

# H.B. NO. 3091

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## A BILL FOR AN ACT

RELATING TO LOSS MITIGATION.

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

1           SECTION 1. Chapter 235, Hawaii Revised Statutes, is amended  
2 by adding a new section to be appropriately designated and to  
3 read as follows:

4           "§235-     Wind resistive devices tax credit. (a) There  
5 shall be allowed to each taxpayer subject to the taxes imposed by  
6 this chapter, an income tax credit which shall be deductible from  
7 the taxpayer's net income tax liability imposed by this chapter  
8 for the taxable year in which the credit is properly claimed.

9           The amount of the credit shall be thirty-five per cent of  
10 the costs incurred during the taxable year for purchasing and  
11 installing wind resistive devices in a non-condominium  
12 residential dwelling owned by the taxpayer and located in the  
13 State.

14           The tax credit may be claimed only for wind resistive  
15 devices that are described by the director of taxation in the  
16 technical specifications issued by the director of taxation for

1 the program. These technical specifications shall not be subject  
2 to chapter 91. The director of taxation may exclude from the tax  
3 credit, wind resistive devices that were installed due to a  
4 requirement of a building code.

5 (b) If the tax credit under this section exceeds the  
6 taxpayer's income tax liability, the excess of credit over  
7 liability may be used as a credit against the taxpayer's income  
8 tax liability in subsequent years until exhausted. All claims,  
9 including amended claims, for a tax credit under this section  
10 shall be filed on or before the end of the twelfth month  
11 following the close of the taxable year for which the credit may  
12 be claimed. Failure to comply with the foregoing provision shall  
13 constitute a waiver of the right to claim the credit.

14 (c) The director may require the taxpayer to furnish  
15 information to ascertain the validity of the claim for credit  
16 made under this section.

17 (d) The director of taxation may require that applications  
18 from taxpayers to qualify wind resistive devices for the tax  
19 credit be first reviewed and approved by insurance commissioner;  
20 provided that in reviewing the application, the insurance  
21 commissioner shall be allowed to rely on a representation from an  
22 inspector or licensed contractor that the director of taxation's

1 technical specifications have been met; provided further that the  
2 insurance commissioner shall not be required to conduct an on-  
3 site or physical inspection of the wind resistive devices as part  
4 of the review.

5 (e) As used in this section, "wind resistive devices" means  
6 devices that increase a building's or structure's resistance to  
7 damage from wind forces and shall include the following:

- 8 (1) Uplift restraint ties at roof ridges and roof framing  
9 members to wall or beam supports;  
10 (2) Additional fastening of roof sheathing and roof decking  
11 for high wind uplift;  
12 (3) Impact and pressure resistant exterior opening  
13 protective devices;  
14 (4) Wall to foundation uplift restraint connections to  
15 strengthen wood foundation posts on footings; and  
16 (5) A residential safe room.

17 The description, specifications, guidelines, and  
18 requirements for these wind resistive devices shall be  
19 further developed and determined by the director in the  
20 director's sole discretion. The director, in the director's  
21 sole discretion, may amend, narrow, or expand the

1 definitions, description, specifications, and requirements  
2 of the wind resistive devices."

3 SECTION 2. Chapter 431, article 22, Hawaii Revised  
4 Statutes, is repealed.

5 SECTION 3. There is appropriated out of the loss mitigation  
6 grant fund the sum of \$500,000, or so much thereof as may be  
7 necessary for fiscal year 2008-2009. The wind resistive devices  
8 tax credit will be available for taxable years beginning after  
9 December 31, 2008, and funding is needed to enable the loss  
10 mitigation grant program to continue until the tax credit becomes  
11 available.

12 The sum appropriated shall be expended by the department of  
13 commerce and consumer affairs for the purposes of this Act.

14 SECTION 4. Any moneys remaining in the loss mitigation  
15 grant fund after moneys are appropriated in accordance with  
16 section 3 of this Act shall be transferred to the hurricane  
17 reserve trust fund.

18 SECTION 5. New statutory material is underscored.

19 SECTION 6. This Act shall take effect on July 1, 2008;  
20 provided that section 1 shall apply to taxable years beginning  
21 after December 31, 2008; and provided further that section 2  
22 shall take effect on December 31, 2008.

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INTRODUCED BY:

Celinda A. Ay

BY REQUEST

JAN 22 2008

**Report Title:**

Wind Resistive Devices Tax Credit

**Description:**

Repeals and replaces the loss mitigation grant program with a wind resistive devices tax credit.

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO LOSS MITIGATION.

PURPOSE: Replace the loss mitigation grant program with a hurricane retrofit tax credit.

MEANS: Add a new section to chapter 235, Hawaii Revised Statutes (HRS), and repeal article 22 of chapter 431, HRS.

JUSTIFICATION: The present money grant program to homeowners who install wind resistive devices to help protect their homes from hurricane or other wind damage is rarely used. Apparently the money grant is not providing a sufficient incentive to homeowners.

Impact on the public: Would make obtaining the benefit easier since taxpayers would be able to claim this credit as part of their tax return.

Impact on the department and other agencies: Shifts administration of the program from Commerce and Consumer Affairs to Department of Taxation.

GENERAL FUND: Not applicable.

OTHER FUNDS: Loss mitigation grant fund \$500,000 for the first half of FY 2008-2009.

PPBS PROGRAM DESIGNATION: CCA-106.

OTHER AFFECTED AGENCIES: Department of Taxation.

EFFECTIVE DATE: July 1, 2008 with tax credit available for tax years beginning after December 31, 2008.