



EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 8, 2013

GOV. MSG. NO. 1373

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki,
Speaker and Members of
the House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

I am transmitting herewith HB763 HD1 SD1 CD1, without my approval, and with the statement of objections relating to the measure.

HB763 HD1 SD1 CD1

RELATING TO THE STATE BUILDING CODE

Neil Abercrombie
Signature

NEIL ABERCROMBIE
Governor, State of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

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STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 763

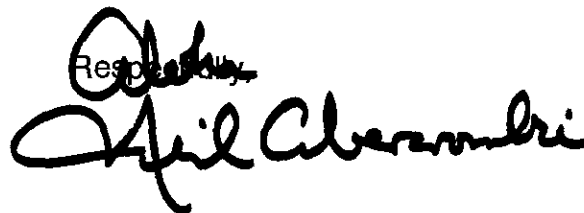
Honorable Members
Twenty-Seventh Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 763, entitled "A Bill for an Act Relating to the State Building Code."

The purposes of this bill are to modify the composition and quorum of the Hawaii State Building Code Council ("SBCC"), to revise the process to establish a State Building Code, and to authorize the SBCC to receive funding from the Hurricane Relief Fund for loss reduction plan activities.

This bill is objectionable because it seeks funding from the Hurricane Relief Fund. The Fund is essential to ensure the protection and safety of the people of Hawaii and towards that end, the Fund must be rebuilt and not depleted. Using the Fund for the activities of the SBCC, however arguably relevant, establishes a negative precedent and may invite others to deplete the Fund for uses that are remote from the primary purpose of the Fund.

For the foregoing reasons, I am returning House Bill No. 763 without my approval.

The image shows a handwritten signature in black ink. The signature is written in a cursive style and appears to read "Neil Abercrombie". Above the signature, the word "Respectfully" is written in a smaller, less legible cursive script.

NEIL ABERCROMBIE
Governor of Hawaii

VETO

HOUSE OF REPRESENTATIVES
TWENTY-SEVENTH LEGISLATURE, 2013
STATE OF HAWAII

H.B. NO.

763
H.D. 1
S.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO THE STATE BUILDING CODE.

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

1 SECTION 1. Section 107-22, Hawaii Revised Statutes, is
2 amended by amending subsections (a) and (b) to read as follows:

3 " (a) There is established a state building code council.
4 The council shall be placed within the department of accounting
5 and general services for administrative purposes only. The
6 council shall consist of [~~nine~~] eleven voting members and one
7 nonvoting member, who shall be the comptroller or the
8 comptroller's designee. [~~The council members shall serve four-~~
9 ~~year terms as defined in paragraphs (1) to (6).~~] The voting
10 members shall include:

- 11 (1) One county building official from each of the four
12 counties appointed by the mayor;
- 13 (2) One member representing the state fire council;
- 14 [~~(3) One member representing the department of health who~~
15 ~~has significant experience in building mechanical and~~
16 ~~sewage disposal systems.~~



- 1 ~~(4)~~ (3) One member representing the department of labor
2 and industrial relations who has significant
3 experience in elevator or fire safety;
- 4 (4) One member representing the department of business,
5 economic development, and tourism Hawaii state energy
6 office;
- 7 (5) One member representing the Structural Engineers
8 Association of Hawaii; ~~and~~
- 9 (6) One member representing the American Institute of
10 Architects, Hawaii State Council~~[-]~~;
- 11 (7) One member representing the Building Industry
12 Association of Hawaii or the General Contractors
13 Association of Hawaii who has significant experience
14 with building codes; and
- 15 (8) One member representing the Subcontractors Association
16 of Hawaii who has significant experience with building
17 codes.

18 The council members shall serve four-year terms.

19 (b) ~~[Six]~~ Seven voting members shall constitute a quorum.

20 The chairperson of the council shall be elected annually from
21 among its members by a majority vote of the members of the
22 council."



1 SECTION 2. Section 107-24, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~§~~107-24~~§~~] Authority and duties of the council. (a)

4 Any law to the contrary notwithstanding, the council shall
5 establish a recommended comprehensive model state building
6 code[-] that shall be a part of a loss reduction plan that
7 complies with the development of loss mitigation standards in
8 accordance with section 431P-12.

9 (b) The council shall appoint a subcommittee [~~comprised of~~
10 ~~the~~] comprising four council members representing county
11 building officials, whose duty shall be to recommend any
12 necessary or desirable state amendments to the model codes[-]
13 and standards identified in section 107-25. Any recommended
14 state amendments shall require the unanimous agreement of the
15 subcommittee. The council shall designate the staggering of the
16 adoption of the codes and standards to be adopted, amended, and
17 updated. The frequency of adoption of any code or standard
18 shall not exceed every six years. Any recommended staggering of
19 adoptions shall be based on a review and evaluation of the
20 utility of each model code identified in section 107-25 when
21 each edition is published.



1 (c) The council may appoint other investigative, technical
2 expertise committees, which may include council members.

3 (d) The council shall consult with ~~[general]~~ building
4 contractor associations and building trade associations to
5 gather information and recommendations on construction practices
6 and training relevant to building codes and standards.

7 (e) The council shall review the codes and standards
8 identified in section 107-25 and adopt[-] recommended state
9 amendments, as appropriate, [~~new model building codes~~] pursuant
10 to subsection (b), within eighteen months of the official
11 publication date[-] of the respective code or standard. At
12 least every two years, the council shall disseminate an itemized
13 report of the substantially uniform code amendments adopted by
14 at least three counties.

15 (f) The council may make expenditures for technical
16 references, equipment and supplies, and other operating
17 expenses, and may contract for the conduct of research studies
18 and other technical services.

19 (g) The council ~~[shall]~~ may provide education and
20 technical training and administrative assistance in the form of
21 services or grants at the state and county levels relating to
22 the implementation and enforcement of the state building code



1 ~~[adopted pursuant to this part.]~~ and loss mitigation standards
2 in accordance with section 431P-12."

3 SECTION 3. Section 107-25, Hawaii Revised Statutes, is
4 amended to read as follows:

5 " ~~[f]§107-25[]—State~~ Hawaii state building code;
6 requirements. There is established a Hawaii state building code
7 applicable to all construction in the State of Hawaii. The
8 Hawaii state building code shall include[+] the following codes
9 as amended by the substantially uniform code amendments adopted
10 by at least three counties:

- 11 (1) The latest edition of the state fire code as adopted
12 by the state fire council;
- 13 (2) The latest edition of the Uniform Plumbing Code, as
14 copyrighted and published by the International
15 Association of Plumbing and Mechanical Officials,
16 including its appendices;
- 17 (3) The latest edition of the International Building Code,
18 the International Residential Code, and the
19 International Energy Conservation Code, as published
20 by the International Code Council;
- 21 (4) The National Electrical Code, as published by the
22 National Fire Protection Association;



1 ~~[(4)]~~ (5) Hawaii design standards implementing the criteria
2 pursuant to Act 5, Special Session Laws of Hawaii,
3 2005, as applicable to:

4 (A) Emergency shelters built to comply with hurricane
5 resistant criteria, including enhanced hurricane
6 protection areas capable of withstanding a five
7 hundred-year hurricane event as well as other
8 storms and natural hazards; and

9 (B) Essential government facilities requiring
10 continuity of operations; and

11 ~~[(5)]~~ (6) Code provisions based on nationally published
12 codes or standards that include, but are not limited
13 to, residential and hurricane resistive standards for
14 residential construction, ~~[fire,]~~ elevator,
15 ~~[electrical, plumbing,]~~ mechanical, flood and tsunami,
16 and existing buildings ~~[, and energy conservation~~
17 ~~standards for building design and construction, and~~
18 ~~onsite sewage disposal]."~~

19 SECTION 4. Section 107-27, Hawaii Revised Statutes, is
20 amended to read as follows:

21 " ~~[(1)]~~ §107-27 ~~[(1)]~~ ~~Exemptions.~~ Design of state buildings. (a)
22 ~~[Open]~~ No later than one year after adoption of ~~[rules]~~



1 substantially uniform code amendments by at least three counties
2 under [this chapter,] section 107-28, and as reported by the
3 council under section 107-24(e), the design of all state
4 building construction shall be in compliance with the Hawaii
5 state building code [within one year of its effective date,
6 and], except that state building construction shall be allowed
7 to be exempted from:

- 8 (1) County codes that have not adopted the state building
- 9 code;
- 10 (2) Any county code amendments that are inconsistent with
- 11 the minimum performance objectives of the Hawaii state
- 12 building code or the objectives enumerated in this
- 13 part; or
- 14 (3) Any county code amendments that are contrary to code
- 15 amendments adopted by another county.

16 (b) Exemptions shall include county ordinances allowing
17 the exercise of indigenous Hawaiian architecture adopted in
18 accordance with section 46-1.55."

19 SECTION 5. Section 107-28, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[+]§107-28[+] County building code authority to amend and
22 adopt the [state] model state building [code] codes without



1 **state approval.** (a) The governing body of each county shall
2 amend, adopt, and update the model state building code as it
3 applies within its respective jurisdiction, in accordance with
4 section 46-1.5(13), without approval of the council. Each
5 county shall [~~use~~] amend and adopt the model state codes and
6 standards listed in section 107-25, as the referenced model
7 building codes and standards for its respective county building
8 code ordinance, no later than two years after the adoption of
9 [~~the state building code.~~] each of the model codes by the state
10 building code council pursuant to section 107-24.

11 (b) If a county does not amend the [~~statewide~~] model
12 [~~code~~] state codes and standards within the two-year time frame,
13 the model state building [~~code~~] codes defined in section 107-
14 24(e) shall become applicable as an interim county building code
15 until the county adopts [~~the~~] its amendments."

16 SECTION 6. Section 107-29, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[~~§~~107-29[~~]~~] **Rules.** The department shall adopt rules
19 pursuant to chapter 91 as may be necessary for the purposes of
20 defining the Hawaii state building code to consist of the codes
21 and standards identified in section 107-25 and any substantially



1 uniform amendments adopted by at least three counties in
2 accordance with this part."

3 SECTION 7. Section 431P-5, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) The Hawaii hurricane relief fund shall have the
6 following general powers:

- 7 (1) To sue and be sued;
- 8 (2) To make and alter policies for its organization and
9 internal administration;
- 10 (3) To adopt rules in accordance with chapter 91 to
11 effectuate the purposes of this chapter;
- 12 (4) To borrow moneys, including but not limited to moneys
13 from state or federal sources and to issue notes or
14 other obligations of the fund for the purposes of
15 providing funds for any of its purposes as authorized
16 by the legislature from time to time;
- 17 (5) To pledge, assign, or grant a security interest in all
18 or any part of the moneys, rents, charges,
19 assessments, or other revenue and any proceeds thereof
20 derived by the fund; provided that any pledge,
21 assignment, or grant of security interest shall
22 constitute a lien and security interest on such money,



1 rents, charges, assessments, or other revenue, and any
 2 proceeds thereof to the extent and with the priority
 3 set forth in the document establishing the pledge,
 4 assignment, or security interest, without the
 5 necessity for physical delivery, recording, or further
 6 act; and provided further that in effectuating any
 7 pledge, assignment, or grant of security interest, the
 8 fund may do either or both of the following:

- 9 (A) Transfer possession of collateral to its secured
- 10 parties; or
- 11 (B) Execute and cause to be filed at the bureau of
- 12 conveyances of the State of Hawaii, Uniform
- 13 Commercial Code financing statements for the
- 14 purpose of providing notice to third parties of a
- 15 pledge, assignment, or grant of security
- 16 interest; provided that any failure to file a
- 17 financing statement or the filing of a financing
- 18 statement that contains incomplete or inaccurate
- 19 information shall not affect the perfected lien
- 20 and security interest of the pledge, assignment,
- 21 or grant of security interest; [~~and~~]



1 (6) Enter into contracts as necessary to effectuate the
2 purposes of this chapter[-]; and

3 (7) Provide funding for the state building code council
4 for activities that are a part of a loss reduction
5 plan that complies with the development of loss
6 mitigation standards in accordance with section 431P-
7 12."

8 SECTION 8. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

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

13 SECTION 10. This Act shall take effect on July 1, 2013.

APPROVED this day of , 2013

GOVERNOR OF THE STATE OF HAWAII

