

OFFICE OF THE GOVERNOR  
STATE OF HAWAII

**EMERGENCY PROCLAMATION  
RELATED TO WAIMEA LANDSLIDE**

By the authority vested in me by the Constitution and laws of the State of Hawaii, to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, DAVID Y. IGE, Governor of the State of Hawaii, hereby determine, designate and proclaim as follows:

**WHEREAS**, on January 4, 2022, a landslide occurred in Waimea, County of Kaua'i, State of Hawaii and this occurrence of a severe, sudden, and extraordinary event has blocked Menehune Road, isolating at least 24 families who live in the area, severed critical communications infrastructure, and damaged the historic Swinging Bridge;

**WHEREAS**, the lack of road access and communications infrastructure caused by the landslide is of such character and magnitude to affect the health, welfare, and living conditions of a substantial number of persons, and to affect the economy of the State, and is expected to be of such a nature as to warrant rehabilitative assistance from the State;

**WHEREAS**, the debris field and hillside above Menehune Road remains unstable, which has forced road repair work to halt due to hazardous conditions caused by continuing falling rocks and other debris;

**WHEREAS**, on January 4, 2022, the Mayor of the County of Kaua'i, Derek S.K. Kawakami, issued an emergency proclamation in response to the landslide event;

**WHEREAS**, there continues to be imminent danger or threat of an emergency or disaster in the Waimea area, County of Kaua'i, State of Hawaii due to the January 4, 2022 landslide event;

**WHEREAS**, the Legislature of the State of Hawaii has appropriated from the general revenues of the State monies as may be necessary for expenditure by or under the direction of the Governor for the immediate relief of the conditions created by the emergency; and

**WHEREAS**, in expending such monies, the Governor may allot any portion to any agency, office, or employee of the state or to any county for the most expeditious and efficient relief of the conditions created by the emergency; and

**WHEREAS**, pursuant to sections 127A-14 and 127A-16, Hawaii Revised Statutes, the Governor may determine whether an emergency or disaster has occurred, or whether there is an imminent danger or threat of an emergency or disaster and authorize actions under chapter 127A, Hawaii Revised Statutes, and the expenditure of funds thereunder; and

**WHEREAS**, pursuant to section 127A-13(a)(3), Hawaii Revised Statutes, the Governor may suspend any law that impedes or tends to impede or is detrimental to the expeditious and efficient execution of, or that conflicts with, emergency functions, including laws specifically made applicable to emergency personnel; and

**WHEREAS**, pursuant to section 127A-13(a)(2), Hawaii Revised Statutes, the Governor may relieve hardships and inequities, or obstructions to the public health, safety, and welfare found by the Governor to exist in the laws and to result from the operation of federal programs or measures taken under chapter 127A, Hawaii Revised Statutes, by suspending laws, in whole or in part, or by alleviating the provisions of laws on such terms and conditions as the Governor may impose; and

**WHEREAS**, pursuant to section 127A-12(b)(8), Hawaii Revised Statutes, the Governor may suspend chapter 103D and sections 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4, Hawaii Revised Statutes, in whole or in part, if these provisions impede or tend to impede the expeditious discharge of emergency disaster relief functions for this occurrence and that compliance therewith is impracticable due to existing conditions; and

**WHEREAS**, pursuant to section 127A-12(b)(16), Hawaii Revised Statutes, the Governor may order and direct government agencies, officials, officers, and employees of the State, to take such action and employ such measures for law enforcement, medical, health, firefighting, traffic control, warnings and signals, engineering, rescue, construction, emergency housing, other welfare, hospitalization, transportation, water supply, public information, training, and other emergency functions as may be

necessary, and utilize the services, materials, and facilities of the agencies and officers;  
and

**WHEREAS**, pursuant to section 127A-12(b)(5), Hawaii Revised Statutes, the Governor may take possession of, use, manage, control, and reallocate any public property of the State, real or personal, required by the governor for the purposes of this chapter, including airports, parks, playgrounds, and schools, and other public buildings;  
and

**WHEREAS**, pursuant to section 127A-12(b)(9), Hawaii Revised Statutes, the Governor may appoint, employ, train, equip, and maintain, with compensation, or on a volunteer basis without compensation and without regard to chapters 76, 78, and 88, such agencies, officers, and other persons as the Governor deems necessary to carry out emergency management functions; determine to what extent any law prohibiting the holding of more than one office or employment applies to the agencies, officers, and other persons; and subject to the provisions of chapter 127A, Hawaii Revised Statutes, provide for the interchange of personnel, by detail, transfer, or otherwise, between agencies or departments of the State; and

**WHEREAS**, pursuant to section 127A-12(b)(19), Hawaii Revised Statutes, the Governor may take any and all steps necessary or appropriate to carry out the purposes of chapter 127A, Hawaii Revised Statutes, notwithstanding that powers in section 127A-13(a) may only be exercised during an emergency period;

**NOW, THEREFORE**, I, DAVID Y. IGE, Governor of the State of Hawai'i, hereby determine that an emergency or disaster contemplated by section 127A-14, Hawaii Revised Statutes (HRS), has occurred in Waimea, County of Kaua'i, State of Hawai'i, and continues to threaten the health, welfare and living conditions of those impacted by this event and do hereby authorize and invoke the following emergency provisions which are expressly invoked, if not already in effect upon this declaration of an emergency:

**I. Invocation of Laws**

Section 127A-16, HRS, by activating the Major Disaster Fund.

Sections 127A-12 and 127A-13, HRS, in order for state agencies to provide

emergency relief and engage in emergency management functions as defined in section 127A-2, HRS, as a result of and in response to this event.

Section 127A-12(b)(16), HRS, directing all state agencies and officers to cooperate and extend their services, materials, and facilities as may be required to assist in emergency response efforts.

## **II. Suspension of Laws**

The following specific provisions of law are suspended, as allowed by federal law, pursuant to section 127A-13(a)(3), HRS, to the extent that the law impedes or tends to impede or be detrimental to the expeditious and efficient execution of, or to conflict with, emergency functions, including laws which by Chapter 127A, HRS, specifically are made applicable to emergency personnel to the extent necessary for county and state agencies to implement and accomplish the emergency management functions contemplated under this Proclamation, including efforts to repair, reconstruct, improve, and otherwise perform work on various roadways, bridges, infrastructure, hillsides, and streams:

Chapter 6E, HRS, **historic preservation**, to the extent that compliance requires additional time detrimental to the expeditious and efficient execution of emergency repairs.

Section 37-41, Hawaii Revised Statutes, **appropriations to revert to state treasury; exceptions**, to the extent that appropriations lapse at the end of the fiscal year prior to completion of the emergency repairs.

Section 37-74(d), Hawaii Revised Statutes, **program execution**, except for subsections 37-74(d)(2) and 37-74(d)(3), Hawaii Revised Statutes, and any such transfers or changes considered to be authorized transfers or changes for purposes of section 34-74(d)(1) for legislative reporting requirements, to the extent that legislative authorization would likely delay appropriation transfers or changes between programs to provide necessary funding to complete the emergency repairs.

Section 40-66, Hawaii Revised Statutes, **lapsing of appropriations**, to the extent that the timing of the procurement of any emergency permanent repairs may occur the fiscal year following the original emergency proclamation.

Chapter 46, HRS, **county organization and administration**, to the extent that any county ordinance, rule, regulation, law, or provision in any form applies to any county permitting, licensing, zoning, variance, processes, procedures, fees, or any other requirements that hinder, delay, or impede efforts to repair, reconstruction, improvement, or work under this Proclamation, to the extent that compliance results in any delays involved in securing County permits. This would include but is not limited to chapter 22, article 7, **grading, grubbing, and stockpiling**,

Chapter 89, HRS, **collective bargaining in public employment**, to the extent that compliance or any provision relating to collective bargaining hinders, delays, or impedes the purpose of this Proclamation.

Chapter 89C, Hawaii Revised Statutes, **public officers and employees excluded from collective bargaining**, to the extent that compliance or any provision relating to collective bargaining hinders, delays, or impedes the purpose of this Proclamation.

Section 103-2, Hawaii Revised Statutes, **general fund**, to the extent that compliance results in any additional delays.

Section 103-50, HRS, **building design to consider needs of persons with disabilities; review fees**, to the extent that compliance results in any additional delays seeking advice and recommendations from the Disability and Communication Access Board on any construction plans prior to commencing with construction.

Section 103-53, HRS, contracts **with the State or counties; tax clearances, assignments**, to the extent that compliance results in any additional delays.

Section 103-55, HRS, **wages, hours, and working conditions of employees of contractors performing services**, to the extent that compliance results in any additional delays.

Chapter 103D, HRS, **Hawaii public procurement code**, to the extent that compliance results in any additional delays involved in meeting procurement requirements for selecting contractors in a timely manner to respond to emergency situations.

Chapter 104, HRS, **wages and hours of employees on public works**, to the extent that compliance with this chapter requires additional time detrimental to the

expeditious and efficient execution of emergency repairs.

Chapter 171, HRS, **public lands, management and disposition of**, to the extent that compliance results in any additional delays involved with securing approvals from the Department of Land and Natural Resources.

Chapter 174C, HRS, **state water code**, to the extent that compliance results in any additional delays involved with securing approvals from state or county agencies.

Chapter 183, HRS, **forest reserves, water development, zoning**, to the extent that any repair, reconstruction, improvement, or work is located within a forest reserve.

Chapter 183C, HRS, **conservation district**, to the extent that any repair, reconstruction, improvement, or work is located within the conservation district.

Chapter 183D, HRS, **wildlife**, to the extent that any repair, reconstruction, improvement, or work is located within game management areas, wildlife sanctuaries, or public hunting areas.

Chapter 195D, HRS, **conservation of aquatic life, wildlife, and land plants**, and chapter 13-124, Hawaii Administrative Rules (HAR), **indigenous wildlife, endangered and threatened wildlife and introduced wild birds** to the extent that any repair, reconstruction, improvement, or work may impact threatened or endangered species and their habitats.

Chapter 205A, HRS, **coastal zone management**, to the extent that compliance results in any additional delays involved with securing approvals from the counties or the Department of Land and Natural Resources for work within the special management area.

Chapter 264, HRS, **highways**, to the extent that compliance results in any additional delays involved with securing approvals from the Department Transportation.

Chapter 286, HRS, **highway safety**, to the extent that compliance results in any additional delays.

Chapter 341, HRS, **environmental quality control**, to the extent that compliance results in any additional delays involved with securing approvals from the Office of Environmental Quality Control.

Chapter 342B, HRS, **air pollution control**, to the extent that compliance results in any additional delays involved with securing approvals from the Department of Health.

Chapter 342D, HRS, **water pollution control**, to the extent that compliance results in any additional delays involved with securing approvals from the Department of Health.

Chapter 342E, HRS, **non-point source pollution management and control**, to the extent that compliance results in any additional delays involved with securing approvals from the Department of Health.

Chapter 342F, HRS, **noise pollution control**, to the extent that compliance results in any additional delays involved with securing approvals from the Department of Health.

Chapter 342H, HRS, **solid waste pollution control**, to the extent that compliance results in any additional delays involved with securing approvals from the Department of Health.

Chapter 343, HRS, **environmental impact statements**, to the extent that compliance results in any additional delays involved with the environmental review process.

Chapter 344, HRS, **state environmental policy**, to the extent that compliance results in any additional delays involved with the environmental review process.

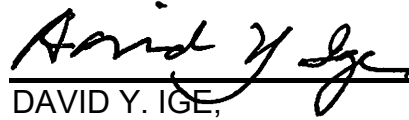
Section 464-4, HRS, **public works required to be supervised by certain professionals**, to the extent that compliance results in any additional delays involved with the completing of construction drawings to the point of stamping and signature by a professional engineer.

### **III. Severability**

If any provision of this Proclamation is rendered or declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be modified or deleted, and the remainder of this Proclamation and the application of such provision to other persons or circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by applicable law.

**I FURTHER DECLARE** that the disaster emergency relief period shall commence immediately and continue through March 7, 2022, unless terminated or superseded by separate proclamation, whichever shall occur first.

Done at the State Capitol, this 6th day of January, 2022.

  
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DAVID Y. IGE,  
Governor of Hawai'i

APPROVED:



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Holly T. Shikada  
Attorney General  
State of Hawai'i