

**ACT 179**

S.B. NO. 706

A Bill for an Act Relating to State Government.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Though our nation moves on from the terrorist attacks of September 11, 2001, the impact of that day continues to affect Hawaii's economy. The unprecedented grounding of all air travel in the United States in the days immediately after the attack and the subsequent drop in visitor arrivals effectively destroyed the momentum of Hawaii's economy. As business in hotels and restaurants plummeted in those first weeks, companies were forced to let workers go or severely reduce the number of hours worked. Many people found themselves unable to support themselves and their families. The state unemployment office was flooded with workers who lost their jobs. Providers of services to the hungry and homeless suddenly found themselves overwhelmed by requests for help. As Hawaii mourned with the rest of the nation for those lost in the attacks, we also experienced the pain of need in our own community as the damage rippled outward from the tourism industry to impact other sectors of our economy.

Faced with a \$300,000,000 shortfall, the legislature finds itself in the difficult position of having to balance the budget while trying to preserve the most essential services, including those for the most vulnerable and needy of Hawaii's people. These unprecedented circumstances leave us no choice but to take unusual and, perhaps, painful steps to address the current budget shortfall and prevent further losses in education, public health, social programs, public safety, environmental protection, and investments in infrastructure for the State.

The legislature finds that it is necessary to make the best possible use of all available resources, including using funds from the inactive hurricane reserve trust

fund. This fund was originally created to provide hurricane insurance coverage to Hawaii homeowners during a period when private insurance was unavailable or prohibitively expensive. Now that private insurance is readily available at reasonable prices, the fund is no longer issuing policies and the balance of the fund is unused. It is the intent of the legislature to use a portion of the moneys in the fund to prevent damage from future hurricanes, by giving matching grants to Hawaii homeowners to make their homes less vulnerable to hurricane-strength winds, and to use a portion of the fund to address other pressing and immediate needs in the state. Improving the resistance of Hawaii residences to future hurricanes will greatly decrease the potential for damage, making the kinds of losses suffered by the insurance industry in 1991 less likely. To further ensure that Hawaii is protected from future hurricanes, the legislature finds it prudent to authorize the issuance of general obligation bonds to recapitalize the relief fund and provide a back-up insurance provider for Hawaii home owners.

**SECTION 2.** The legislature finds that Hawaii is susceptible to property loss due to hurricanes, tropical storms, and strong winds. The best long-term solution to reducing the potential damage is the statewide use of wind resistive devices. The legislature desires to establish a three-year pilot program, not subject to chapter 42F, 91, or 103D, Hawaii Revised Statutes, to provide grants to certain property owners for installation of wind resistive devices, approved by the insurance commissioner, that lessen the severity of property loss from strong winds.

The legislature finds that the grant program serves a public purpose by protecting the health, safety, and welfare of the residents of this State. The installation of wind resistive devices will help to reduce the incidence and severity of personal injury and property damage in the event of a hurricane, thereby preserving human life and property values and minimizing disruptions to the State's economy, business activity, and the delivery of public services. The grant program also serves the public purpose of stimulating economic growth and activity in the State by creating business and employment opportunities through the sale and installation of wind resistive devices.

**SECTION 3.** Chapter 431, Hawaii Revised Statutes, is amended by adding a new article to be appropriately designated and to read as follows:

**“ARTICLE  
LOSS MITIGATION GRANT PROGRAM**

**§431: -101 Definitions.** As used in this article:

“Commissioner” means the insurance commissioner.

“Loss mitigation” means actions undertaken to reduce losses that may result from a hazard.

“Wind resistive devices” means devices and techniques, as identified and determined in accordance with section 431: -104(b), that increase a building's or structure's resistance to damage from wind forces.

**§431: -102 Loss mitigation grant fund.** (a) There is established a special fund to be designated as the loss mitigation grant fund. Moneys transferred to the loss mitigation grant fund may be expended by the commissioner to carry out the commissioner's duties and obligations under this article. Disbursements from the loss mitigation grant fund shall not be subject to chapter 42F, 91, or 103D.

(b) The loss mitigation grant fund may be used by the commissioner to make loss mitigation grants authorized under this article. The loss mitigation grant fund shall also be used by the commissioner to pay for any administrative and operational

costs, including personnel costs and marketing costs, associated with a loss mitigation grant program. Any law to the contrary notwithstanding, the commissioner may use the moneys in the loss mitigation grant fund to employ or retain, by contract or otherwise, without regard to chapters 76 and 78, necessary professional, expert, managerial, technical, and support personnel to implement and carry out the purposes of this article.

(c) The commissioner shall prepare an annual report to the director, governor, and the legislature on the use of the loss mitigation grant fund. The report shall provide statistical information on program participation. The report shall be submitted to the legislature no later than twenty days prior to the convening of each regular legislative session.

**§431: -103 Establishment of loss mitigation grant program.** The commissioner shall develop and implement a pilot grant program to encourage the installation of wind resistive devices. The commissioner may spend up to \$6,000,000 from the loss mitigation grant fund over three years for the grant program, which amounts shall include the costs of administering, operating, and marketing the grant program.

For the first year of the grant program, the commissioner may make grants only to former policyholders of the Hawaii hurricane relief fund. From the second year onward, the commissioner may also make grants to all single or multi-family residential owners, which may include owners of townhouse units or condominium apartments under section 431: -104(c)(3).

**§431: -104 Standards for the award of grants.** (a) Subject to the availability of funds and the standards in this article, grants for wind resistive devices shall be awarded by the commissioner:

- (1) That reimburse fifty per cent of costs incurred for the wind resistive devices and their installation and inspection, up to a maximum total reimbursement of \$2,100 per dwelling;
  - (2) On a first-come first-served basis, as determined by the commissioner; and
  - (3) For a wind resistive device or devices installed only in a single or multi-family residential dwelling.
- (b) Grants shall be awarded for the installation of the following:
- (1) Uplift restraint ties at roof ridges and roof framing members to wall or beam supports;
  - (2) Additional fastening of roof sheathing and roof decking for high wind uplift;
  - (3) Impact and pressure resistant exterior opening protective devices; and
  - (4) Wall to foundation uplift restraint connections strengthening for wood foundation posts on footings.

The description, specifications, guidelines, and requirements for these wind resistive devices shall be further developed and determined by the commissioner in the commissioner's sole discretion. The commissioner, in the commissioner's sole discretion, may amend, narrow, or expand the definitions, description, specifications, and requirements of the wind resistive devices.

- (c) In addition, a grant may be made to an applicant only if the applicant:
- (1) Has met the descriptions, specifications, guidelines, and requirements established by the commissioner for the grant program;
  - (2) Has filed a completed application form, as determined solely by the commissioner, together with all supporting documentation required by the commissioner;

- (3) Has, in the case of a building with multiple dwellings, filed together completed grant applications for all dwellings in the building; for installation of wind resistive devices indicated in section 431: - 104(b)(1), (2), and (4); provided that this requirement does not apply section 431: -104(b)(3);
  - (4) Has installed a wind resistive device or devices that have been designated and approved by the commissioner;
  - (5) Has fully paid, prior to applying for the grant, the cost of the wind resistive device or devices, as well as the installation and inspection costs for which the grant is sought. The grant shall be used to reimburse only these costs or a portion thereof;
  - (6) Has hired an inspector, determined by the commissioner to be qualified in accordance with the requirements of the commissioner, who has verified in writing that the installation of the wind resistive device or devices is complete and is in compliance with the grant program specifications, guidelines, and requirements, as determined by the commissioner;
  - (7) Has installed the wind resistive device or devices after July 1, 2002;
  - (8) Has provided any other information deemed necessary by the commissioner; and
  - (9) Has met all additional requirements needed to implement the grant program as determined by the commissioner.
- (d) Moneys appropriated for the grant program may be used to pay for the costs of administering, operating, and marketing the grant program, as determined by the commissioner.

**§431: -105 Technical advisory committee.** The commissioner shall appoint an advisory committee of persons having expertise and familiarity relevant to the mitigation grant program and feasibility study report.”

SECTION 4. Chapter 431P, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§431P- Transfer of funds; immunity.** There shall be no cause of action, claim for damages or relief, charge, or any other liability of any kind whatsoever created against the State, the Hawaii hurricane relief fund, the commissioner, or their respective agents, employees, or board, by, or relating to, the transfer of any moneys from the hurricane reserve trust fund to the loss mitigation grant fund or from the loss mitigation grant fund to the hurricane reserve trust fund or involving the loss mitigation grant program.”

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

“(i) ~~[Solely]~~ Moneys in the hurricane reserve trust fund may be:

(1) Disbursed upon dissolution of the Hawaii hurricane relief fund~~[, the];~~ provided that:

(A) The net moneys in the hurricane reserve trust fund shall revert to the state general fund~~[,]~~ after ~~[any]~~ payments by the fund on behalf of licensed property and casualty insurers or the State that are required to be made pursuant to any federal disaster insurance program enacted to provide insurance or reinsurance for hurricane risks~~[, In the event]~~ are completed; and

(B) If such moneys are paid on behalf of licensed property and casualty insurers, payment shall be made in proportion to the

premiums from policies of hurricane property insurance serviced by the insurers in the twelve months prior to dissolution of the fund[-]; or

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

provided that all interest earned from the principal in the hurricane reserve trust fund shall be transferred and deposited into the general fund each year that the hurricane reserve trust fund remains in existence.”

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,000,000 \$0<sup>1</sup>, or so much thereof as may be necessary for fiscal year 2002-2003, to be deposited into the loss mitigation grant fund.

There is appropriated out of the loss mitigation grant fund the sum of \$2,000,000 \$0<sup>1</sup>, or so much thereof as may be necessary for fiscal year 2002-2003, to develop and implement the grant program established under this Act. The sum appropriated shall be expended by the insurance commissioner for the purposes of this Act.

SECTION 7. Notwithstanding any other law to the contrary, there is appropriated out of the hurricane reserve trust fund the sum of \$29,000,000, or so much thereof as may be necessary for fiscal year 2002-2003, to be deposited into the general fund.

The sum appropriated shall be expended by the Hawaii hurricane relief fund.

SECTION 8. There shall be no cause of action, claim for damages or relief, charge, or any other liability of any kind whatsoever created against the state, the Hawaii hurricane relief fund, the Hawaii hurricane relief fund’s board and its members, or their respective agents, or employees, by or relating to the transfer of any moneys from the hurricane reserve trust fund to the general fund.

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>2</sup>

SECTION 10. This Act shall take effect on July 1, 2002.

(Approved June 25, 2002.)

**Notes**

- 1. Item vetoed, replaced, and initialed “BJC”.
- 2. Edited pursuant to HRS §23G-16.5.