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# 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 it is necessary to  
2 reestablish the proper constitutional framework of checks and  
3 balances and separation of powers between the legislature and  
4 the executive branch with respect to the enactment of laws to  
5 address important issues of public policy. Article III, section  
6 1, of the Hawaii State Constitution vests the "legislative power  
7 of the State" in the legislature. Article V, section 5, of the  
8 Hawaii State Constitution gives the governor the responsibility  
9 "for the faithful execution of the laws" that are enacted.

10           The legislature further finds that the decision of the  
11 Hawaii Supreme Court in *Nakoa v. Governor of State*, 156 Hawaii  
12 416, 575 P.3d 506 (2025), threatens to upset this vital  
13 constitutional balance. The Hawaii Supreme Court interpreted  
14 chapter 127A, Hawaii Revised Statutes, to grant the governor  
15 emergency powers, including the power to suspend laws enacted by  
16 the legislature, to address "conditions that threaten  
17 substantial harm to Hawai'i's people, property, or environment",



1 including but not only discrete, sudden events, but also "long-  
2 term issues", such as the nearly century-long shortage of  
3 affordable housing in Hawaii.

4 The legislature additionally finds that in order to  
5 preserve the separation of powers and avoid executive overreach,  
6 it must remain the exclusive province of the legislature to  
7 address longstanding public-policy challenges.

8 Therefore, the purpose of this Act is to clarify the  
9 emergency powers granted by chapter 127A, Hawaii Revised  
10 Statutes, to the governor and county mayors.

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

14 "§127A- Suspension of access to certain records;  
15 prohibited. (a) The governor or mayor shall not, through any  
16 proclamation or declaration of emergency, or any rule or order  
17 adopted pursuant to this chapter, suspend or deny access, under  
18 the authority of this chapter, to:

19 (1) Records pursuant to chapter 92F; or  
20 (2) Vital records or statistics pursuant to section  
21 338-18.



1        (b) Nothing in this section shall be construed to limit an  
 2 agency's authority to deny access to records or information on  
 3 grounds otherwise authorized by law. Due to extenuating  
 4 circumstances, there may be a reasonable delay in an agency's  
 5 response to a request; provided that an agency shall not reject  
 6 or refuse to accept a request solely on the basis of an  
 7 emergency declared under this chapter."

8        SECTION 3. Section 127A-2, Hawaii Revised Statutes, is  
 9 amended as follows:

10        1. By adding two new definitions to be appropriately  
 11 inserted and to read:

12        "Catastrophic harm" means extraordinary levels of loss of  
 13 life, mass casualties, or life-threatening physical injury to a  
 14 large number of persons, or the sudden failure or destruction of  
 15 critical infrastructure essential to immediate public safety or  
 16 life-sustaining public health functions.

17        "Severe weather warning" means the issuance of a public  
 18 notification by the National Weather Service, Pacific Tsunami  
 19 Warning Center, United States Geological Survey, or other public  
 20 authority that a dangerous condition exists that could impact  
 21 the State, or any portion of it, within a specified period of



1 time. "Severe weather warning" includes but is not limited to  
2 warnings of coastal inundation, high surf, flash flooding,  
3 volcanic activity, a tsunami, or a hurricane."

4 2. By amending the definition of "disaster" to read:

5 ""Disaster" means [~~any emergency,~~] the occurrence or  
6 imminent threat [~~thereof, which results or may likely result in]~~  
7 of widespread or severe damage, injury, or loss of life,  
8 property, or environment [~~and~~] resulting from any sudden natural  
9 or artificial cause, including hurricanes, windstorms, floods,  
10 extreme rain events, earthquakes, landslides, mudslides,  
11 volcanic activity, tsunamis, fires, explosions, air or water  
12 contamination, blight, droughts, infestations, riots, sabotage,  
13 hostile military or paramilitary action, hazardous material  
14 accidents, disease or contagion outbreaks, bioterrorism,  
15 cyberterrorism, terrorism, or incidents involving weapons of  
16 mass destruction, that requires, or may require, assistance from  
17 other counties, states, the federal government, or from private  
18 agencies."

19 3. By amending the definition of "emergency" to read:

20 ""Emergency" means [~~any~~] the occurrence[~~]~~] or imminent  
21 threat [~~thereof, which results or may likely result in~~



1 ~~substantial injury or~~ of a disaster that causes or may be  
2 likely to cause catastrophic harm and immediate danger to the  
3 population ~~[or]~~, substantial damage to or loss of property, or  
4 substantial damage to or loss of the environment[-] and that  
5 timely action can avert or minimize."

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

8 "**§127A-13 Additional powers in an emergency period.** (a)

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

- 13 (1) Provide for and require the quarantine or segregation  
14 of persons who are affected with or believed to have  
15 been exposed to any infectious, communicable, or other  
16 disease that is, in the governor's opinion, dangerous  
17 to the public health and safety, or persons who are  
18 the source of other contamination, in any case where,  
19 in the governor's opinion, the existing laws are not  
20 adequate to assure the public health and safety;  
21 provide for the care and treatment of the persons;



1 supplement the provisions of sections 325-32 to 325-38  
2 concerning compulsory immunization programs; provide  
3 for the isolation or closing of property that is a  
4 source of contamination or is in a dangerous condition  
5 in any case where, in the governor's opinion, the  
6 existing laws are not adequate to assure the public  
7 health and safety, and designate as public nuisances  
8 acts, practices, conduct, or conditions that are  
9 dangerous to the public health or safety or to  
10 property; authorize that public nuisances be summarily  
11 abated and, if need be, that the property be destroyed  
12 by any police officer or authorized person, or provide  
13 for the cleansing or repair of property, and if the  
14 cleansing or repair is to be at the expense of the  
15 owner, the procedure therefor shall follow as nearly  
16 as may be the provisions of section 322-2, which shall  
17 be applicable; and further, authorize without the  
18 permission of the owners or occupants, entry on  
19 private premises for any of these purposes;

20 (2) [Relieve] Except as provided in section 127A- ,  
21 relieve hardships and inequities, or obstructions to



1 the public health, safety, or welfare, found by the  
2 governor to exist in the laws and to result from the  
3 operation of federal programs or measures taken under  
4 this chapter, by suspending the laws, in whole or in  
5 part, or by alleviating [~~the provisions of laws on~~],  
6 subject to terms and conditions [as] that the governor  
7 may [~~impose,~~] specify, the provisions of laws,  
8 including licensing laws, quarantine laws, and laws  
9 relating to labels, grades, and standards;

10 (3) [~~Suspend~~] Except as provided in section 127A- ,  
11 suspend any law that impedes or tends to impede or be  
12 detrimental to the expeditious and efficient execution  
13 of, or to conflict with, emergency functions,  
14 including laws that by this chapter specifically are  
15 made applicable to emergency personnel; provided that  
16 any suspension of law shall be no broader and last no  
17 longer than the governor deems necessary for the  
18 execution of emergency management functions, and any  
19 suspension of law shall identify the section of law  
20 suspended and, for each section, shall both specify  
21 the emergency management functions facilitated and



1           justify the suspension based on protecting the public  
2           health, safety, and welfare; provided further that any  
3           suspension of law that requires permits,  
4           authorizations, or approvals from any state or county  
5           agency may continue beyond the emergency period to  
6           allow for the completion of any repairs,  
7           reconstruction, rebuilding, or construction of any  
8           state or county infrastructure, facilities, or  
9           properties that would otherwise be delayed by any  
10          permit, authorization, or approval;

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



- 1           (5) In the event of a disaster or emergency beyond local  
2           control, [~~or~~] an event that in the opinion of the  
3           governor[~~, renders~~] makes state operational control or  
4           coordination necessary, or upon request of the [~~local~~  
5           entity,] county, and notwithstanding sections 127A-14  
6           and 127A-25, requires the county to obtain the  
7           governor's approval, or the approval of the director  
8           of the Hawaii emergency management agency, before  
9           issuing any emergency order, rule, or proclamation  
10           under this chapter, assume direct operational control  
11           over all or any part of the emergency management  
12           functions within the affected area;
- 13           (6) Shut off water mains, gas mains, or electric power  
14           connections, or suspend other services;
- 15           (7) Direct and control the mandatory evacuation of the  
16           civilian population;
- 17           (8) Exercise additional emergency functions to the extent  
18           necessary to prevent hoarding, waste, or destruction  
19           of materials, supplies, commodities, accommodations,  
20           facilities, and services, to effectuate equitable  
21           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 objects,  
18 implements, or substances unlawfully possessed, as  
19 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 exercise



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

3 (1) [~~Relieve~~] Except as provided in section 127A- ,  
4 relieve hardships and inequities, or obstructions to  
5 the public health, safety, or welfare, found by the  
6 mayor to exist in the laws of the county and to result  
7 from the operation of federal programs or measures  
8 taken under this chapter, by suspending the county  
9 laws, in whole or in part, or by alleviating [~~the~~  
10 ~~provisions of county laws on~~], subject to terms and  
11 conditions [~~as~~] that the mayor may [~~impose~~] specify,  
12 the provisions of county laws, including county  
13 licensing laws[~~7~~] and county laws relating to labels,  
14 grades, and standards;

15 (2) [~~Suspend~~] Except as provided in section 127A- ,  
16 suspend any county law that impedes or tends to impede  
17 or be detrimental to the expeditious and efficient  
18 execution of, or to conflict with, emergency  
19 functions, including laws that by this chapter  
20 specifically are made applicable to emergency  
21 personnel; provided that any suspension of law shall



1 be no broader and last no longer than the mayor deems  
2 necessary for the execution of emergency management  
3 functions, and any suspension of law shall identify  
4 the section of law suspended and, for each section,  
5 shall both specify the emergency management functions  
6 facilitated and justify the suspension based on  
7 protecting the public health, safety, and welfare;  
8 provided further that any suspension of law that  
9 requires permits, authorizations, or approvals from  
10 any state or county agency may continue beyond the  
11 emergency period to allow for the completion of any  
12 repairs, reconstruction, rebuilding, or construction  
13 of any state or county infrastructure, facilities, or  
14 properties that would otherwise be delayed by any  
15 permit, authorization, or approval;

- 16 (3) Shut off water mains, gas mains, or electric power  
17 connections, or suspend other services;
- 18 (4) Direct and control the mandatory evacuation of the  
19 civilian population; and
- 20 (5) Exercise additional emergency functions, to the extent  
21 necessary to prevent hoarding, waste, or destruction



1 of materials, supplies, commodities, accommodations,  
2 facilities, and services, to effectuate equitable  
3 distribution thereof, or to establish priorities  
4 therein as the public welfare may require; to  
5 investigate; and any other county law to the contrary  
6 notwithstanding, to regulate or prohibit, by means of  
7 licensing, rationing, or otherwise, the storage,  
8 transportation, use, possession, maintenance,  
9 furnishing, sale, or distribution thereof, and any  
10 business or any transaction related thereto."

11 SECTION 5. Section 127A-14, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 **"§127A-14 State of emergency.** (a) The governor may  
14 declare the existence of a state of emergency in the State by  
15 proclamation if the governor finds that an emergency or a  
16 disaster has occurred or that there is imminent danger or threat  
17 of an emergency or a disaster in any portion of the State.

18 (b) A mayor may declare the existence of a local state of  
19 emergency in the county by proclamation if the mayor finds that  
20 an emergency or a disaster has occurred or that there is



1 imminent danger or threat of an emergency or a disaster in any  
2 portion of the county.

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

10 (d) A state of emergency and a local state of emergency  
11 shall terminate automatically sixty days after the issuance of a  
12 proclamation of a state of emergency or local state of  
13 emergency, respectively, unless extended or terminated by a  
14 separate or supplementary proclamation of the governor or mayor.  
15 The governor or mayor shall proclaim the termination of a state  
16 of emergency or local state of emergency, respectively, at the  
17 earliest possible date that conditions warrant.

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



1        (f) The county council may, by an affirmative vote of a  
2 simple majority, terminate a local state of emergency, in part  
3 or in whole, declared by the mayor pursuant to this section."

4        SECTION 6. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6        SECTION 7. This Act shall take effect on July 1, 3000.



**Report Title:**

Emergency Management; State of Emergency; Local State of  
Emergency

**Description:**

Clarifies state and local authority during a state or local  
state of emergency. Clarifies and limits the suspension of laws  
and access to records during an emergency. Defines  
"catastrophic harm" and "severe weather warning". Amends the  
definitions of "disaster" and "emergency" under emergency  
management laws. Allows the Legislature to terminate a state of  
emergency and county councils to terminate a local state of  
emergency. Effective 7/1/3000. (HD2)

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not legislation or evidence of legislative intent.*

