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## A BILL FOR AN ACT

RELATING TO DISASTER PREPAREDNESS.

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

- 1           SECTION 1. The purpose of this Act is to:
- 2           (1) Require developers of new residential developments to
- 3           design and construct community facilities to meet
- 4           hurricane resistive criteria and to install siren
- 5           warning systems;
- 6           (2) Require developers of existing residential
- 7           developments to install siren warning systems;
- 8           (3) Provide an income tax credit for the installation of
- 9           wind resistive devices;
- 10          (4) Establish that, prior to the dissolution of the Hawaii
- 11          hurricane relief fund, and if the Hawaii hurricane
- 12          relief fund has no policyholders, the annual net
- 13          investment income earned from the principal in the
- 14          hurricane reserve trust fund in fiscal year 2008-2009
- 15          shall be deposited to the credit of the loss
- 16          mitigation grant fund; and



1 (5) Appropriate funds to retrofit existing and construct  
2 new structures to better withstand natural disasters.

3 SECTION 2. 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, 2008, 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 resistive  
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, 2008, as well as a  
17 development or residential project in progress as of July 1,  
18 2008.

19 (b) Beginning July 1, 2008, 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 necessary or convenient utilities, when designed primarily  
5 for the benefit and use of the occupants of the dwelling.

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

8       "Hurricane resistive criteria" shall have the same meaning  
9 as in section 107-21.

10       "Residential project" shall have the same meaning as in  
11 section 206E-2."

12       SECTION 3. Chapter 235, Hawaii Revised Statutes, is  
13 amended by adding a new section to be appropriately designated  
14 and to read as follows:

15       "§235-   Wind resistive devices tax credit. (a) There  
16 shall be allowed to each taxpayer, subject to the tax imposed by  
17 this chapter, an income tax credit for the installation in the  
18 State of a wind resistive device, as defined in section  
19 431:22-101, that qualifies for a grant under section 431:22-104.  
20 The wind resistive devices tax credit shall be in addition to  
21 any grant awarded to the taxpayer under chapter 431:22. The tax  
22 credit shall be deductible from the taxpayer's net income tax



1 liability, if any, imposed by this chapter for the taxable year  
2 in which the tax credit is properly claimed.

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

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

6 (2) Multi-family residential property: \_\_\_\_\_ per cent of  
7 the actual cost or \$ \_\_\_\_\_ per unit, whichever is  
8 less;

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

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

19 (c) If the tax credit allowed under subsection (a) exceeds  
20 the taxpayer's net income tax liability, the excess of credit  
21 over liability shall be refunded to the taxpayer; provided that



1 no refunds or payment on account of the tax credit allowed by  
2 this section shall be made for amounts less than \$1.

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

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

15 The basis of eligible property for depreciation or  
16 accelerated cost recovery system purposes for state income taxes  
17 shall be reduced by the amount of credit allowable and claimed.  
18 In the alternative, the taxpayer shall treat the amount of the  
19 credit allowable and claimed as a taxable income item for the  
20 taxable year in which it is properly recognized under the method  
21 of accounting used to compute taxable income.



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

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

10       (h) Application for the hurricane resistive devices tax  
11 credit shall be upon forms provided by the department of  
12 taxation."

13       SECTION 4. Section 431:22-102, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

15       "(a) There is established a special fund to be designated  
16 as the loss mitigation grant fund. Moneys [~~transferred~~]  
17 deposited to the loss mitigation grant fund may be expended by  
18 the commissioner to carry out the commissioner's duties and  
19 obligations under this article. Disbursements from the loss  
20 mitigation grant fund shall not be subject to chapter 42F or  
21 91."



1 SECTION 5. Section 431P-16, Hawaii Revised Statutes, is  
2 amended by amending subsection (i) to read as follows:

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

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

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

14 (B) If such moneys are paid on behalf of licensed  
15 property and casualty insurers, payment shall be  
16 made in proportion to the premiums from policies  
17 of hurricane property insurance serviced by the  
18 insurers in the twelve months prior to  
19 dissolution of the fund; or

20 (2) Deposited to the loss mitigation grant fund  
21 established under section 431:22-102;



1 provided that all interest earned from the principal in the  
 2 hurricane reserve trust fund shall be transferred and deposited  
 3 into the general fund each year that the hurricane reserve trust  
 4 fund remains in existence[-]; provided further that prior to the  
 5 dissolution of the Hawaii hurricane relief fund, and if the  
 6 Hawaii hurricane relief fund has no policyholders, the first  
 7 \$2,000,000 of the annual net investment income earned from the  
 8 principal in the hurricane reserve trust fund in fiscal year  
 9 2008-2009 shall be deposited to the credit of the loss  
 10 mitigation grant fund under section 431:22-102."

11 SECTION 6. The director of finance is authorized to issue  
 12 general obligation bonds in the sum of \$ or so much  
 13 thereof as may be necessary and the same sum or so much thereof  
 14 as may be necessary is appropriated for fiscal year 2008-2009 to  
 15 retrofit public school facilities to enable them to be used for  
 16 emergency shelters.

17 SECTION 7. 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 2008-2009 for  
 20 the planning, design, construction, and equipment costs related  
 21 to retrofitting existing structures presently being used for  
 22 department of education operations that have been designated as





1 emergency shelters, to comply with design standards established  
2 pursuant to Act 5, Special Session Law of Hawaii 2005, and the  
3 state building code established pursuant to section 107-25,  
4 Hawaii Revised Statutes.

5 SECTION 8. The appropriation made for the capital  
6 improvement project authorized by this Act shall not lapse at  
7 the end of the fiscal biennium for which the appropriation is  
8 made; provided that all moneys from the appropriation  
9 unencumbered as of June 30, 2010, shall lapse as of that date.

10 SECTION 9. The department of education and the department  
11 of defense shall jointly determine which structures presently  
12 being used for department of education operations have been  
13 designated as emergency shelters but do not meet the department  
14 of defense's design standards established pursuant to Act 5,  
15 Special Session Laws of Hawaii 2005, and the state building code  
16 established pursuant to section 107-25, Hawaii Revised Statutes.

17 The department of education and the department of defense  
18 shall also identify sites for new emergency shelters, located  
19 within or on the grounds of facilities being used for department  
20 of education operations, to be constructed according to the  
21 current design standards.



1           The department of defense shall submit a report of any  
 2 findings and recommendations, including any proposed  
 3 legislation, to the governor and the legislature no later than  
 4 twenty days prior to the convening of the regular session of  
 5 2009.

6           SECTION 10. The sums appropriated shall be expended by the  
 7 department of defense for the purposes of this Act.

8           SECTION 11. Statutory material to be repealed is bracketed  
 9 and stricken. New statutory material is underscored.

10          SECTION 12. This Act shall take effect upon its approval;  
 11 provided that sections 6 and 7 shall be effective on July 1,  
 12 2008; provided further that section 3 shall apply to taxable  
 13 years beginning after December 31, 2007.

14

INTRODUCED BY: BTah

JAN 16 2008



**Report Title:**

School Buildings; Emergency Shelters; Disaster Preparedness;  
Appropriation

**Description:**

Requires developers to install siren warning devices in development. Provides an income tax credit for the installation of wind resistive devices. Transfers investment earnings of the Hawaii hurricane relief fund to the loss mitigation grant fund for the next fiscal year. Authorizes the issuance of general obligation bonds to fund the retrofitting of public school buildings for use as emergency shelters. Appropriates funds to retrofit existing and construct new emergency shelters.

