

OFFICE OF THE GOVERNOR
STATE OF HAWAII

FIFTH PROCLAMATION RELATING TO HEAVY RAINS AND FLOODING

By the authority vested in me by the Constitution and laws of the State of Hawai'i, to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, ANNE E. LOPEZ, Acting Governor of the State of Hawai'i, hereby determine, designate and proclaim as follows:

WHEREAS, starting on April 11, 2024, heavy rains began falling in the County of Kauai;

WHEREAS, the heavy rains caused multiple landslides, as well as school and road closures on the Island of Kaua'i;

WHEREAS, flooding also caused multiple people to be rescued from cars and houses;

WHEREAS, the damage caused by heavy rains and flooding will likely require extensive damage assessments, as well as repair, restoration, and reconstruction, of roads, bridges, and other infrastructure and property required to protect the health, safety, and welfare of the people of the County;

WHEREAS, the heavy rains and flooding resulted in widespread standing water and blocked culverts and other drainageways which must be cleared to protect public health and safety;

WHEREAS, on April 12, 2024, Governor Josh Green, M.D., issued his first and second Proclamations Relating to Heavy Rains and Flooding;

WHEREAS, on April 22, 2024, the Governor issued his Third Proclamation Relating to Heavy Rains and Flooding;

WHEREAS, on June 21, 2024, the Governor issued his Fourth Proclamation Relating to Heavy Rains and Flooding; and

WHEREAS, it is necessary to supplement the Fourth Proclamation Relating to Heavy Rains and Flooding;

NOW, THEREFORE, I, ANNE E. LOPEZ, Acting Governor of the State of Hawai'i, hereby determine that an emergency or disaster contemplated by section 127A-14, HRS, is occurring in the County of Kaua'i, and authorize and invoke the

following emergency provisions, if not already in effect upon this declaration of an emergency:

I. Invocation of Laws

Sections 127A-12 and 127A-13, HRS, for county and 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.

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

II. Suspension of Laws

I suspend the following specific provisions of law under section 127A-13(a)(3) 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:

Chapter 6E, HRS, **historic preservation**, to the extent necessary for County and State agencies to respond to the emergency.

Section 37-41, HRS, **appropriations to revert to state treasury; exceptions**, to the extent that appropriations lapse at the end of the fiscal year before completion of the emergency actions.

Section 37-74(d), HRS, **program execution**, except for sub-sections 37-74(d)(2) and 37-74(d)(3), HRS, 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 actions.

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

Chapter 46, HRS, **county organization and administration, provisions applicable to all counties, general provisions**, to the extent necessary to respond to the emergency.

Chapter 76, HRS, **civil service law**, to the extent necessary to respond to the emergency.

Chapter 89, HRS, **collective bargaining in public employment**, to the extent that compliance with this chapter is detrimental to the expeditious and efficient execution of employment actions relating to the emergency.

Chapter 89C, HRS, **public officers and employees excluded from collective bargaining**, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency actions.

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

Section 103-53, HRS, **contracts with the State or counties; tax clearances, assignments**, only to the extent necessary to waive the Internal Revenue Service (IRS) tax clearance requirement.

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 103F, HRS, **purchases of health and human services**, 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**, and implementing administrative rules, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency actions.

Sections 105-1 to 105-10, HRS, **use of government vehicles, limitations**, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency actions.

Section 127A-30, HRS, **rental or sale of essential commodities during a state of emergency; prohibition against price increases**, because the automatic invocation of this provision is not needed for this emergency. The invocations and suspensions of section 127A-30, HRS, contained in the July 19, 2024, Sixteenth Proclamation Relating to Wildfires are not affected by this Proclamation.

Chapter 179, HRS, **flood control and flood water conservation**, to the extent necessary for County and State agencies to respond to the emergency.

Chapter 179D, HRS, **dams and reservoirs**, to the extent necessary for County and State agencies to respond to the emergency.

Chapter 205A, HRS, **coastal zone management**, to the extent necessary for County and State agencies to respond to the emergency.

Chapter 279A, HRS, **transportation control**, to the extent necessary for County and State agencies to respond to the emergency.

Chapter 342D, HRS, **water pollution**, to the extent necessary for County and State agencies to respond to the emergency.

Chapter 342E, HRS, **nonpoint source pollution management**, to the extent necessary for County and State agencies to respond to the emergency.

Chapter 343, HRS, **environmental impact statements**, to the extent necessary for County and State agencies to respond to the emergency.

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.

IV. Enforcement

No provision of this Proclamation, or any rule or regulation hereunder, shall be construed as authorizing any private right of action to enforce any requirement of this Proclamation, or of any rule or regulation. Unless the Governor, Director of Emergency Management, or their designee issues an express order to a non-judicial public officer, no provision of this Proclamation, or any rule or regulation hereunder, shall be construed as imposing any ministerial duty upon any non-judicial public officer and shall not bind the officer to any specific course of action or planning in response to the emergency or interfere with the officer's authority to utilize his or her discretion.

I FURTHER DECLARE that this Proclamation supersedes all prior Proclamations Relating to Heavy Rains and Flooding, and that the disaster emergency relief period shall commence immediately and continue through October 19, 2024, unless terminated or superseded by separate proclamation, whichever shall occur first. Notwithstanding the termination of a disaster emergency relief period, any contracts, agreements, procurements, programs, or employment of personnel entered into, started, amended, or continued by reason of the provisions of the proclamation relating to this emergency shall continue in full force and effect.

Done this 20th day of August, 2024



ANNE E. LOPEZ,
Acting Governor of Hawai'i

APPROVED:



CRAIG Y. IHA,
Acting Attorney General, State of Hawai'i