input or oversight from the legislative branch.

What is needed is a legislative check on the possibility of an unending emergency arising from the governor's or a mayor's ability to issue supplemental proclamations extending the original emergency period.

Such a check would be more meaningful if multiple extensions of an emergency required legislative approval, regardless of whether the Legislature is in session.

Here are some proposed amendments that would make the bill better:

1. In Section 3, amend Section 127A-14, subsection (d) to read:

(d) A state of emergency and a local state of emergency shall terminate automatically sixty days after the issuance of a proclamation of a state of emergency or local state of emergency, respectively, [or] unless extended or terminated by a separate or supplementary proclamation of the governor or mayor, [whichever occurs first] provided that the proclamation extending the emergency meets the following qualifications:

- (1) It is the first extension of the emergency period issued by the governor or mayor and extends that emergency by no more than 60 days.
- (2) The Legislature has approved the extension by concurrent resolution.
- (3) The Legislature has not convened a special session to debate the extension of the emergency within 10 days of the issue date of the proclamation extending the emergency.
 - (a) Pursuant to the Legislature's rules governing petition for a special session, the House and Senate may petition the President of the Senate and Speaker of the House to convene a special session for the purpose of debating the extension of the emergency. The petition and special session must occur within 10 days of the issue date of the proclamation extending the emergency. If the special session does not convene within 10 days, the extension is deemed approved by the Legislature.
 - (b) If the Speaker of the House or President of the Senate notifies the governor or mayor of the need for a special session to debate the extension of an emergency, the governor or mayor may withdraw the proclamation extending the emergency and allow the emergency to terminate.

2. In addition, add the following after Section 127-A14 (e):

(f) A proclamation by the governor declaring the existence of a state of emergency arising from the same emergency or disaster for which a previous emergency proclamation was terminated by the Legislature may be authorized for a period of up to sixty days only upon request of the governor and adoption of a concurrent resolution by the Legislature.

(g) The governor or mayor shall proclaim the termination of a state of emergency or local state of emergency, respectively, at the earliest possible date that conditions warrant

During the COVID-19 emergency, we had the opportunity to learn more about what we do well and what could be improved. These proposed amendments would help ensure that the public retains a voice in an ongoing emergency, and that the emergency powers do not become a tool for unchecked executive power.

Finally, shortening the period of price controls during emergencies would be a step in the right direction. Economists frown on price controls — even during emergencies¹ — as they tend to create economic inefficiencies and distort the market, often hurting the disadvantaged and vulnerable populations they are designed to help.²

If anything, such controls incentivize those with more resources and advantages to take advantage of artificially lower prices, leading to hoarding and unnecessary purchases. One study found that pandemic-era price controls actually undermined COVID-19 mitigation efforts, as they exacerbated shortages and forced consumers to travel to more stores in order to locate goods, thereby frustrating social-distancing efforts.³

Keeping the duration of price controls to a minimum, or even eliminating price controls completely, would help address the problems caused by the market disruptions they cause.

It is important that Hawaii's emergency management law reflects the lessons we have learned over the past few years. There is room to protect civil rights and the balance of powers without handicapping the executive's ability to respond quickly and effectively to emergency situations. The goal should be to amend the law so that Hawaii is better able to address future emergencies.

Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas

¹ [Price Gouging Poll](#), Chicago Booth: Kent A. Clark Center for Global Markets. May 2, 2012.

² Ryan Bourne, "[Abolish Price and Wage Controls](#)," Cato Institute. Sept. 15, 2020.

³ Chakraborti, R., Roberts, G. "[How price-gouging regulation undermined COVID-19 mitigation: county-level evidence of unintended consequences](#)," Public Choice 196, 51–83 (2023). <https://doi.org/10.1007/s11127-023-01054-z>

Director of Strategic Campaigns
Grassroot Institute of Hawaii



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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The Thirty-Second Legislature, State of Hawaii
The House of Representatives
Committee on Water and Land

Testimony by
Hawaii Government Employees Association

January 30, 2024

H.B. 1902 — EMERGENCY MANAGEMENT

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of H.B.1786, which clarifies that the Governor's and mayors' emergency management powers shall be consistent with the state constitution, the scope of the comprehensive emergency management plan, and the powers of the Governor and mayors to extend or terminate a state of emergency. **However, we respectfully request a proposed amendment to authorize the legislature to terminate or extend a state of emergency after sixty-days by an affirmative two-thirds vote in both chambers.**

While this bill includes several essential changes, including ensuring consistency with our state constitution and providing justification for the suspension of laws, it is glaringly obvious that it lacks the most important amendment of all: a necessary legislative check and balance to the executive that empowers the legislature to terminate a state of emergency. We respectfully request that this committee amend this measure to authorize the legislature to terminate or extend, in part or in whole, a state of emergency by two-thirds affirmative vote of both chambers.

It is contrary to our democracy for any one individual to have unilateral authority to suspend laws indefinitely without a mechanism for public input and review. Passage of this measure with the proposed amendment will ensure that emergency actions are balanced, constitutional, and justifiable.

Thank you for the opportunity to provide testimony in support of H.B. 1902.

Respectfully submitted,

Randy Perreira
Executive Director