

JAN 18 2008

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.

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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.

