

JAN 25 2023

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 recognizes that pursuant to
2 current emergency management law in chapter 127A, Hawaii Revised
3 Statutes, when the governor or a mayor declares a state of
4 emergency, all commodities prices are frozen across the State or
5 the respective county for the duration of the emergency period.
6 The legislature finds that the broad scope of price "freezing"
7 has unintended consequences, as it effects businesses that are
8 not in the area where the emergency is occurring, and affects
9 prices of commodities that are not necessarily implicated by the
10 emergency. The legislature notes, for example, that during the
11 emergency period declared several years ago for lava inundation
12 on Hawaii island, businesses on other islands were unable to
13 raise their prices to adjust to rising costs, even though those
14 products were not affected by the emergency situation.

15 Accordingly, the purpose of this Act is to amend
16 section 127A-30, Hawaii Revised Statutes, to provide that any
17 prohibition on the increase of prices of essential commodities



1 during a state of emergency shall apply only to those
2 commodities specifically listed for price protection within the
3 geographic area specified for that price protection by the
4 governor's or mayor's proclamation.

5 SECTION 2. Section 127A-30, Hawaii Revised Statutes, is
6 amended as follows:

7 1. By amending subsections (a) to (c) to read:

8 "(a) Whenever the governor declares a state of emergency
9 for the entire State or any portion thereof, or a mayor declares
10 a local state of emergency for the county or any portion
11 thereof, or when the State, or any portion thereof, is the
12 subject of a severe [~~weather~~] warning:

13 (1) There shall be prohibited any increase in the selling
14 price of any commodity[~~;~~] specifically listed for
15 price protection in the governor's or mayor's
16 proclamation, or any supplementary proclamation,
17 whether at the retail or wholesale level, in the
18 geographic area that is [~~the subject of~~] specified for
19 price protection by the proclamation, or [~~the severe~~
20 ~~weather warning;~~] any supplementary proclamation; and



1 (2) No landlord shall terminate any tenancy for a
2 residential dwelling unit in the area that is the
3 subject of the proclamation or [~~the~~] severe [~~weather~~]
4 warning, except for a breach of a material term of a
5 rental agreement or lease, or if the unit is unfit for
6 occupancy as defined in this chapter; provided that:
7 (A) Nothing in this chapter shall be construed to
8 extend a fixed-term lease beyond its termination
9 date, except that a periodic tenancy for a
10 residential dwelling unit may be terminated by
11 the landlord upon forty-five days' written
12 notice:
13 (i) When the residential dwelling unit is sold
14 to a bona fide purchaser for value; or
15 (ii) When the landlord or an immediate family
16 member of the landlord will occupy the
17 residential dwelling unit; or
18 (B) Under a fixed-term lease or a periodic tenancy,
19 upon forty-five days' written notice, a landlord
20 may require a tenant or tenants to relocate
21 during the actual and continuous period of any



S.B. NO. 1599

1 repair to render a residential dwelling unit fit
2 for occupancy; provided that:

3 (i) Reoccupancy shall first be offered to the
4 same tenant or tenants upon completion of
5 the repair;

6 (ii) The term of the fixed-term lease or periodic
7 tenancy shall be extended by a period of
8 time equal to the duration of the repair;
9 and

10 (iii) It shall be the responsibility of the tenant
11 or tenants to find other accommodations
12 during the period of repair.

13 (b) Notwithstanding this section, any additional operating
14 expenses incurred by the seller or landlord because of the
15 emergency [~~or~~], disaster or [~~the~~] severe [~~weather, and which~~]
16 warning that can be documented[~~7~~] may be passed on to the
17 consumer. In the case of a residential dwelling unit, if rent
18 increases are contained in a written instrument that was signed
19 by the tenant [~~prior to~~] before the declaration or severe
20 [~~weather~~] warning, the increases may take place pursuant to the
21 written instrument.



1 (c) The prohibitions under subsection (a) shall remain in
2 effect until twenty-four hours after the severe [~~weather~~]
3 warning is canceled by the National Weather Service[+], Pacific
4 Tsunami Warning Center, United States Geological Survey, or
5 other public authority, as applicable; or in the event of a
6 declaration, the later of a date specified by the governor or
7 mayor in the declaration or ninety-six hours after the effective
8 date and time of the declaration, unless such prohibition is
9 continued by a supplementary declaration issued by the governor
10 or mayor. Any proclamation issued under this chapter that fails
11 to state the time at which it will take effect, shall take
12 effect at [~~twelve~~] noon of the day on which it takes effect."

13 2. By amending subsection (f) to read:

14 "(f) As used in this section:

15 "Breach of a material term" means the failure of a party to
16 perform an obligation under the rental agreement or lease, which
17 constitutes the consideration for entering into the contract and
18 includes the failure to make a timely payment of rent.

19 "Commodity" means any good or service necessary for the
20 health, safety, and welfare of the people of Hawaii; provided
21 that this term shall include[+] but not be limited to:



1 materials; merchandise; supplies; equipment; resources; and
2 other articles of commerce that shall include food; water; ice;
3 chemicals; petroleum products; construction materials; or
4 residential dwellings.

5 "Fixed-term lease" means a lease for real property that
6 specifies its beginning date and its termination date as
7 calendar dates, or contains a formula for determining the
8 beginning and termination dates; and the application of the
9 formula as of the date of the agreement will produce a calendar
10 date for the beginning and termination of the lease.

11 "Periodic tenancy" means a tenancy wherein real property is
12 leased for an indefinite time with monthly or other periodic
13 rent reserved. A periodic tenancy may be created by express
14 agreement of the parties, or by implication upon the expiration
15 of a fixed-term lease when neither landlord nor tenant provides
16 the other with written notice of termination and the tenant
17 retains possession of the premises for any period of time after
18 the expiration of the original term.

19 "Severe warning" means the issuance, by the National
20 Weather Service, Pacific Tsunami Warning Center, United States
21 Geological Survey, or other public authority, of a public



S.B. NO. 1599

1 notification that a dangerous condition exists that could impact
2 the State, or any portion of it, within a specified period of
3 time. "Severe warning" includes warnings of coastal inundation,
4 high surf, flash flooding, volcano, tsunami, or hurricane.

5 "Unfit for occupancy" means that a residential dwelling
6 unit has been damaged to the extent that the appropriate county
7 agency determines that the unit creates a dangerous or
8 unsanitary situation and is dangerous to the occupants or [~~te~~
9 ~~the~~] neighborhood."

10 SECTION 3. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 4. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

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

16

INTRODUCED BY:  BIR



S.B. NO. 1599

Report Title:

Emergency Management; Proclamations; Price Gouging; Commodities

Description:

Provides that any prohibition on the increase of prices of essential commodities during a state of emergency shall only apply to those commodities specifically listed for price protection within the geographic area specified for that price protection by the governor's or mayor's proclamation.

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