

**ACT 164**

S.B. NO. 2581

A Bill for an Act Relating to the State Building Code.

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

SECTION 1. The legislature finds that the state building code council was created in 2007 to review and adopt current, nationally recognized building codes and standards for the State. However, the staff and operating expenses of the council have never been funded, thereby limiting the effectiveness of the work of the voting members.

The purpose of this Act is to refine and clarify provisions relating to the state building code council and the adoption of Hawaii state building codes and standards, by among other things, adding building industry and trade representatives to the council membership, allowing staggering of the code adoption, defining and clarifying terminology, ensuring that no code provisions that conflict with the laws governing contractors are adopted, and appropriating funds to the department of accounting and general services for the council's operating costs.

SECTION 2. Section 107-21, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

“Codes and standards” means nationally recognized minimum requirements that shall be met for design and construction to safeguard life, property, and the general welfare.

“Hawaii state building codes” means the building codes and standards that the state building code council adopts under section 107-24.”

2. By amending the definition of “hurricane resistive criteria” to read: “Hurricane [resistive] resistant criteria” means the design criteria for enhanced hurricane protection areas that are capable of withstanding a five hundred-year hurricane event, as developed by the state department of defense for public shelter and residential safe room design criteria.”

SECTION 3. Section 107-22, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

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

- (1) One county building official from each of the four counties appointed by the mayor;
- (2) One member representing the state fire council;
- ~~(3) One member representing the department of health who has significant experience in building mechanical and sewage disposal systems;~~
- ~~(4) (3) One member representing the department of labor and industrial relations who has significant experience in elevator [or fire] safety;~~
- (4) One member representing the state energy office of the department of business, economic development, and tourism;
- (5) One member representing the Structural Engineers Association of Hawaii; ~~[and]~~
- (6) One member representing the American Institute of Architects, Hawaii State Council[-];
- (7) One member representing the Building Industry Association of Hawaii or the General Contractors Association of Hawaii, who has significant experience with building codes, with alternating four-year terms between the two organizations and the first four-year term to be served by the Building Industry Association of Hawaii; and
- (8) One member representing the Subcontractors' Association of Hawaii who has significant experience with building codes.

(b) ~~[Six]~~ Seven voting members shall constitute a quorum. The chairperson of the council shall be elected annually from among its members by a majority vote of the members of the council.”

SECTION 4. Section 107-23, Hawaii Revised Statutes, is amended to read as follows:

~~“[§107-23] Executive director and executive assistant[-]; council budget.~~  
(a) The council shall appoint, exempt from chapters 76 and 89, an executive director, who shall serve at the pleasure of the council, and who shall have administrative abilities and ~~[expertise in engineering or architecture.]~~ experience with the building industry. The council shall also appoint, exempt from chapters 76 and 89, an executive assistant, who shall have experience in statutory and administrative rulemaking processes[-] to assist in carrying out the duties of the council under section 107-24. The council may appoint other staff who shall be subject to chapters 76 and 89.

(b) The budgetary requirements for conducting meetings, training, travel, and other related responsibilities of the council, including salaries of the executive director, executive assistant, and other staff, shall be included in the budget of the department of accounting and general services.”

SECTION 5. Section 107-24, Hawaii Revised Statutes, is amended to read as follows:

~~“[§107-24] Authority and duties of the council.~~ (a) Any law to the contrary notwithstanding, the council shall establish ~~[a comprehensive]~~ the Hawaii state building [code.] codes.

(b) The council shall appoint a subcommittee ~~[comprised of]~~ comprising the four council members representing county building officials, whose duty shall be to recommend any necessary or desirable state amendments to the ~~[model]~~ codes[-] and standards identified in section 107-25. Any recommended state amendments shall require the unanimous agreement of the subcommittee.

(c) The council shall adopt, amend, or update codes and standards identified in section 107-25 on a staggered basis, as established by the council; provided that the adoption, amendment, or update of any code or standard shall be:

- (1) At least once every six years; and
- (2) Based upon a review and evaluation of the utility of the code or standard at the time each respective edition is published.

~~[(e)]~~ (d) The council may appoint other investigative, technical expertise committees, which may include council members.

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

~~[(e)]~~ (f) The council shall review and adopt, as appropriate, new model building codes within eighteen months of the official publication date.

~~[(f)]~~ (g) The council may make expenditures for technical references, equipment and supplies, and other operating expenses, and may contract for the conduct of research studies and other technical services.

~~[(g)]~~ (h) The council ~~[shall]~~ may provide education and technical training and administrative assistance in the form of services or grants at the state and county levels relating to the implementation and enforcement of the Hawaii state building ~~[code]~~ codes adopted pursuant to this part.

(i) At the end of each fiscal year, the council shall submit a written report to the governor on the council's activities, including the codes and standards adopted, amended, or updated by the council."

SECTION 6. Section 107-25, Hawaii Revised Statutes, is amended to read as follows:

~~"[§107-25]—State~~ **Hawaii state building [codes] codes; requirements.** There is established [a] the Hawaii state building [code] codes applicable to all construction in the State of Hawaii. The Hawaii state building [code] codes shall [include:] be based upon:

- (1) The [latest edition of the] state fire code as adopted by the state fire council;
- (2) The [latest edition of the] Uniform Plumbing Code, as copyrighted and published by the International Association of Plumbing and Mechanical Officials, including its appendices;
- (3) The [latest edition of the] International Building Code, the International Residential Code, and the International Energy Conservation Code, as published by the International Code Council;
- (4) The National Electrical Code, as published by the National Fire Protection Association;
- ~~[(5)]~~ (5) Hawaii design standards implementing the criteria pursuant to Act 5, Special Session Laws of Hawaii, 2005, as applicable to:
  - (A) Emergency shelters built to comply with hurricane resistant criteria, including enhanced hurricane protection areas capable of withstanding a five hundred-year hurricane event as well as other storms and natural hazards; and
  - (B) Essential government facilities requiring continuity of operations; and
- ~~[(5)]~~ (6) Code provisions based on nationally published codes or standards that include[;] but are not limited to[;] residential and hurricane [resistive] resistant standards [for residential construction, fire,] related to loss mitigation standards in accordance with section 431P-12, elevator, [electrical, plumbing,] mechanical, flood and tsunami, existing buildings, [and energy conservation standards for building design and construction,] and onsite sewage disposal."

SECTION 7. Section 107-26, Hawaii Revised Statutes, is amended to read as follows:

~~"[§107-26]—State~~ **Hawaii state building [codes] codes; prohibitions.** In adopting [a] the Hawaii state building [code,] codes, the council shall not adopt provisions that:

- (1) Relate to administrative, permitting, or enforcement and inspection procedures of each county; or
- (2) Conflict with ~~[chapter]~~ chapters 444 and 464."

SECTION 8. Section 107-27, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

~~"[§107-27]—Exemptions.] Design of state buildings.~~ (a) ~~[Upon]~~ No later than one year after the adoption of rules under this chapter, the design of all state building construction shall be in compliance with the Hawaii state build-

ing ~~[code within one year of its effective date, and]~~ codes, except state building construction shall be allowed to be exempted from:

- (1) County codes that have not adopted the Hawaii state building ~~[code;]~~ codes;
- (2) Any county code amendments that are inconsistent with the minimum performance objectives of the Hawaii state building ~~[code]~~ codes or the objectives enumerated in this part; or
- (3) Any county code amendments that are contrary to code amendments adopted by another county.”

SECTION 9. Section 107-28, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§107-28]]~~ **County ~~[building code]~~ authority to amend and adopt the Hawaii state ~~[model]~~ building ~~[code]~~ codes without ~~[state]~~ council approval.** (a) The governing body of each county shall amend, adopt, and update the Hawaii state building ~~[code]~~ codes as ~~[it applies]~~ they apply within ~~[its]~~ their respective jurisdiction, in accordance with section 46-1.5(13), without approval of the council. Each county shall ~~[use]~~ amend and adopt the ~~[model]~~ Hawaii state building codes and standards listed in section 107-25, as the referenced ~~[model]~~ Hawaii state building codes and standards for its respective county building code ordinance, no later than two years after the adoption of the Hawaii state building ~~[code-]~~ codes.

(b) If a county does not amend the ~~[statewide model code]~~ Hawaii state building codes within the two-year time frame, the Hawaii state building ~~[code]~~ codes shall become applicable as an interim county building code ~~[until the county adopts the amendments].~~”

SECTION 10. Section 132-3, Hawaii Revised Statutes, is amended to read as follows:

“**§132-3 Adoption of state fire code.** The state fire council shall, after public hearings pursuant to chapter 91, adopt a state fire code setting forth minimum requirements relative to the protection of persons and property from fire loss including without limitation: (1) the storage, handling and use of hazardous substances, materials and devices; and (2) the control of conditions hazardous to life or property in the design, use or occupancy of buildings and premises. The state fire code shall become part of the Hawaii state building ~~[code]~~ codes as provided in section 107-25. The state fire council shall meet annually to review and amend the state fire code.”

SECTION 11. There is appropriated out of the general revenues of the State of Hawaii the sum of \$136,676 or so much thereof as may be necessary for fiscal year 2014-2015 for the state building code council and staff to carry out their duties and functions, including operating costs and staff salaries.

The sum appropriated shall be expended by the department of accounting and general services for the purposes of this Act.

SECTION 12. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 14. This Act shall take effect on July 1, 2014.

(Approved June 30, 2014.)