
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 access to:

18 (1) Records pursuant to chapter 92F; or

19 (2) Vital records or statistics pursuant to sections
20 338-18.



1 (b) Due to extenuating circumstances, there may be a
2 reasonable delay in an agency's response to a request; provided
3 that an agency shall not reject a request at any time,
4 regardless of whether an emergency has been declared."

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

7 1. By adding two new definitions to be appropriately
8 inserted and to read:

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

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



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

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

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

17 ""Emergency" means [~~any]~~ the occurrence[~~7]~~ or imminent
18 threat [~~thereof, which results or may likely result in~~
19 substantial injury or] of a disaster that causes or may be
20 likely to cause catastrophic harm and immediate danger to the
21 population [~~or~~], substantial damage to or loss of property, or



1 substantial damage to or loss of the environment[-] and that
2 timely action can avert or minimize."

3 SECTION 4. 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 that is a



1 source of contamination or is in a dangerous condition
2 in any case where, in the governor's opinion, the
3 existing laws are not adequate to assure the public
4 health and safety, and designate as public nuisances
5 acts, practices, conduct, or conditions that are
6 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 destroyed
9 by any police officer or authorized person, or provide
10 for the cleansing or repair of property, and if the
11 cleansing or repair is to be at the expense of the
12 owner, the procedure therefor shall follow as nearly
13 as may be the provisions of section 322-2, which shall
14 be applicable; and further, authorize without the
15 permission of the owners or occupants, entry on
16 private premises for any of these 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 subject to terms and conditions [~~as~~] that the governor
 3 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 that by this chapter specifically are
 11 made applicable to emergency personnel; provided that
 12 any suspension of law shall be no broader and last no
 13 longer than the governor deems necessary for the
 14 execution of emergency management functions, and any
 15 suspension of law shall identify the section of law
 16 suspended and, for each section, shall both specify
 17 the emergency management functions facilitated and
 18 justify the suspension based on protecting the public
 19 health, safety, and welfare; provided further that any
 20 suspension of law that requires permits,
 21 authorizations, or approvals from any state or county



1 agency may continue beyond the emergency period to
2 allow for the completion of any repairs,
3 reconstruction, rebuilding, or construction of any
4 state or county infrastructure, facilities, or
5 properties that would otherwise be delayed by any
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 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 that in the opinion of the
20 governor[~~, renders~~] makes state operational control or
21 coordination necessary, or upon request of the [~~local~~



1 ~~entity,~~ county, and notwithstanding sections 127A-14
2 and 127A-25, requires the county to obtain the
3 governor's approval, or the approval of the director
4 of the Hawaii emergency management agency, before
5 issuing any emergency order, rule, or proclamation
6 under this chapter, assume direct operational control
7 over all or any part of the emergency management
8 functions within the affected area;

9 (6) Shut off water mains, gas mains, or electric power
10 connections, or suspend other services;

11 (7) Direct and control the mandatory evacuation of the
12 civilian population;

13 (8) Exercise additional emergency functions to the extent
14 necessary to prevent hoarding, waste, or destruction
15 of materials, supplies, commodities, accommodations,
16 facilities, and services, to effectuate equitable
17 distribution thereof, or to establish priorities
18 therein as the public welfare may require; to
19 investigate; and notwithstanding any other law to the
20 contrary, to regulate or prohibit, by means of
21 licensing, rationing, or otherwise, the storage,



- 1 transportation, use, possession, maintenance,
- 2 furnishing, sale, or distribution thereof, and any
- 3 business or any transaction related thereto;
- 4 (9) Suspend section 8-1, relating to state holidays,
- 5 except the last paragraph relating to holidays
- 6 declared by the president, which shall remain
- 7 unaffected, and in the event of the suspension, the
- 8 governor may establish state holidays by proclamation;
- 9 (10) Adjust the hours for voting to take into consideration
- 10 the working hours of the voters during the emergency
- 11 period, and suspend those provisions of section 11-131
- 12 that fix the hours for voting, and fix other hours by
- 13 stating the same in the election proclamation or
- 14 notice, as the case may be;
- 15 (11) Assure the continuity of service by critical
- 16 infrastructure facilities, both publicly and privately
- 17 owned, by regulating or, if necessary to the
- 18 continuation of the service thereof, by taking over
- 19 and operating the same; and
- 20 (12) Except as provided in section 134-7.2, whenever in the
- 21 governor's opinion, the laws of the State do not



1 adequately provide for the common defense, public
2 health, safety, and welfare, investigate, regulate, or
3 prohibit the storage, transportation, use, possession,
4 maintenance, furnishing, sale, or distribution of, as
5 well as any transaction related to, explosives,
6 firearms, and ammunition, inflammable materials and
7 other objects, implements, substances, businesses, or
8 services of a hazardous or dangerous character, or
9 particularly capable of misuse, or obstructive of or
10 tending to obstruct law enforcement, emergency
11 management, or military operations, including
12 intoxicating liquor and the liquor business; and
13 authorize the seizure and forfeiture of any objects,
14 implements, or substances unlawfully possessed, as
15 provided in this chapter.

16 (b) In the event of a local state of emergency declared by
17 the mayor pursuant to section 127A-14, the mayor may exercise
18 the following additional powers pertaining to emergency
19 management during the emergency period:

20 (1) Relieve hardships and inequities, or obstructions to
21 the public health, safety, or welfare, found by the



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

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



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

11 (3) Shut off water mains, gas mains, or electric power
12 connections, or suspend other services;

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

15 (5) Exercise additional emergency functions, to the extent
16 necessary to prevent hoarding, waste, or destruction
17 of materials, supplies, commodities, accommodations,
18 facilities, and services, to effectuate equitable
19 distribution thereof, or to establish priorities
20 therein as the public welfare may require; to
21 investigate; and any other county law to the contrary



1 notwithstanding, to regulate or prohibit, by means of
2 licensing, rationing, or otherwise, the storage,
3 transportation, use, possession, maintenance,
4 furnishing, sale, or distribution thereof, and any
5 business or any transaction related thereto."

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

8 "**§127A-14 State of emergency.** (a) The governor may
9 declare the existence of a state of emergency in the State by
10 proclamation if the governor finds that an emergency or a
11 disaster has occurred or that there is imminent danger or threat
12 of an emergency or a disaster in any portion of the State.

13 (b) A mayor may declare the existence of a local state of
14 emergency in the county by proclamation if the mayor finds that
15 an emergency or a disaster has occurred or that there is
16 imminent danger or threat of an emergency or a disaster in any
17 portion of the county.

18 (c) [~~The~~] Except as provided in subsections (e) and (f),
19 the governor or mayor shall be the sole judge of the existence
20 of the danger, threat, or circumstances giving rise to a
21 declaration, an extension, or a termination of a state of



1 emergency in the State or a local state of emergency in the
2 county, as applicable. This section shall not limit the power
3 and authority of the governor under section 127A-13(a) (5).

4 (d) A state of emergency and a local state of emergency
5 shall terminate automatically sixty days after the issuance of a
6 proclamation of a state of emergency or local state of
7 emergency, respectively, unless extended or terminated by a
8 separate or supplementary proclamation of the governor or mayor.
9 The governor or mayor shall proclaim the termination of a state
10 of emergency or local state of emergency, respectively, at the
11 earliest possible date that conditions warrant.

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

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

19 SECTION 6. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 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. Defines "catastrophic harm" and "severe
weather warning". Amends the definitions of "disaster" and
"emergency" under chapter 127A, HRS. Allows the Legislature to
terminate a state of emergency and county councils to terminate
a local state of emergency. Effective 7/1/3000. (HD1)

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not legislation or evidence of legislative intent.*

