

S .B. NO. 2874

JAN 23 2020

A BILL FOR AN ACT

RELATING TO HURRICANE PREPAREDNESS.

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

1 SECTION 1. The legislature finds that Hawaii is
2 susceptible to property loss due to hurricanes, tropical storms,
3 and strong winds. The best long-term solution to reducing
4 potential damage is the statewide use of wind resistive devices.
5 The legislature also finds that residents in this State must
6 inspect, repair, and reinforce their residences every year to
7 prepare for the possibility of a hurricane making landfall. The
8 inspection, repair, and reinforcement of their residences
9 consume needed resources from homeowners' budgets but result in
10 homeowners having more hurricane-resistant residences. This, in
11 turn, contributes to reduced hurricane damage repair costs and
12 may qualify homeowners for much-needed hurricane insurance
13 premium credits.

14 The legislature desires to establish a program to provide
15 grants to certain property owners for the installation of wind
16 resistive devices, approved by the insurance commissioner, that
17 will lessen the severity of property loss from strong winds.

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1 The legislature finds that the program will serve a public
2 purpose by protecting the health, safety, and welfare of Hawaii
3 residents. The installation of wind resistive devices will help
4 reduce the incidence and severity of personal injury and
5 property damage in the event of a hurricane, thereby preserving
6 human life and property values and minimizing disruptions to the
7 State's economy, business activity, and delivery of public
8 services. The program will also serve the public purpose of
9 stimulating economic growth and activity in the State by
10 creating business and employment opportunities for the sale and
11 installation of wind resistive devices.

12 The legislature finds that the hurricane reserve trust fund
13 was part of a "new, creative, and flexible" mechanism to provide
14 hurricane insurance to Hawaii residents in the aftermath of
15 Hurricane Iniki. See Act 339, Session Laws of Hawaii 1993.
16 After its inception, the fund helped stabilize Hawaii's weak
17 hurricane insurance market, yielded the hurricane insurance
18 market to the private sector, and entered a state of dormancy
19 ready to be reactivated when needed.

20 The legislature also finds that the fund has assets that
21 currently generate approximately \$3,000,000 dollars annually in

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1 interest, which is deposited into the general fund for
2 unrestricted use.

3 The purpose of this bill is to continue to develop new,
4 creative, and flexible mechanisms that will increase hurricane
5 preparedness in Hawaii. This Act allocates a portion of the
6 moneys earned through interest from the fund's assets to provide
7 grants under a safe home program. This program will financially
8 assist qualified homeowners with the installation of approved
9 wind resistive devices for hurricane preparedness of their
10 homes.

11 SECTION 2. Chapter 431P, Hawaii Revised Statutes, is
12 amended by adding a new part to be appropriately designated and
13 to read as follows:

14 **"PART SAFE HOME PROGRAM**

15 **§ 431P-A Definitions.** As used in this part:

16 "Mitigation" means actions undertaken to reduce losses that
17 may result from a hazard.

18 "Wind resistive devices" means devices and techniques, as
19 identified and determined in accordance with section 431P-F(b),
20 that increase a building's or structure's resistance to damage
21 from wind forces.

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1 **§ 431P-B Establishment of safe home program.** (a) The
2 commissioner shall develop and implement a program to be
3 designated as the safe home program and to encourage the
4 installation of wind resistive devices. The program may award
5 matching or nonmatching grants to eligible applicants based upon
6 the availability of funds.

7 (b) This part does not create an entitlement for property
8 owners or obligate the State in any way to fund the inspection
9 or retrofitting of residential property in the State.

10 **§ 431P-C Safe home program trust fund.** (a) There is
11 established a special fund to be designated as the safe home
12 program trust fund. Moneys transferred to the safe home program
13 trust fund may be expended by the commissioner to carry out the
14 commissioner's duties and obligations under this part.

15 (b) The safe home program trust fund may be used by the
16 commissioner to make grants authorized under this part.
17 Matching and nonmatching grants awarded under section 431P -E
18 from the safe home program trust fund shall not be subject to
19 chapter 42F, 91, 103D, or 103F.

20 (c) The safe home program trust fund may also be used by
21 the commissioner to pay for any administrative, personnel,
22 operational, and marketing costs associated with the program.

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1 (d) Upon termination of the safe home program, any
2 balances in the safe home program trust fund will be reverted to
3 the general fund.

4 § 431P-D Eligibility for safe home program. (a) To be
5 eligible for the program, a residential property must be:

6 (1) The applicant's primary legal residence;

7 (2) Owned and occupied by the applicant;

8 (3) A single-family, owner-occupied residential property;

9 and

10 (4) A residential property covered by a current homeowners
11 or dwelling insurance policy that:

12 (A) Is issued by an insurer licensed in the State or
13 a surplus lines insurer, where the policy is
14 lawfully placed by a broker authorized to do
15 business in the State; and

16 (B) Provides insurance coverage of the residential
17 property equal to or greater than the fair market
18 value of the residential property.

19 § 431P-E Matching and nonmatching grants. (a) The
20 commissioner may award matching or nonmatching grants based upon
21 the availability of funds.

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1 (b) To be eligible for a nonmatching grant award, the
2 applicant must have an annual adjusted gross household income
3 that does not exceed eighty per cent of the median annual
4 adjusted gross income for households within the county in which
5 the person or family resides, as determined by the applicant's
6 most recent federal income tax return. The nonmatching grant
7 award shall not exceed \$6,500.

8 (c) An applicant with an annual adjusted gross household
9 income that exceeds eighty per cent of the median annual
10 adjusted gross income for households within the county in which
11 the person or family resides, as determined by the applicant's
12 most recent federal income tax return, may be eligible for a
13 matching grant award. The matching grant award shall not exceed
14 \$5,200 and must be matched on a dollar-for-dollar basis by the
15 applicant.

16 (d) The commissioner shall issue an annual bulletin that
17 sets forth the maximum grant award amounts based on the total
18 annual adjusted gross household income of the applicant and
19 adjusted for family size relative to the county area median
20 income or the state median family income, whichever is higher,
21 as published annually by the United States Department of Housing
22 and Urban Development.

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1 (e) Any grant issued by the program shall not exceed a
2 total of \$5,200 for matching grants, and a total of \$6,500 for
3 nonmatching grants. Any cost of the mitigation project that
4 exceeds the amount of the grant award shall be the
5 responsibility of the applicant.

6 **§ 431P-F Standards for the award of grants.** (a) Subject
7 to the availability of funds and the standards in this part,
8 grants for wind resistive devices shall be awarded by the
9 commissioner:

10 (1) On a first-come, first-served basis, as determined by
11 the commissioner; and

12 (2) For a wind resistive device or devices installed only
13 in a single-family residential dwelling.

14 (b) Grants shall be awarded for the installation of the
15 following:

16 (1) Roof deck attachment;

17 (2) Secondary water barrier;

18 (3) Roof covering;

19 (4) Brace gable ends;

20 (5) Reinforced roof-to-wall connections;

21 (6) Opening protection;

22 (7) Exterior doors, including garage doors;

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1 (8) Tie downs;

2 (9) Improvements that mitigate problems associated with
3 weakened trusses, studs, and other structural
4 components; and

5 (10) Any other wind resistive devices approved by the
6 commissioner.

7 The commissioner, in the commissioner's sole discretion, may
8 amend, narrow, or expand by rule the definitions, descriptions,
9 specifications, and requirements of the wind resistive devices.

10 (c) In addition, a grant may be made to an applicant only
11 if the applicant has:

12 (1) Undergone an acceptable wind certification and
13 hurricane mitigation inspection in accordance with the
14 program requirements;

15 (2) Filed a completed application form, as determined
16 solely by the commissioner, together with all
17 supporting documentation required by the commissioner;

18 (3) Installed the wind resistive device or devices in
19 accordance with the program requirements;

20 (4) Provided any other information deemed necessary by the
21 commissioner; and

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1 (5) Met all additional requirements needed to comply with
2 the grant program as determined by the commissioner.

3 § 431P-G **Annual report.** The commissioner shall prepare an
4 annual report to the director, governor, and legislature on the
5 use of the safe home program trust fund. The report shall
6 provide statistical information on program participation. The
7 report shall be submitted to the legislature no later than
8 twenty days prior to the convening of each regular legislative
9 session.

10 § 431P-H **Rules.** The commissioner may, in accordance with
11 chapter 91, adopt reasonable rules as are necessary or proper to
12 carry out the purposes of this part."

13 SECTION 3. Section 431P-16, Hawaii Revised Statutes, is
14 amended by amending subsection (i) to read as follows:

15 "(i) Moneys in the hurricane reserve trust fund may be
16 disbursed upon dissolution of the Hawaii hurricane relief fund;
17 provided that:

18 (1) The net moneys in the hurricane reserve trust fund
19 shall revert to the general fund after payments by the
20 fund on behalf of licensed property and casualty
21 insurers or the State that are required to be made
22 pursuant to any federal disaster insurance program

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1 enacted to provide insurance or reinsurance for
2 hurricane risks are completed; and
3 (2) If such moneys are paid on behalf of licensed property
4 and casualty insurers, payment shall be made in
5 proportion to the premiums from policies of hurricane
6 property insurance serviced by the insurers in the
7 twelve months prior to dissolution of the fund;
8 provided that ~~[all]~~ interest earned from the principal in the
9 hurricane reserve trust fund shall be transferred and deposited
10 ~~[into the general fund each year that the hurricane reserve~~
11 ~~trust fund remains in existence.]~~ in the following manner:
12 \$1,000,000 into the safe home program trust fund established
13 pursuant to section 431P-C for fiscal year 2020-2021; and the
14 remaining interest into the general fund each year that the
15 hurricane reserve trust fund remains in existence."

16 SECTION 4. Section 431P-16.5, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§431P-16.5 Immunity.** There shall be no cause of action,
19 claim for damages or relief, charge, or any other liability ~~[of~~
20 ~~any kind whatsoever]~~ created against the State, the Hawaii
21 hurricane relief fund, the commissioner, or their respective

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1 agents, employees, or board, by[~~7~~] or relating to the loss
2 mitigation grant program[~~7~~] and the safe home program."

3 SECTION 5. The commissioner is authorized to establish and
4 fill one temporary position, not subject to chapter 76, Hawaii
5 Revised Statutes, to be employed within the insurance division
6 for implementation and administration of the safe home program.
7 The hiring of the position shall be appropriated out of the safe
8 home program trust fund. There is appropriated out of the safe
9 home program trust fund the sum of \$1,000,000 or so much thereof
10 as may be necessary for fiscal year 2020-2021 to develop and
11 implement the grant program established under this Act. The sum
12 appropriated shall be expended by the insurance commissioner for
13 the purposes of this Act.

14 SECTION 6. There shall be no cause of action, claim for
15 damages or relief, charge, or any other liability of any kind
16 created against the State, the Hawaii hurricane relief fund, the
17 Hawaii hurricane relief fund's board and its members, or their
18 respective agents, or employees, by or relating to the transfer
19 of any moneys from the hurricane reserve trust fund to the
20 general fund or to the safe home program trust fund.

21 SECTION 7. In codifying the new sections added to chapter
22 431P, Hawaii Revised Statutes, by section 2 of this Act, the

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1 revisor of statutes shall substitute appropriate section numbers
2 for the letters used in designating and referring to the new
3 sections in this Act.

4 SECTION 8. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 9. This Act shall take effect upon its approval.

7

8

INTRODUCED BY:

Ann M. M.

9

BY REQUEST

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Report Title:

Insurance; Safe Home Program; Safe Home Program Trust Fund; Grant; Hurricane; Wind Mitigation; Hawaii Hurricane Relief Fund; General Fund; Chapter 431P

Description:

Establishes the Safe Home Program to provide matching and nonmatching grants for installation of wind resistive devices to single-family, owner-occupied, residential property owners. Creates one temporary position within the Insurance Division of the Department of Commerce and Consumer Affairs to implement and administer the Safe Home Program.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO HURRICANE PREPAREDNESS.

PURPOSE: To establish the Safe Home Program to provide matching and nonmatching grants for installation of wind resistive devices to single-family, owner-occupied, residential property owners. To create one temporary position within the Insurance Division of the Department of Commerce and Consumer Affairs to implement and administer the Safe Home Program.

MEANS: Add a new part to chapter 431P, Hawaii Revised Statutes (HRS), and amend sections 431P-16(i) and 431P-16.5, HRS.

JUSTIFICATION: Hawaii residents are susceptible to property loss due to hurricanes, tropical storms, and strong winds.

In 2005, a similar grant program codified in chapter 431, article 22, HRS, was established and implemented on a three-year basis; however, that grant program currently has no funding.

Impact on the public: This bill will provide matching and nonmatching grants to qualifying property owners, which may in turn alleviate property owners' financial burden of making their homes more wind-resistant. In addition, the installation of wind resistive devices will help reduce the incidence and severity of personal injury and property damage suffered by the public in the event of a hurricane.

Impact on the department and other agencies: None.

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GENERAL FUNDS: None. This bill seeks to allocate a portion of moneys earned through interest from assets of the Hawaii Hurricane Relief Fund to provide grants under the Safe Home Program.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: CCA-106.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.