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

13 The legislature finds that chapter 127A, Hawaii Revised
14 Statutes, should clearly specify and articulate the bases for
15 emergency actions. To that end, the purpose of this Act is to
16 clarify state and county emergency management authority, ensure
17 effective and adaptable emergency responses, and further the



1 goals of transparency and democratic accountability within the
2 State's constitutional system.

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 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 for:

- 11 (1) Public records pursuant to part II of chapter 92F; or
- 12 (2) Vital records or statistics pursuant to sections
13 338-18.

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

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

20 1. By adding a new definition to be appropriately inserted
21 and to read:



1 ""Severe weather warning" means the issuance of a public
2 notification by the National Weather Service, Pacific Tsunami
3 Warning Center, United States Geological Survey, or other public
4 authority, that a dangerous condition exists that could impact
5 the State, or any portion of it, within a specified period of
6 time. "Severe weather warning" includes but is not limited to
7 warnings of coastal inundation, high surf, flash flooding,
8 volcanic activity, a tsunami, or a hurricane."

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

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



1 that requires, or may require, assistance from other counties,
2 states, the federal government, or from private agencies."

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

4 ""Emergency" means [~~any~~] the occurrence[~~7~~] or imminent
5 threat [~~thereof, which results or may likely result in~~
6 ~~substantial injury or~~] of disaster that causes or may be likely
7 to cause catastrophic harm and immediate danger to the
8 population [~~e~~], substantial damage to or loss of property, or
9 substantial damage to or loss of the environment[~~7~~], and that
10 timely action can avert or minimize."

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

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

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

18 (1) Provide for and require the quarantine or segregation
19 of persons who are affected with or believed to have
20 been exposed to any infectious, communicable, or other
21 disease that is, in the governor's opinion, dangerous



1 to the public health and safety, or persons who are
2 the source of other contamination, in any case where,
3 in the governor's opinion, the existing laws are not
4 adequate to assure the public health and safety;
5 provide for the care and treatment of the persons;
6 supplement the provisions of sections 325-32 to 325-38
7 concerning compulsory immunization programs; provide
8 for the isolation or closing of property that is a
9 source of contamination or is in a dangerous condition
10 in any case where, in the governor's opinion, the
11 existing laws are not adequate to assure the public
12 health and safety, and designate as public nuisances
13 acts, practices, conduct, or conditions that are
14 dangerous to the public health or safety or to
15 property; authorize that public nuisances be summarily
16 abated and, if need be, that the property be destroyed
17 by any police officer or authorized person, or provide
18 for the cleansing or repair of property, and if the
19 cleansing or repair is to be at the expense of the
20 owner, the procedure therefor shall follow as nearly
21 as may be the provisions of section 322-2, which shall



1 be applicable; and further, authorize without the
2 permission of the owners or occupants, entry on
3 private premises for any of these purposes;

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

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



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

15 (4) Suspend the provisions of any regulatory law
16 prescribing the procedures for out-of-state utilities
17 to conduct business in the State including any
18 licensing laws applicable to out-of-state utilities or
19 their respective employees, as well as any order,
20 rule, or regulation of any state agency, if strict
21 compliance with the provisions of any law, order,

1 rule, or regulation would in any way prevent, hinder,
2 or delay necessary action of a state utility in coping
3 with the emergency or disaster with assistance that
4 may be provided under a mutual assistance agreement;

5 (5) In the event of disaster or emergency beyond local
6 control, [~~or~~] an event that in the opinion of the
7 governor[~~, renders~~] makes state operational control or
8 coordination necessary, or upon request of the [~~local~~
9 entity,] county, and notwithstanding sections 127A-14
10 and 127A-25, requires the county to obtain the
11 governor's approval, or the approval of the director
12 of the Hawaii emergency management agency, before
13 issuing any emergency order, rule, or proclamation
14 under this chapter, assume direct operational control
15 over all or any part of the emergency management
16 functions within the affected area;

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

19 (7) Direct and control the mandatory evacuation of the
20 civilian population;



- 1 (8) Exercise additional emergency functions to the extent
2 necessary to prevent hoarding, waste, or destruction
3 of materials, supplies, commodities, accommodations,
4 facilities, and services, to effectuate equitable
5 distribution thereof, or to establish priorities
6 therein as the public welfare may require; to
7 investigate; and notwithstanding any other law to the
8 contrary, to regulate or prohibit, by means of
9 licensing, rationing, or otherwise, the storage,
10 transportation, use, possession, maintenance,
11 furnishing, sale, or distribution thereof, and any
12 business or any transaction related thereto;
- 13 (9) Suspend section 8-1, relating to state holidays,
14 except the last paragraph relating to holidays
15 declared by the president, which shall remain
16 unaffected, and in the event of the suspension, the
17 governor may establish state holidays by proclamation;
- 18 (10) Adjust the hours for voting to take into consideration
19 the working hours of the voters during the emergency
20 period, and suspend those provisions of section 11-131
21 that fix the hours for voting, and fix other hours by



1 stating the same in the election proclamation or
2 notice, as the case may be;

3 (11) Assure the continuity of service by critical
4 infrastructure facilities, both publicly and privately
5 owned, by regulating or, if necessary to the
6 continuation of the service thereof, by taking over
7 and operating the same; and

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



1 authorize the seizure and forfeiture of any objects,
2 implements, or substances unlawfully possessed, as
3 provided in this chapter.

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

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

19 (2) [~~Suspend~~] Except as provided in section 127A- ,
20 suspend any county law that impedes or tends to impede
21 or be detrimental to the expeditious and efficient



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

- 20 (3) Shut off water mains, gas mains, or electric power
21 connections, or suspend other services;



- 1 (4) Direct and control the mandatory evacuation of the
- 2 civilian population; and
- 3 (5) Exercise additional emergency functions, to the extent
- 4 necessary to prevent hoarding, waste, or destruction
- 5 of materials, supplies, commodities, accommodations,
- 6 facilities, and services, to effectuate equitable
- 7 distribution thereof, or to establish priorities
- 8 therein as the public welfare may require; to
- 9 investigate; and any other county law to the contrary
- 10 notwithstanding, to regulate or prohibit, by means of
- 11 licensing, rationing, or otherwise, the storage,
- 12 transportation, use, possession, maintenance,
- 13 furnishing, sale, or distribution thereof, and any
- 14 business or any transaction related thereto."

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

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



1 (b) A mayor may declare the existence of a local state of
2 emergency in the county by proclamation if the mayor finds that
3 an emergency or a disaster has occurred or that there is
4 imminent danger or threat of an emergency or a disaster in any
5 portion of the county.

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

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



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

5 (f) The county council may, by an affirmative vote of
6 two-thirds, terminate a local state of emergency, in part or in
7 whole, declared by the mayor pursuant to this section."

8 SECTION 6. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act shall take effect upon its approval.



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 "severe weather warning". Amends
the definitions of "disaster" and "emergency" to limit the use
of emergency powers except to address sudden events that cause
or are likely to cause catastrophic harm or immediate danger.
Allows the Legislature to terminate a state of emergency and
city councils to terminate a local state of emergency. (SD1)

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not legislation or evidence of legislative intent.*

