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Hawaii Emergency Management and Homeland Security Authorities Summarized

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Hawaii Emergency Management and Homeland Security Authorities Summarized

Summary

Chapter 128, Hawaii's Civil Defense and Emergency Act, confers comprehensive powers on the governor and the emergency management agency. Statutes authorize provision of assistance from the state including the extension of unemployment benefits and the construction of public housing on public land. The governor may move the seat of government during an emergency resulting from enemy attack or imminent attack.

This report is one of a series that profiles the emergency management and homeland security statutory authorities of the 50 states, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, American Samoa, Guam, and the U.S. Virgin Islands. Each profile identifies the more significant elements of state statutes, generally as codified. Congressional readers may wish to conduct further searches for related provisions using the Internet link presented in the last section of this report. The National Conference of State Legislatures provided primary research assistance in the development of these profiles under contract to the Congressional Research Service (CRS). Summary information on all of the profiles is presented in CRS Report RL32287. This report will be updated as developments warrant.

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Hawaii Emergency Management and Homeland Security Authorities Summarized

Entities with Key Responsibilities

Governor: The governor may delegate or provide for the delegation of statutory emergency management powers, but not those related to the proclamation or termination of an emergency period, the issuance of rules with the effect of law, and the allocation of funds (Hawaii Rev. Stat. §128-5). The statute authorizes the governor to: prepare comprehensive civil defense plans; coordinate the preparation of civil defense plans by political subdivisions; institute training and public information programs; exercise direct operational control in the event a disaster or emergency exceeds local capabilities; require public utilities or owners of vital facilities to protect and safeguard their property; direct or control civil defense efforts including mobilization, utility shutdowns, and evacuation; and require compulsory registration and identification beyond state voluntary registration program, and compulsory RHo blood typing on females of child bearing age or younger and other blood typing (Hawaii Rev. Stat. §128-6).

The governor may: require that persons provide themselves with protective devices; require shelters and the installation or provision of first aid stations in or near places where the public congregate; order quarantines; and suspend any law which impedes or is in conflict with civil defense functions (Hawaii Rev. Stat. §128-8).

During a civil defense emergency, the governor may exercise emergency functions or powers including: preventing hoarding; instituting daylight saving time; modifying business hours; assuring the continuity of public utilities and other facilities; adjusting the hours for voting during emergency conditions; suspending laws that impede federal programs; and relieving hardships or obstructions to the public health, safety, or welfare (Hawaii Rev. Stat. §128-9). Outside a civil defense emergency period the governor may: cooperate with federal and state leaders (including leasing or lending property); order emergency measures; take possession of any public property; utilize all services, materials, and facilities of nongovernmental agencies, relief organizations, and other civil groups; accept contributions or grants in money, property, services or other assistance; provide for the repair and maintenance of public property and other vital facilities in the event of an attack or other disaster; purchase, make, produce, or procure materials and facilities for civil defense and other emergency functions; and procure federal aid whenever feasible (Hawaii Rev. Stat. §128-10).

The governor may prescribe rules and regulations in the event of a civil defense emergency period (Hawaii Rev. Stat. §128-27).

Political subdivisions: Units of local government must establish local organizations for civil defense (Hawaii Rev. Stat. §128-12). Local governments also may: make appropriations and authorize expenditures for civil defense out of the normal revenues or fund balances or surpluses of the political subdivision, except pension and retirement funds, and other specific funds; obtain materials and facilities for civil defense; procure federal aid whenever feasible; receive, expend, or use contributions or grants in money, property, services, loans of property; make or authorize such contracts as may be necessary (Hawaii Rev. Stat. §128-13(1)-(7)).

Civil Defense Agency: The Director of Civil Defense coordinates public and private civil defense activities within the state (Hawaii Rev. Stat. §128-3).

Civil Defense Advisory Council: The statute created the seven-member Council, members of which are appointed by the governor, to advise the governor on civil defense matters. Members receive no compensation, but are reimbursed for expenses (Hawaii Rev. Stat. §128-4).

Department of Defense: The department is headed by the adjutant general who also serves as the Director of Civil Defense. Officials of the department are responsible for defending the state from mass violence, originating from either human or natural causes (Hawaii Rev. Stat. §26-21).

Rehabilitation Coordinator: The coordinator administers disaster relief and rehabilitation aid and is appointed by the governor and selected from the staff of any state, county, or city and county agency released with pay from regular duties to perform disaster relief duties (Hawaii Rev. Stat. §209-4). The coordinator: serves as official contact between the state and persons affected by the disaster, and makes disaster information available; aids all persons affected in securing assistance; informs the public of assistance available from other sources; advises the governor; establishes a temporary office on the affected island if necessary; and submits an annual report to the governor and the legislature (Hawaii Rev. Stat. §209-5).

Emergency Response Commission: The statute established the commission within the Department of Civil Defense, along with emergency planning districts and local emergency planning committees in accordance with the federal Emergency Planning and Community Right-to-Know Act (Hawaii Rev. Stat. §128E Et. Seq.).

Executive heads of departments and agencies: During a declared disaster, agency heads are authorized to release personnel temporarily from their respective departments or agencies to work as needed, expedite the granting of rehabilitative assistance, provide information on rehabilitative efforts, and cooperate with the rehabilitation coordinator (Hawaii Rev. Stat. §209-3).

Preparedness

The governor may establish mobile support units for the reinforcement of civil defense organizations in stricken areas (Hawaii Rev. Stat. §128-14).

See also “Entities with Key Responsibilities”—*Governor*

Declaration Procedures

The governor may declare a state disaster for the entire state or any portion of the state and determine whether the effects on the health, living standards and the economy warrant assistance from the state government (Hawaii Rev. Stat. §209-2).

The governor may proclaim a state of civil defense emergency if an attack upon the state has occurred or if there is danger of an attack, and may terminate the emergency by proclamation (Hawaii Rev. Stat. §128-7).

Types of Assistance

In an area certified to be in need of renewal, redevelopment, or rehabilitation as a result of a seismic wave, flood, fire, hurricane, earthquake, storm, volcanic activity, explosion, or other catastrophe of natural or of human origin, the council of a county may approve an urban renewal plan and project (Hawaii Rev. Stat. §53-7).

Administering authorities must consider every type of assistance granted by any agency of the federal government, the American National Red Cross, the Salvation Army, and any other assistance, whether through insurance, donation or compensation from any source in order to determine the eligibility of each person for assistance (Hawaii Rev. Stat. §209-8).

During a declared disaster the Housing and Community Development Corporation of Hawaii shall construct, manage, and operate housing units on public lands set aside by the governor (Hawaii Rev. Stat. §209-16). Funds may be expended only if the housing project does not qualify for federal aid (Hawaii Rev. Stat. §209-17).

During a declared disaster and, when the governor invokes this provision, maximum total unemployment benefits are increased only to individuals who reside in a rehabilitation area. The assistance remains available for one benefit year (Hawaii Rev. Stat. §209-41).

The statute provides for the immediate relocation and rehabilitation of disaster victims by making public lands available for other than residential or agricultural purposes when a natural disaster devastates large tracts of lands and requires the immediate relocation of persons from the devastated areas. Also, the statute specifies disposition procedures, size limits, option to purchase, and eligibility requirements (Hawaii Rev. Stat. §171-86 to 94).

Mutual Aid

The governor may enter into mutual aid agreements or compacts with the federal government and with other states. Any state rendering aid in another state is reimbursed by the state receiving aid or by the U. S. government. The governor may develop mutual aid plans for civil defense between political subdivisions or between political subdivisions and other public or private agencies (Hawaii Rev. Stat. §128-10(3),(4)).

Political subdivisions are authorized to participate in and carry out mutual aid plans and agreements or compacts that are sponsored or developed by the state civil defense agency (Hawaii Rev. Stat. §128-13 (8)).

Funding

Political subdivisions are authorized to make appropriations for the payments of expenses associated with their local disaster relief organizations. State or local directors are authorized to accept contributions from the federal government, other public entities, or private organizations (Hawaii Rev. Stat. §127-11).

During any period when the disaster relief statutory sections (Hawaii Rev. Stat. §127-1 to 127-9) are not in effect, the governor and political subdivisions may exercise any and all of their powers relating to disasters resulting from enemy attacks in order to provide other disaster relief, including making or authorizing appropriations or expenditures (Hawaii Rev. Stat. §127-10).

The director of civil defense must submit to the legislature appropriations requests for immediate assistance from general revenues in the event of a major disaster in any part of the state. The governor may not expend in excess of \$1,000,000 for immediate relief of any single major disaster. An additional \$1,000,000 is available solely for the purpose of matching federal disaster relief funds. The governor may allot funds to state agencies to relieve disaster conditions, and is authorized to determine when disaster funds are to be used. Such a decision is to be considered conclusive (Hawaii Rev. Stat. §127-11).

The statute identifies funds available for allotment by the governor for disaster relief which includes: moneys appropriated and unexpended moneys appropriated for disaster relief or administration; contributions; the governor's contingent fund; and other funds. In the event of a deficit in the general fund of the state, appropriations made or needed for disaster relief take priority over other appropriations from the general fund (Hawaii Rev. Stat. §128-11).

The director of business, economic development, and tourism may make commercial loans to rehabilitate a business as nearly as possible to its predisaster level, and may make personal loans for the purpose of meeting necessary expenses or serious needs of individuals and families as direct result of a disaster (Hawaii Rev. Stat. §209-28).

The statute established a state disaster revolving loan fund. Moneys for the fund are appropriated by the legislature and deposited in the fund. The statute provides for transfers of money between the fund and other state funds, and limits the amount of moneys transferred to \$1,000,000 for each respective fund within a calendar year (Hawaii Rev. Stat. §209-34).

Hazard Mitigation

The statute provides for a coastal zone management program to reduce hazards to life and property from tsunamis, storm waves, stream flooding, erosion, subsidence, and pollution (Hawaii Rev. Stat. §205A-2).

The governor and heads of political subdivisions may use funds (outside of a state of emergency) for “other disaster relief,” which includes minimizing the effects of disasters (Hawaii Rev. Stat. §127-10).

Continuity of Government Operations

The statute authorizes the governor to declare an emergency temporary location or locations for the seat of government due to an emergency resulting from enemy attack or imminent attack. The emergency temporary location remains as the seat of government until the legislature establishes a new location by law or until the emergency is terminated by the governor (Hawaii Rev. Stat. §130-1 to 2).

The statute authorizes the governing bodies of counties to meet on the call of the presiding officer or any two members to determine the emergency temporary location, or locations, of government due to an emergency resulting from the effects of enemy attack, or the anticipated effects of a threatened enemy attack. Sites may be within or without the territorial limits of a political subdivision or within or without the state (Hawaii Rev. Stat. §130-3 to 4).

To ensure the continuity of government during a civil defense emergency period, the legislative body of a county may provide the procedure for the appointment and designation of standby officers for the legislative body and the elected chief executive of the county for the duration of the emergency period (Hawaii Rev. Stat. §128-13 (9)).

[Note: In the annotations to §128-1 there is an attorney general’s opinion that nothing in the chapter authorizes the governor to provide for the succession to the offices of the governor and lieutenant governor. Att. Gen. Op. 61-87.]

Other

The governor may requisition and take over any materials, facilities, real property or improvements, required for civil defense. The statute outlines compensation and damages policies (Hawaii Rev. Stat. §128-22 to 24).

The head of a purchasing agency may make a procurement essential to meet an emergency by means other than those set out in statute when an unusual or compelling urgency creates a threat to life, public health, welfare, or safety by reason of major natural disaster, epidemic, riot, or fire (Hawaii Rev. Stat. §103D-307).

During a declared disaster, or when any portion of the state is the subject of a severe weather warning, increases in the selling price of any commodity in the area that is the subject of the disaster declaration are prohibited. The statute also regulates rental housing (Hawaii Rev. Stat. §209-9).

All persons, including volunteers, shall be deemed state employees or employees of a political subdivision and have the pertinent powers, duties, rights, and privilege (Hawaii Rev. Stat. §128-16).

A person or entity owning or controlling real estate that voluntarily and without compensation permits use of property for the purpose of sheltering persons during an actual or practice attack is not civilly liable in connection with the use of the licensed premises (Hawaii Rev. Stat. §128-19).

The statute provides for psychological services in the event of a catastrophic event or traumatic emergency. Services include critical incident stress debriefing for ambulance, fire, police, and other emergency service personnel; psychological services to residents and visitors; and advice for state government and emergency service personnel on psychological issues in the planning of and response to catastrophic events and traumatic emergencies (Hawaii Rev. Stat. §321-23).

Key Terms

Table 1. Key Emergency Management and Homeland Security Terms Defined in Hawaii Statutes, with Citations

| Terms | Citations |
|--------------------------------------|---------------------------|
| Attack | Hawaii Rev. Stat. §128-2 |
| Blackout | Hawaii Rev. Stat. §128-2 |
| Civil defense | Hawaii Rev. Stat. §128-2 |
| Civil defense emergency period | Hawaii Rev. Stat. §128-2 |
| Disaster area | Hawaii Rev. Stat. §171-85 |
| Emergency functions | Hawaii Rev. Stat. §128-2 |
| Extremely hazardous substance | Hawaii Rev. Stat. §128E-1 |
| Federal Civil Defense Act of 1950 | Hawaii Rev. Stat. §128-2 |
| Hazardous material | Hawaii Rev. Stat. §128E-1 |
| Hazardous substance | Hawaii Rev. Stat. §128E-1 |
| Local organization for civil defense | Hawaii Rev. Stat. §128-2 |
| Mobile support unit | Hawaii Rev. Stat. §128-2 |
| Natural disaster | Hawaii Rev. Stat. §171-85 |
| Protective device | Hawaii Rev. Stat. §128-2 |
| Shelter | Hawaii Rev. Stat. §128-2 |
| State disaster | Hawaii Rev. Stat. §209-1 |
| Toxic chemical | Hawaii Rev. Stat. §128E-1 |

For Further Research

The citations noted above and other elements of the state code for Hawaii may be searched at: [<http://www.capitol.hawaii.gov/site1/docs/docs.asp?press1=docs#hrs>].