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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 the emergence of  
2 COVID-19 and its variants created a great challenge to global  
3 health, the economy, and Hawaii's 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 further finds that chapter 127A, Hawaii  
14 Revised Statutes, should clearly specify and articulate the  
15 bases for emergency actions. To that end, this Act amends  
16 chapter 127A, Hawaii Revised Statutes, to require specificity  
17 when suspending provisions of law during an emergency; clarify



1 when and how Hawaii's emergency management system involves  
2 coordination between state and county emergency management  
3 functions; and clarify the legal framework governing the  
4 extension and termination of states of emergency.

5 The purpose of this Act is to clarify state and county  
6 emergency management authority, ensure effective and adaptable  
7 emergency responses, and further the goals of transparency and  
8 democratic accountability within the State's constitutional  
9 system.

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

13 **"§127A- Suspension of certain record requests;**  
14 **prohibited.** (a) The governor or mayor shall not, through any  
15 proclamation or declaration of emergency or any rule or order  
16 adopted pursuant to this chapter, suspend access to:

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

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

20 (b) Due to extenuating circumstances, there may be a  
21 reasonable delay in an agency's response to a request; provided



1 that an agency shall not reject a request at any time,  
2 regardless of whether an emergency has been declared."

3 SECTION 3. Section 127A-2, Hawaii Revised Statutes, is  
4 amended by adding a new definition to be appropriately inserted  
5 and to read as follows:

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

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

16 **"§127A-13 Additional powers in an emergency period. (a)**  
17 In the event of a state of emergency declared by the governor  
18 pursuant to section 127A-14, the governor may exercise the  
19 following additional powers pertaining to emergency management  
20 during the emergency period:



1           (1) Provide for and require the quarantine or segregation  
2           of persons who are affected with or believed to have  
3           been exposed to any infectious, communicable, or other  
4           disease that is, in the governor's opinion, dangerous  
5           to the public health and safety, or persons who are  
6           the source of other contamination, in any case where,  
7           in the governor's opinion, the existing laws are not  
8           adequate to assure the public health and safety;  
9           provide for the care and treatment of the persons;  
10          supplement the provisions of sections 325-32 to 325-38  
11          concerning compulsory immunization programs; provide  
12          for the isolation or closing of property that is a  
13          source of contamination or is in a dangerous condition  
14          in any case where, in the governor's opinion, the  
15          existing laws are not adequate to assure the public  
16          health and safety, and designate as public nuisances  
17          acts, practices, conduct, or conditions that are  
18          dangerous to the public health or safety or to  
19          property; authorize that public nuisances be summarily  
20          abated and, if need be, that the property be destroyed  
21          by any police officer or authorized person, or provide



1 for the cleansing or repair of property, and if the  
2 cleansing or repair is to be at the expense of the  
3 owner, the procedure therefor shall follow as nearly  
4 as may be the provisions of section 322-2, which shall  
5 be applicable; and further, authorize without the  
6 permission of the owners or occupants, entry on  
7 private premises for any of these purposes;

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

18 (3) [~~Suspend~~] Except as provided in section 127A- ,  
19 suspend any law that impedes or tends to impede or be  
20 detrimental to the expeditious and efficient execution  
21 of, or to conflict with, emergency functions,



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

- 19 (4) Suspend the provisions of any regulatory law  
20 prescribing the procedures for out-of-state utilities  
21 to conduct business in the State including any



1 licensing laws applicable to out-of-state utilities or  
 2 their respective employees, as well as any order~~[7]~~ or  
 3 rule~~[7, or regulation]~~ of any state agency, if strict  
 4 compliance with the provisions of any law, order~~[7]~~ or  
 5 rule~~[7, or regulation]~~ would in any way prevent,  
 6 hinder, or delay necessary action of a state utility  
 7 in coping with the emergency or disaster with  
 8 assistance that may be provided under a mutual  
 9 assistance agreement;

10 (5) In the event of a disaster or emergency beyond local  
 11 control, ~~[or]~~ an event that in the opinion of the  
 12 governor~~[7, renders]~~ makes state operational control or  
 13 coordination necessary, or upon request of the local  
 14 entity, assume direct operational control over all or  
 15 any part of the emergency management functions within  
 16 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 any 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) Thirty days after the issuance of a proclamation of a  
2 state of emergency declared by the governor pursuant to this  
3 section, the legislature may, by an affirmative vote of two-  
4 thirds of the members to which each house is entitled, terminate  
5 a state of emergency, in part or in whole.

6       (f) Thirty days after the issuance of a proclamation of a  
7 state of emergency declared by a mayor pursuant to this section,  
8 the respective county council may, by an affirmative vote of  
9 two-thirds of the members to which the council is entitled,  
10 terminate a local state of emergency, in part or in whole."

11       SECTION 6. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

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



**Report Title:**

Emergency Management; State of Emergency

**Description:**

Amends emergency management laws to clarify state and county authority. Prohibits the Governor or Mayor from suspending requests for records or vital records and statistics during a state of emergency. Adds definition of the term "severe weather warning". Allows the Legislature and county councils to terminate a state of emergency after thirty days, in whole or in part, issued by the Governor or Mayor, respectively. Effective 7/1/3000. (HD3)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

