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# A BILL FOR AN ACT

RELATING TO EMERGENCY SHELTERS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

- 1           PART I. DISASTER PREPAREDNESS - NEW STRUCTURES
- 2           SECTION 1. The purpose of this part is to:
- 3           (1) Establish a state building code council that would
- 4           formulate and periodically update statewide model
- 5           building codes and design standards;
- 6           (2) Provide that the state building code shall serve as a
- 7           standard of construction for all building
- 8           construction, including state buildings;
- 9           (3) Require developers of new residential developments to
- 10          design and construct community facilities to meet
- 11          hurricane resistant criteria and to install siren
- 12          warning systems; and
- 13          (4) Require developers of existing residential
- 14          developments to install siren warning systems.

15          SECTION 2. The Hawaii Revised Statutes, is amended by

16 adding a new chapter to be appropriately designated and to read

17 as follows:



## 1 "CHAPTER

## 2 STATE BUILDING DESIGN AND CONSTRUCTION

3 §107-A Purpose. The purpose of this chapter is to promote  
4 the health, safety, and welfare of the occupants or users of  
5 buildings and structures and the general public through the  
6 adoption of statewide model building codes and design standards.

## 7 §107-B State building code council; established. (a)

8 There is established a state building code council. The state  
9 building code council shall be attached to the department of  
10 accounting and general services for administrative purposes  
11 only.

12 (b) The state building code council shall consist of nine  
13 voting members and one nonvoting member. The members of the  
14 council shall include:

- 15 (1) One county building official from each of the four  
16 counties of the State;
- 17 (2) One member representing the state fire council;
- 18 (3) One member representing the state department of health  
19 with significant experience in building mechanical and  
20 sewage disposal systems;



1 (4) One member representing the department of labor and  
2 industrial relations with significant experience in  
3 fire safety;

4 (5) One member representing the Structural Engineers  
5 Association of Hawaii;

6 (6) One member representing the American Institute of  
7 Architects, Hawaii State Chapter; and

8 (7) The comptroller or the comptroller's designated  
9 representative.

10 The comptroller shall be the nonvoting member.

11 (c) Members shall not be compensated, but shall be  
12 reimbursed for reasonable expenses incurred, including travel  
13 expenses, directly related to performance of their duties.

14 (d) The chairperson of the state building code council  
15 shall be elected annually by a majority of all the council's  
16 members.

17 **§107-C Executive director and executive assistant.** The  
18 state building code council may appoint an executive director,  
19 who shall serve at the pleasure of the state building code  
20 council and who shall have administrative abilities and  
21 expertise in engineering or architecture. The state building  
22 code council may also appoint an executive assistant, who shall



1 have experience in statutory and administrative rulemaking  
2 processes.

3 **§107-D Authority and duties of the state building code**  
4 **council.** (a) Any law to the contrary notwithstanding, the  
5 state building code council shall establish a comprehensive  
6 state building code through rules adopted in accordance with  
7 chapter 91.

8 (b) The design of all state building construction shall be  
9 in compliance with the state building code within one year of  
10 the state building code's effective date, including all state  
11 buildings, including but not limited to public school  
12 facilities.

13 As used in this chapter, "state building construction"  
14 means any building construction project or program initiated by  
15 a state agency or requiring the use of state funds.

16 (c) The state building code shall include the latest  
17 edition of:

18 (1) The International Building Code, published by the  
19 International Code Council, including Hawaii design  
20 standards for shelter construction in accordance with  
21 hurricane resistive criteria developed pursuant to Act  
22 5, Special Session Laws of Hawaii 2005; provided that



1 for the purposes of this paragraph, "hurricane  
2 resistive criteria", means the design criteria for  
3 enhanced hurricane protection areas, capable of  
4 withstanding a five hundred-year hurricane event, as  
5 developed by the state department of defense for  
6 public shelter and residential safe room design  
7 criteria pursuant to Act 5, Special Session Laws of  
8 Hawaii 2005; and

9 (2) Code provisions based on nationally published codes or  
10 standards that include but are not limited to  
11 residential and hurricane resistive standards for one-  
12 and two-family residential construction, fire,  
13 elevator, electrical, plumbing, mechanical, energy  
14 conservation standards for building design and  
15 construction, and private sewage disposal.

16 (d) The state building code council shall appoint a  
17 subcommittee composed solely of state building code council  
18 members who hold the county building official seats identified  
19 in section 107-B(b)(1), whose duty shall be to recommend any  
20 necessary or desirable state amendments to the national and  
21 international model codes for use in the state building code.



1 Any recommended state amendments shall require the unanimous  
2 agreement of the subcommittee.

3 (e) The council may convene other investigative technical  
4 expertise subcommittees that may include state building code  
5 council members.

6 (f) The state building code council shall review and  
7 adopt, as appropriate, new model building codes within eighteen  
8 months of their official published date.

9 (g) The state building code council may make expenditures  
10 for technical references, equipment and supplies, and other  
11 operating expenses and may contract for the conduct of research  
12 studies and provision of technical services.

13 (h) The state building code council shall provide  
14 education and technical training and administrative assistance  
15 in the form of services or grants at the state and county levels  
16 relating to the implementation and enforcement of the state  
17 building code and county building codes adopted pursuant to this  
18 chapter.

19 (i) In adopting a statewide building code, the state  
20 building code council shall not adopt provisions that:

21 (1) Relate to administrative, permitting, or enforcement  
22 and inspection procedures of each county; or



1 (2) Prohibit indigenous (pre-western contact) Hawaiian  
2 architecture.

3 (j) Upon adoption of a state building code under  
4 subsection (a), the State shall be exempted from county building  
5 codes for state-owned buildings.

6 **§107-E Annual report.** The department of accounting and  
7 general services shall report to the legislature no later than  
8 twenty days prior to the opening of each regular session on the  
9 state building code council's activities and accomplishments.

10 **§107-F County authority to amend.** (a) The governing body  
11 of each county may amend the state building code as it applies  
12 within its jurisdiction, in accordance with section 46-1.5(13),  
13 without approval of the state building code council. Each  
14 county shall use the model codes listed in section 107-D(c), as  
15 the referenced model building codes for its county building code  
16 ordinance no later than two years after the adoption of the  
17 state building code.

18 (b) County amendments shall be consistent with the minimum  
19 performance standards of the state building code and the  
20 objectives established in section 107-A. If a county does not  
21 amend the statewide model codes within the two-year timeframe,  
22 the state building code shall become applicable as an interim



1 county building code until such time that the county adopts its  
2 amendments."

3 SECTION 3. Chapter 127, Hawaii Revised Statutes, is  
4 amended by adding a new section to be appropriately designated  
5 and to read as follows:

6 **"§127- Residential development projects; civil defense**  
7 **preparedness.** (a) Beginning July 1, 2006, the developer of a  
8 development or a residential project shall:

9 (1) Design and construct community facilities, if  
10 community facilities are included in the development  
11 or project, to meet, at a minimum, hurricane resistant  
12 criteria; and

13 (2) Install emergency siren systems within the development  
14 or residential project.

15 This subsection shall apply to a new development or a new  
16 residential project constructed after July 1, 2006, as well as a  
17 development or residential project in progress as of July 1,  
18 2006.

19 (b) Beginning July 1, 2006, the developer of an existing  
20 development or residential project shall install emergency siren  
21 systems within the development or residential project.

22 (c) As used in this section:





1       "Community facilities" includes real and personal property,  
2 and buildings, equipment, lands, and grounds for recreational or  
3 social assemblies, for educational, health, or welfare purposes,  
4 and for necessary or convenient utilities, when designed  
5 primarily for the benefit and use of the occupants of the  
6 dwelling.

7       "Developer" and "development" have the same meaning as in  
8 section 46-141.

9       "Hurricane resistant criteria" means design criteria for  
10 enhanced hurricane protection areas, capable of withstanding a  
11 five hundred-year hurricane event, as developed by the state  
12 department of defense for public shelter and residential safe  
13 room design criteria pursuant to Act 5, Special Session Laws of  
14 Hawaii 2005.

15       "Residential project" has the same meaning as in section  
16 206E-2."

17       SECTION 4. There is appropriated out of the general  
18 revenues of the State of Hawaii the sum of \$                   , or so  
19 much thereof as may be necessary for fiscal year 2006-2007, for  
20 operations of the state building code council established in  
21 this part.

1 The sum appropriated shall be expended by the department of  
2 accounting and general services.

3 SECTION 5. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$ , or so  
5 much thereof as may be necessary for fiscal year 2006-2007, for  
6 the state building code council to procure technical assistance  
7 services.

8 The sum appropriated shall be expended by the department of  
9 accounting and general services.

10 PART II. DISASTER PREPAREDNESS - EXISTING STRUCTURES

11 SECTION 6. The purpose of this part is to:

- 12 (1) Appropriate funds to retrofit existing structures to  
13 better withstand natural disasters;
- 14 (2) Establish that, prior to the dissolution of the Hawaii  
15 hurricane relief fund, and if the Hawaii hurricane  
16 relief fund has no policyholders, the annual net  
17 investment income earned from the principal in the  
18 hurricane reserve trust fund in fiscal years 2006-2007  
19 and 2007-2008 shall be deposited to the credit of the  
20 loss mitigation grant fund; and
- 21 (3) Provide an income tax credit for the installation of  
22 wind resistive devices.



1 SECTION 7. The director of finance is authorized to issue  
 2 general obligation bonds in the sum of \$ , or so much  
 3 thereof as may be necessary, and the same sum or so much thereof  
 4 as may be necessary, is appropriated for fiscal year 2006-2007,  
 5 to retrofit public school facilities to enable them to be used  
 6 for emergency shelters.

7 The sum appropriated shall be expended by the department of  
 8 defense for the purposes of this section.

9 SECTION 8. The appropriation made for the capital  
 10 improvement projects authorized by section 7 of this Act shall  
 11 not lapse at the end of the fiscal year for which the  
 12 appropriation is made; provided that all moneys from the  
 13 appropriation unencumbered as of June 30, 2008, shall lapse as  
 14 of that date.

15 SECTION 9. The department of education and the department  
 16 of defense shall jointly determine which structures presently  
 17 being used for department of education operations have been  
 18 designated as emergency shelters, but do not meet the design  
 19 criteria, as developed by the department of defense for public  
 20 shelter design criteria pursuant to Act 5, Special Session Laws  
 21 of Hawaii 2005.



1 Evaluations of shelters shall be performed by professional  
2 structural engineering experts. The evaluation shall include  
3 review of original construction drawings, physical inspections,  
4 and evaluation of the facility's compliance with structural and  
5 nonstructural criteria. Deficiencies shall be identified that,  
6 if corrected, would improve the shelter's capacity and its  
7 relative safety classification in accordance with the design  
8 criteria established under Act 5, Special Session Laws of Hawaii  
9 2005.

10 Standardized documented procedures for shelter evaluation  
11 and approval shall be developed by the department of defense in  
12 coordination with county civil defense agencies, including  
13 building data questionnaire forms, survey procedures, and risk-  
14 based documentation forms. No later than January 1, 2008, an  
15 electronic database linked to a geographic information system  
16 shall be used for facility data compilation, mapping,  
17 vulnerability status for multiple hazards, determination of  
18 priorities, risk-based decisions, facility status management,  
19 and annual reports to the legislature.

20 The department of education and the state department of  
21 defense shall also identify sites for new emergency shelters,  
22 located within or on the grounds of facilities being used for



1 department of education operations, to be constructed according  
2 to the current design criteria.

3 The department of defense shall submit annual reports of  
4 any findings and recommendations, including any proposed  
5 legislation, to the governor and the legislature commencing no  
6 later than twenty days prior to the convening of the regular  
7 session of 2007 and not later than twenty days prior to the  
8 convening of each regular session thereafter.

9 SECTION 10. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$ , or so  
11 much thereof as may be necessary for fiscal year 2006-2007, for  
12 the planning, design, construction, and equipment costs related  
13 to retrofitting existing structures presently being used for  
14 department of education operations that have been designated as  
15 emergency shelters, to comply with design criteria established  
16 pursuant to Act 5, Special Session Laws of Hawaii 2005.

17 The sum appropriated shall be expended by the department of  
18 education for the purposes of this section.

19 SECTION 11. Section 431:22-102, Hawaii Revised Statutes,  
20 is amended by amending subsection (a) to read as follows:

21 "(a) There is established a special fund to be designated  
22 as the loss mitigation grant fund. Moneys [~~transferred~~]



1 deposited to the loss mitigation grant fund may be expended by  
2 the commissioner to carry out the commissioner's duties and  
3 obligations under this article. Disbursements from the loss  
4 mitigation grant fund shall not be subject to chapter 42F or  
5 91."

6 SECTION 12. Section 431P-16, Hawaii Revised Statutes, is  
7 amended by amending subsection (i) to read as follows:

8 "(i) Moneys in the hurricane reserve trust fund may be:

9 (1) Disbursed upon dissolution of the Hawaii hurricane  
10 relief fund; provided that:

11 (A) The net moneys in the hurricane reserve trust  
12 fund shall revert to the state general fund after  
13 payments by the fund on behalf of licensed  
14 property and casualty insurers or the State that  
15 are required to be made pursuant to any federal  
16 disaster insurance program enacted to provide  
17 insurance or reinsurance for hurricane risks are  
18 completed; and

19 (B) If such moneys are paid on behalf of licensed  
20 property and casualty insurers, payment shall be  
21 made in proportion to the premiums from policies  
22 of hurricane property insurance serviced by the



1                   insurers in the twelve months prior to  
2                   dissolution of the fund; or  
3           (2)   Deposited to the loss mitigation grant fund  
4                   established under section 431:22-102;  
5 provided that all interest earned from the principal in the  
6 hurricane reserve trust fund shall be transferred and deposited  
7 into the general fund each year that the hurricane reserve trust  
8 fund remains in existence[-]; and provided further that, prior  
9 to dissolution of the Hawaii hurricane relief fund, and if the  
10 Hawaii hurricane relief fund has no policyholders, the first  
11 \$2,000,000 of the annual net investment income earned from the  
12 principal in the hurricane reserve trust fund in fiscal years  
13 2006-2007 and 2007-2008 shall be deposited to the credit of the  
14 loss mitigation grant fund under section 431:22-102."

15           SECTION 13. Chapter 235, Hawaii Revised Statutes, is  
16 amended by adding a new section to be appropriately designated  
17 and to read as follows:

18           "§235-    Wind resistive devices tax credit. (a) There  
19 shall be allowed to each taxpayer, subject to the tax imposed by  
20 this chapter, an income tax credit for the installation of a  
21 wind resistive device, as defined in section 431:22-101, that  
22 qualifies for a grant under section 431:22-104. The wind



1 resistive devices tax credit shall be in addition to any grant  
2 awarded to the taxpayer under chapter 431:22. The tax credit  
3 shall be deductible from the taxpayer's net income tax  
4 liability, if any, imposed by this chapter for the taxable year  
5 in which the tax credit is properly claimed.

6 (b) The tax credit shall apply as follows, for:

7 (1) Single-family residential property: per cent of  
8 the actual cost or \$ , whichever is less; or

9 (2) Multi-family residential property: per cent of  
10 the actual cost or \$ per unit, whichever is  
11 less;

12 provided that multiple owners of a residential property shall be  
13 entitled to a single tax credit; and provided further that the  
14 tax credit shall be apportioned between the owners in proportion  
15 to their contribution to the cost of the wind resistive device.

16 For the purpose of this section, "actual cost" means costs  
17 related to the acquisition and installation of the wind  
18 resistive device under subsection (a), but does not include the  
19 cost of any consumer incentive premiums offered with the sale of  
20 the device and costs for which another credit is claimed under  
21 this chapter.





1        (c) If the tax credit allowed under subsection (a) exceeds  
2 the taxpayer's net income tax liability, the excess of credit  
3 over liability shall be refunded to the taxpayer; provided that  
4 no refunds or payment on account of the tax credit allowed by  
5 this section shall be made for amounts less than \$1.

6        (d) In the case of a partnership, S corporation, estate,  
7 trust, or association of apartment owners, the tax credit  
8 allowable is for expenses incurred and paid for by the entity  
9 for the taxable year. The cost upon which the tax credit is  
10 computed shall be determined at the entity level. Distribution  
11 and share of credit shall be determined pursuant to section  
12 235-110.7(a).

13        (e) If a deduction is taken under section 179 (with  
14 respect to election to expense certain depreciable business  
15 assets) of the Internal Revenue Code, no tax credit shall be  
16 allowed for that portion of the expenses for which the deduction  
17 is taken.

18        The basis of eligible property for depreciation or  
19 accelerated cost recovery system purposes for state income taxes  
20 shall be reduced by the amount of credit allowable and claimed.  
21 In the alternative, the taxpayer shall treat the amount of the  
22 credit allowable and claimed as a taxable income item for the



1 taxable year in which it is properly recognized under the method  
2 of accounting used to compute taxable income.

3 (f) No taxpayer that claims the tax credit under this  
4 section shall claim any other credit for the same losses or  
5 other expenses or costs.

6 (g) All claims for tax credits under this section,  
7 including any amended claims, shall be filed on or before the  
8 end of the twelfth month following the close of the taxable year  
9 for which the credits may be claimed. Failure to comply with  
10 the foregoing provision shall constitute a waiver of the right  
11 to claim the credit.

12 (h) Application for the hurricane resistant devices tax  
13 credit shall be upon forms provided by the department of  
14 taxation."

15 PART III. GENERAL PROVISIONS

16 SECTION 14. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 15. This Act shall take effect on July 1, 2006;  
19 provided that section 13 shall apply to taxable years beginning  
20 after December 31, 2005.



**REPORT Title:**

School Buildings; Emergency Shelters

**Description:**

Establishes hurricane resistant building code for state buildings. Requires developers to install siren warning devices in developments. Authorizes the issuance of general obligation bonds to fund retrofit of public school buildings for use as emergency shelters. Appropriates funds to retrofit existing and construct new emergency shelters. Transfers investment earnings of the Hawaii hurricane relief fund to the loss mitigation grant fund for two fiscal years. Provides an income tax credit for the installation of wind resistive devices. (SD1)

