JOSH GREEN, M.D.
GOVERNOR | KE KIAʻĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIAʻĀINA

STATE OF HAWAII | KA MOKUʻĀINA ʻO HAWAIʻI
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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DEAN I HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HOʻOKELE

Testimony of the Department of Commerce and Consumer Affairs

Before the
House Committee on Finance
Tuesday, April 2, 2024
2:30 p.m.
State Capitol, Rm. 308 & via Videoconference

On the following measure:
S.B. 3234, S.D.1, H.D.1, RELATING TO THE STABILIZATION OF PROPERTY INSURANCE

Chair Yamashita and Members of the Committees:

My name is Gordon Ito, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. We offer comments on this bill.

The purpose of this bill is to amend the laws relating to the Hawaiʻi Hurricane Relief Fund and Hawaiʻi Property Insurance Association by: imposing a different transient accommodation tax rate for transient vacation rentals and a property insurance surcharge on conveyance tax to capitalize the Association and Fund; expanding the statutory authorization for the Association to issue property insurance for certain condominiums and amending the designated geographic area eligible for coverage to specifically include lava zones 1 and 2; requiring Association member insurers and licensed property and casualty insurers to recoup assessment costs paid into the Association and Fund through a surcharge on premiums; requiring coverage limits and deductibles and fund capitalization amounts for licensed property and casualty insurers to be established in a plan of operation for the Fund, subject to approval by the Insurance Commissioner; and reinstating the special mortgage recording fee to capitalize the Fund.

We support the intent of addressing the availability of master condominium insurance policies. Hawaiʻi is experiencing a hard market for this product. We note that a major contributing factor is the poor condition of certain condominium buildings caused by deferred maintenance and/or aging infrastructure.

Thank you for the opportunity to testify.

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT GOVERNOR

Hawaii Green Infrastructure Authority
An Agency of the State of Hawaii

JAMES KUNANE TOKIOKA
CHAIR

GWEN S YAMAMOTO LAU
EXECUTIVE DIRECTOR

Testimony of
Gwen Yamamoto Lau
Executive Director
Hawaiʻi Green Infrastructure Authority
before the
HOUSE COMMITTEE ON FINANCE
Tuesday, April 2, 2024, 2:30 PM
State Capitol, Conference Room 211
in consideration of
Senate Bill No. 3234, SD1, HD1
RELATING TO THE STABILIZATION OF PROPERTY INSURANCE

Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

Thank you for the opportunity to testify on SB 3234, SD1, HD1 relating to the stabilization of property insurance. The Hawaiʻi Green Infrastructure Authority (HGIA) **supports** this bill which expands the Hawaii Property Insurance Association's authority to include the issuance of property insurance for condominiums.

With approximately 55% of all condo units in Hawaii built prior to 1980[1], there are a significant number of 40+-year old condominium projects requiring replacements, upgrades and retrofits, including re-piping, spalling, windows and railings and alarms[2], all of which are costly and complicated. Providing a temporary insurance safety net for Condominium projects unable to access insurance, will provide Association leadership up to five years to plan, coordinate and implement necessary upgrades to increase its ability to obtain insurance in the condominium insurance marketplace.

Thank you for this opportunity to provide comments and testify in support of SB 3234, SD1, HD1.

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[1] "Why Hawaii's Aging Condos Can't Afford to Defer Maintenance," First Insurance Company of Hawaii, January 5, 2004.
[2] "A Condominium Can Last Hundreds of Years, But Not Its Components," Hawaii Business Magazine, August 31, 2020.

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR

GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

STATE OF HAWAIʻI
DEPARTMENT OF TAXATION
Ka ʻOihana ʻAuhau
P.O. BOX 259
HONOLULU, HAWAIʻI 96809
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TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION

TESTIMONY ON THE FOLLOWING MEASURE:
S.B. No. 3234, S.D. 1, H.D. 1, Relating to the Stabilization of Property Insurance.

BEFORE THE:
House Committee on Finance

DATE: Tuesday, April 2, 2024
TIME: 2.30 p.m.
LOCATION: State Capitol, Room 308

Chair Yamashita, Vice-Chair Kitagawa, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding S.B. 3234, S.D. 1, H.D. 1, for your consideration.

Parts II and III of S.B. 3234, S.D. 1, H.D. 1 make several changes to the transient accommodation tax (TAT) under chapter 237D, Hawaii Revised Statutes (HRS), and the conveyance tax under chapter 247, HRS. This bill has a placeholder effective date of July 1, 2040.

With respect to TAT, Part II of the measure amends sections 237D-1 and 237D-2, HRS, to add the new taxable category of "transient vacation rental" alongside the existing category of "transient accommodations." "Transient vacation rental" is defined in section 237D-1 as "'short term rental', 'transient vacation rental', 'transient vacation unit', or 'transient vacation use', as defined by applicable county ordinance." The measure also adds definitions for "booking service," "county" and "hosting platform" to section 237D-1.

The new TAT rate on transient vacation rentals is set as an unspecified percentage for the period beginning on July 1, 2024, with 50 percent of those revenues slated for deposit into a property insurance trust account under section 431:21-105, and the other

50 percent slated for deposit into a hurricane insurance trust account under section 431P-16.

With respect to conveyance tax, Part III of the measure adds a new section to chapter 247, HRS, creating an additional surcharge on conveyance tax modeled from existing conveyance tax rates and bases. The surcharge percentages are mostly unspecified, except that for a purchaser ineligible for a county homeowner's exemption on property tax, the surcharge would be forty cents per $100 for properties having a value of at least $1,000,000, but less than $2,000,000; and sixty cents per $100 for properties having a value of at least $2,000,000, but less than $4,000,000.

Conveyance tax surcharge revenues will also be deposited into a property insurance trust account under section 431:21-105, HRS, and into a hurricane insurance trust account under section 431P-16, HRS, but the surcharge's respective deposit percentages are not specified. The surcharge will not apply if the conveyance is already exempt from conveyance tax under section 247-3, HRS. The measure also amends section 247-4, HRS, to specify that the cost of the surcharge shall be paid by the seller.

The Department notes that the bill's new definition of "transient vacation rentals" may cause confusion, given that transient accommodations are already broadly defined for TAT purposes as units furnished for less than 180 consecutive days (HRS § 237D-1). The new term creates a sub-class of rental units taxed differently based on different county definitions. For example, the City and County of Honolulu generally defines a "transient vacation unit" as one "advertised, solicited, offered or provided," for periods of less than 90 consecutive days, although a federal court injunction has maintained that that the classification only applies to units rented for periods of 30 days or less. Revised Ordinances of Honolulu § 21-10.1; *see also* Allison Schaefers, *Rentals ruled exempt from 90 – day change*, HONOLULU STAR-ADVERTISER, Jan. 1, 2024, at A1.

Under the current bill, the new "transient vacation rental" tax rate would apply when a Honolulu transient vacation unit is rented for less than 180 days but not for more than 30 days (or 90 days if the federal injunction is lifted). Yet for counties that define transient vacation rentals as units rented for periods of less than 180 days (e.g., Maui County Code § 19.04.040, Kaua'i County Code § 8-1.5), the definition is indistinguishable from a "transient accommodation" under HRS § 237D-1, and the surcharge would apply to all units rented.

The Department recommends, in lieu of imposing an additional tax on four different categories of "transient vacation rentals," that the TAT is increased on all transient accommodations, or alternatively, that a single definition of "transient vacation rental" be adopted without reference to county ordinance, which will apply uniformly to all short-term rentals in the State.

Additionally, the new trust account allocations will be difficult for the Department to administer. The Department currently allocates TAT based on the total TAT collected for the month. Based on the total TAT collected, a formula is applied to determine revenues collected in excess of the 9.25 percent rate, which are distributed to the mass transit special fund in accordance with section 237D-2(e), HRS. The remainder of the TAT collected is allocated to various special funds and the general fund based on the amounts specified in section 237D-6.5, HRS.

This bill will require the Department to segregate amounts collected on a new class of "transient vacation rental" units from the remainder of the TAT revenues to calculate the allocation to the mass transit special fund and the new trust accounts established under sections 431:21-105 and 431P-16, HRS. This requires a fundamental change in how the Department accounts for and reports on TAT revenues. This will also create administrative difficulties, as TAT amounts reported do not always match those paid with the return.

Accordingly, the Department requests that the bill be amended to: (1) allocate a set dollar amount or percentage of total TAT revenues collected to the new trust accounts, and (2) allocate a set dollar amount or percentage of total TAT revenue collected to the mass transit special fund.

Specifically, the Department requests the following amendments:

1. Delete the proviso in subsection (f) on page 16, line 3, to page 17, line 7.

2. Amend section 237D-6.5(b), HRS, to specify a dollar amount (or percentage) of total tax revenues to be allocated to the new trust accounts by inserting new paragraphs (5) and (6) to read as follows:

(5) $ shall be allocated to a trust account established pursuant to section 431:21-105 for the purpose of administering and providing property insurance for properties located outside of a lava zone that obtain property insurance under that article; and

(6) $ shall be allocated to a trust account established pursuant to section 431P-16 for the purpose of providing hurricane insurance under that chapter.

3. Amend section 237D-2(e), on page 14, line 18, to page 16, line 2, of the bill to specify the percent (or dollar amount) of total tax revenues collected that will be deposited into the mass transit special fund, as follows:

(e) Notwithstanding the tax rates established in subsections (a)(5) and (c)(3), the tax rates levied, assessed, and collected pursuant to subsections (a) and (c) shall be 10.25 per cent for the period beginning on January 1, 2018, to December 31, 2030; provided that:

(1) [~~The~~] __ per cent of the tax revenues levied, assessed, and collected pursuant to this [~~subsection that are in excess of the revenues realized from the levy, assessment, and collection of tax at the 9.25 per cent rate~~] section shall be deposited quarterly into the mass transit special fund established under section 248-2.7; and

(2) If a court of competent jurisdiction determines that the amount of county surcharge on state tax revenues deducted and withheld by the State, pursuant to section 248-2.6, violates statutory or constitutional law and, as a result, awards moneys to a county with a population greater than five hundred thousand, then an amount equal to the monetary award shall be deducted and withheld from the tax revenues deposited under paragraph (1) into the mass transit special fund, and those funds shall be a general fund realization of the State.

The remaining tax revenues levied, assessed, and collected [~~at the 9.25 per cent tax rate pursuant to subsections (a) and (c)~~] shall be deposited into the general fund in accordance with section 237D-6.5(b).

4. Amend page 27, lines 1 to 8, as follows:

(10) Receive moneys for deposit into a trust fund or account from the revenues derived from the transient accommodations tax [~~imposed~~] pursuant to section [~~237D-2(f),~~] 237D-6.5, the surcharge on

conveyance tax established pursuant to section 247- , and special mortgage recording fee authorized after June 30, 2024, pursuant to section 431P-16, and any other source of revenue available to the board; and

5. Amend page 47, lines 1 to 8, as follows:

(19) Receive moneys for deposit into a trust fund or account from the revenues derived from the transient accommodations tax [~~imposed~~] pursuant to section [~~237D-2(f),~~] 237D-6.5, the surcharge established pursuant to section 247- , and special mortgage recording fee authorized after June 30, 2024, pursuant to section 431P-16, and any other source of revenue available to the board; and

6. Amend page 56, line 11 to page 57, line 4, as follows:

(g) Any proceeds from loans or other moneys from the federal government, any proceeds from bonds issued pursuant to this chapter loaned by the director to the Hawaii hurricane relief fund, all revenues realized from the transient accommodations tax [~~established~~] pursuant to section [~~237D-2(f) on transient vacation rentals~~] 237D-6.5 and the surcharge on conveyance tax established pursuant to section 247-___, and other moneys as the State may make available from time to time shall be deposited into the hurricane reserve trust fund; provided that commencing on [~~July 1, 2024,~~] July 1, 2026, all revenues [~~realized~~] from the transient accommodations tax [~~established~~] pursuant to section [~~237D-2(f) on transient vacation rentals,~~] 237D-6.5, the surcharge on conveyance tax established pursuant to section 247- , and any special mortgage recording fee that is reinstated after July 1, 2024, shall be deposited into the hurricane reserve trust fund.

Finally, the Department requests the effective date of the tax law changes in sections 2, 3, 4, and 5 be delayed until January 1, 2026, to provide sufficient time for the

Department to make the necessary form, instruction, computer system, and administrative changes, and provide taxpayer education about the increased taxes and requirements.

Thank you for the opportunity to provide comments on this measure.

SB-3234-HD-1
Submitted on: 3/30/2024 11:07:19 AM
Testimony for FIN on 4/2/2024 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Idor Harris	Honolulu Tower AOAO	Support	Written Testimony Only

Comments:

Honolulu Tower is a 396 unit condominium built in 1982, located at Beretania and Maunakea Streets. At its meeting on February 5, 2024, the Honolulu Tower Association of Apartment Owners Board of Directors voted unanimously to support SB3234.

At our annual meeting on March 14 there was owner concern about what our insurance would cost. Our master policy expires in April. Owners were told that premiums are all over the spectrum, some master policies are not being renewed, and they should come to our April 1 board meeting where we plan to discuss the 2024-2025 premium and vote on it. The hurricane coverage is being reduced from 25% to 10%. We do not have figures for what the additional coverage costs will be, but other properties have seen premiums in the area of close to $1 million.

The Board urges you to move this bill forward. This will provide a temporary insurance safety net for condominiums unable to access insurance and increase their ability to obtain insurance in the condominium insurance marketplace.

Idor Harris

Resident Manager

HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law
P.O. Box 4109
Honolulu, Hawaii 96812-4109
Telephone No.: (808) 521-8521

April 2, 2024

Rep. Kyle T. Yamashita, Chair
Rep. Lisa Kitagawa, Vice Chair
and members of the House Committee on Finance
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **S.B. 3234, S.D. 1, H.D. 1 (Stabilization of Property Insurance)**
Hearing Date/Time: Tuesday, April 2, 2024, 2:30 p.m.

I am Marvin Dang, the attorney for the **Hawaii Financial Services Association** ("HFSA"). The HFSA is a trade association for Hawaii's consumer credit industry. Its members include Hawaii financial services loan companies (which make mortgage loans and other loans, and which are regulated by the Hawaii Commissioner of Financial Institutions), mortgage lenders, and financial institutions.

The HFSA **supports the intent** of this Bill.

This Bill amends the laws relating to the Hawaiʻi Hurricane Relief Fund and Hawaiʻi Property Insurance Association by: (a) imposing a different transient accommodation tax rate for transient vacation rentals and a property insurance surcharge on conveyance tax to capitalize the Association and Fund; (b) expanding the statutory authorization for the Association to issue property insurance for certain condominiums and amending the designated geographic area eligible for coverage to specifically include lava zones 1 and 2; (c) requiring Association member insurers and licensed property and casualty insurers to recoup assessment costs paid into the Association and Fund through a surcharge on premiums; (d) requiring coverage limits and deductibles and fund capitalization amounts for licensed property and casualty insurers to be established in a plan of operation for the Fund, subject to approval by the Insurance Commissioner; and (e) reinstating the special mortgage recording fee to capitalize the Fund.

Hawaii's condominium buildings are confronting challenges which impact their ability to obtain adequate property insurance at reasonable premiums to cover hurricane risks and non-hurricane risks. This situation negatively impacts condominium unit owners, home buyers, and others.

The intent of this Bill is to stabilize the property insurance market in Hawaii until market conditions improve.

We support the intent of this bill because it has the potential to enable condominium unit owners and buyers to: (a) protect their investment in their condominium units, and (b) have the option to apply for mortgage loans which comply with the federal requirements of Fannie Mae and Freddie Mac (government sponsored enterprises).

Thank you for considering our testimony.

Marvin S.C. Dang

MARVIN S.C. DANG
Attorney for Hawaii Financial Services Association

(MSCD/hfsa)

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Testimony to the House Committee on Finance
Tuesday, April 2, 2024, at 2:30 PM
Conference Room 308

Testimony in Support of SB 3234, Relating to Stabilization of Property Insurance

To: The Honorable Kyle Yamashita, Chair
The Honorable Lisa Kitagawa, Vice-Chair
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 47 Hawaii credit unions, representing over 864,000 credit union members across the state.

HCUL offers the following testimony in strong support of SB 3234, Relating to Stabilization of Property Insurance. This bill amends the laws relating to the Hawaiʻi Hurricane Relief Fund and Hawaiʻi Property Insurance Association, expands the Hawaiʻi Property Insurance Association's authority to include the issuance of property insurance other than fire insurance for certain real properties organized as a condominium, reinstates the special mortgage recording fee, explicitly authorizes the Hawaiʻi Property Insurance Association to issue property insurance policies to certain condominiums outside of area designated for coverage by the Hawaiʻi Property Insurance Association, mandates that the Hawaiʻi Property Insurance Association member insurers recoup assessment costs, amends specific coverage limits, fund capitalization amounts, and assessment percentages by deleting specified dollar amounts percentages and authorizes the Hawaiʻi Hurricane Relief Fund and the Hawaiʻi Property Insurance Association boards to recommend appropriate amounts and percentages to the Insurance Commissioner.

This bill is important to financial institutions who provide loans to buyers of condominium units. With the threat of destructive weather events and other natural disasters, this bill is necessary to protect property owners and consumers and to ensure that required property insurance remains affordable and attainable.

Thank you for the opportunity to provide comments on this issue.

SanHi
GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: April 2, 2024

TO: Representative Kyle Yamashita
Chair, Committee on Finance

FROM: Tiffany Yajima / Mihoko Ito

RE: **S.B. 3234, S.D.1, H.D.1 – Relating to the Stabilization of Property Insurance**
Hearing Date: Wednesday, April 2, 2024 at 2:30 p.m.
Conference Room: 308

Dear Chair Yamashita, Vice-Chair Kitagawa, and Members of the Committee on Finance:

We submit this testimony on behalf of the Hawaii Bankers Association (HBA). HBA represents seven Hawai`i banks and one bank from the continent with branches in Hawai`i.

HBA **supports** this measure to capitalize the Hawaii Property Insurance Association and capitalize and reactivate the Hawaii Hurricane Relief Fund which could help to stabilize the property insurance market so that insurers can continue to insure properties in the State. This measure is also intended to encourage the repair and maintenance of condominium buildings thereby allowing lenders to meet the requirements of the secondary mortgage market.

To alleviate the high cost of insurance premiums, condominium boards are increasingly electing to reduce the amount of insurance coverage of condominiums. Unfortunately, this can have the unintended consequence of impacting mortgage loans for units in these condominiums because federal guidelines on Fannie Mae and Freddie Mac prohibit these entities from purchasing mortgages on condominium units that are underinsured.

Even if a lender wants to issue a loan for a unit in an underinsured condominium, holding a loan secured by underinsured collateral could affect that lender's safety and soundness rating. In addition, a lender's ability to provide low down-payment financing with mortgage insurance may be impaired by an insurer's unwillingness to insure condo projects that do not meet Fannie Mae's or Freddie Mac's guidelines. As a result, first-time homebuyers and low- to moderate-income borrowers would be disproportionately adversely impacted.

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The HBA notes that this measure is funded partially through an increase in the conveyance tax on real estate transactions and an increase to the special mortgage recording fee. Any increases to these fees will add to the transaction cost for homebuyers and could affect housing affordability.

Thank you for the opportunity to submit this testimony.

SanHi
GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: April 1, 2024

TO: Representative Kyle T. Yamashita
Chair, Committee on Finance

FROM: Matt Tsujimura

RE: **S.B. 3234 S.D. 1 H.D. 1 – Relating to the Stabilization of Property Insurance**
Hearing Date: Tuesday, April 2, 2024, at 2:30PM
Conference Room: 308

Dear Chair Yamashita, Vice Chair Kitagawa, and members of the Committee on Finance:

I am Matt Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm **offers comments** to S.B. 3234 S.D. 1 H.D. 1, which amends the laws relating to the Hawaii Hurricane Relief Fund and Hawaii Property Insurance Association.

Many of Hawaii's condominium buildings are aging. State Farm understands some condominium buildings have experienced high-cost losses, resulting from aging infrastructure including failing water pipe systems. There is no disputing that aging infrastructure and high-cost losses can have an impact on insurance rates, not to mention insurability. State Farm understands that as the costs to insure these high-rise buildings increase, some condominium associations are asking individual unit owners to cover the cost of increased deductibles.

State Farm appreciates the effort spent crafting the proposals in S.B. 3234 S.D. 1 H.D. 1, and the willingness of the Legislature to look for solutions to one of the biggest issues facing the people of Hawaii. We support the Legislatures efforts to improve the insurance marketplace as it relates to Hawaii's condominium buildings and individual units. We understand the goal is to create a stable market for insurers that will draw more insurance companies back to Hawaii. More insurers in the market means greater accessibility and affordability for consumers.

The issues are complex. State Farm encourages the Legislature to continue the open dialog with insurers and other stakeholders to ensure all parties involved understand the issues and challenges. We hope the Legislature will continue to engage in discussions that will ensure the Hawaii Property Insurance Association (HPIA) and Hawaii Hurricane Relief Fund (HHRF) (1) provide products which are actuarially sound; (2) service consumers who cannot obtain insurance on the voluntary market; (3) encourages consumers to repair, renovate, and remediate properties in an insurable condition; and (4) incentives the depopulation of HPIA and HHRF. Further discussion and information gathering are crucial as the Legislature continues to mold

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S.B. 3234 S.D. 1 H.D. 1 into a proposal that will help to resolve the issues of condominium building and condominium unit insurability, accessibility, and affordability.

State Farm submits the following proposed amendments for the committee's consideration.

The first pair of amendments amend the recoupment of assessment language in sections 10 and 12. We request the language be amended to allow insurers to apply excess funds to offset future assessments rather than require insurers to provide pro rata credits to policyholders which can present administrative challenges and are difficult to track.

1. Section 10; HPIA Recoupment of assessments paid; page 29, line 21 through page 30, line 10, we ask for the following amendment to section (a):

   "Each member insurer shall annually recoup assessments paid by the member insurer under section 431:21-105(b)(6). The recoupment shall be recovered by means of a surcharge on premiums charged by the member insurer for policies of all kinds. Any excess recovery by a member insurer shall be ~~credited pro rata to that member insurer's policyholders' premiums in the succeeding year unless there has been a subsequent assessment, in which case the excess shall be~~ used to pay the amount of any ~~the~~ subsequent assessments. A member insurer may continue to surcharge premiums until the full assessments are recouped."

2. Section 12; Recoupment of assessments paid; page 32, line 5 through line 18, we ask for the following amendment to section (a):

   "Each property and casualty insurer shall annually recoup assessments paid by the property and casualty insurer under sections 431P-5(b)(8)(A) and 431P-16(e). The recoupment shall be recovered by means of a surcharge on premiums charged by the property and casualty insurer for policies on which the assessment was made. Any excess recovery by a property and casualty insurer shall be ~~credited pro rata to that insurer's policyholder's premiums in the succeeding year unless there has been a subsequent assessment, in which case the excess shall be~~ used to pay the amount of the subsequent assessment. A property and casualty insurer may continue to collect a surcharge on premiums until the full assessments are recouped."

State Farm further requests the updates to the reporting requirements for HPIA (HRS 431:21-112) and HHRF (HRS 431P-8) to include reports to the Legislature to provide transparency and accountability to confirm both HPIA and HHRF are addressing the objectives as set forth in section 1, page 9 of S.B. 3234 S.D. 1 H.D. 1:

1. SECTION XX. Section 431:21-112, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

   "(a) The association shall submit to the commissioner and the legislature, each year not later than one hundred twenty days after the association's fiscal year, a ~~financial report in a form approved by the commissioner~~ report which shall include financial information including:

   (1) an update on the property insurance market;

(2) the status of repair and maintenance of condominium building; and
(3) the ability of lenders to meet the requirements of the secondary lending market.

2. SECTION XX. Section 431P-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

   (a) The fund shall submit to the commissioner and the legislature each year, not later than one hundred twenty days after the end of the fund's fiscal year, ~~a financial report in a form approved by the commissioner~~ a report which shall include financial information as well as (1) an update on the hurricane property insurance market; and (2) the ability of lenders to meet the requirements of the secondary lending market.

Lastly, we request that the language in Section 14 of S.B.3234 S.D.1 (page 39, line 20, through page 41, line 7), be restored to exclude assessments on hurricane property insurance. This section removes language from the HHRF, HRS 431P-5(b)(8)(A), that currently excludes all gross direct written premiums for hurricane property insurance in the state from being assessed.

The HPIA and HHRF assessments apply to all property and casualty insurers in the state. State Farm firmly believes that assessments should be collected based on product type or line of business. For example, automobile insurers (and their customers) should not be assessed to provide coverage for residential property losses; likewise, residential property insurers should not be assessed to provide coverage for commercial property losses. The concern with assessing insurers who write hurricane property insurance is that it disincentivizes insurers from writing, or returning to the state to write the very policy the state desperately needs.

As indicated in S.B. 3234 S.D. 1 H.D. 1, there are only four insurance companies currently writing property and hurricane insurance policies for condominiums. Providing continued relief as is currently codified in HRS 431P-5(b)(8)(A) from assessments to the insurance company and the consumers may encourage other insurers to offer hurricane property insurance coverage. More insurers in the market means greater accessibility and affordability for consumers.

For these reasons, State Farm requests the following language be restored to Section 14 of S.B.3234 S.D.1 H.D.1 on page 39, line 20, through page 41, line 7:

   (8) (A) Assess all licensed property and casualty insurers the amounts ~~which~~ that, together with the other assets of the fund, are sufficient to meet all necessary obligations of the fund. The assessment shall be made on the insurer's gross direct written premiums for property and casualty insurance in this State for the preceding calendar year. The rate of assessment in a year in which a covered event has not occurred shall be 3.75 per cent and shall not include the insurer's gross direct written premiums for motor vehicle insurance in this State; provided that following a covered event, the rate of assessment may be increased to an amount not to exceed five per cent and may include the insurer's gross direct written premiums for motor vehicle insurance in this State. This increase shall remain in effect until ~~such~~ the time ~~as~~ all claims and other obligations, including but not limited to bonds and notes, arising out of a covered event ~~shall~~ have been fully discharged. An insurer

authorized to provide comparable coverage under section 43IP-10(b) and which is providing hurricane property insurance coverage in the State shall be assessed an amount that excludes gross direct written premiums for hurricane property insurance in this State. The assessment for a year in which a covered event has not occurred shall be collected quarterly during each calendar year;

For these reasons we offer this testimony. Thank you for the opportunity to testify.

MAUI CHAMBER OF COMMERCE
VOICE OF BUSINESS

HEARING BEFORE THE HOUSE COMMITTEE ON FINANCE
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 308
Tuesday, April 2, 2024 AT 2:30 P.M.

To The Honorable Representative Kyle T. Yamashita, Chair
The Honorable Representative Lisa Kitagawa, Vice Chair
Members of the Committee on Finance

COMMENTS ON SB3234 SD1 HD1 RELATING TO THE STABILIZATION OF PROPERTY INSURANCE

The Maui Chamber of Commerce would like to offer **COMMENTS on SB3234 SD1 HD1**.

The Chamber understands the intent of this bill by addressing the availability of master condominium insurance policies. Hawaiʻi is experiencing a difficult market for this product. We note that a major contributing factor is the poor condition of certain condominium buildings caused by deferred maintenance and/or aging infrastructure. However, we have concerns with the additional taxes imposed.

This proposed increase in TAT will be borne largely by visitors. Hawaii already has the highest accommodation tax in the country. Although the bill's proponents may think that this is simply taxing our tourists to fix our property insurance market, there may be ripple effects from further assessing our tourists; the more we extract from the economy in taxes and fees, the more economic performance declines. *Tourists can't vote for our lawmakers at the ballot box but they can vote with their feet. We aren't the only resort island destination in the world, and the tourists know this. As economic performance declines, so do tax revenues.*

Regarding the proposed increase in the conveyance tax, a large dollar value transaction doesn't necessarily mean that a rich person is on one or the other end. A multi-unit condominium housing development, for example, could easily sell for an eight-digit number thus, increasing the cost of subsequent housing.

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CHAMBER OF COMMERCE
VOICE OF BUSINESS

We would like to stress that a tax increase of any magnitude in Hawaii's fragile economy will have a negative impact as costs increase due to higher taxes. As costs and overhead rise, employers must find ways to stay in business by either increasing prices to their customers or cut back on costs. This may take the form of reducing inventory, shortening business hours, reducing employee hours, or even laying off workers. A tax increase of any magnitude would send many companies, especially smaller ones, out of business taking with them the jobs the community so desperately needs at this time.

Mahalo for the opportunity to offer **COMMENTS on SB3234 SD1 HD1**.

Sincerely,

Pamela Tumpap

Pamela Tumpap
President

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HAWAII INSURERS COUNCIL
A trade association of property and casualty insurance companies

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Alison H. Ueoka
President

TESTIMONY OF MICHAEL ONOFRIETTI

COMMITTEE ON FINANCE
Representative Kyle T. Yamashita, Chair
Representative Lisa Kitagawa, Vice Chair

Tuesday, April 2, 2024
2:30 p.m.

SB 3234, SD1, HD1

Chair Yamashita, Vice Chair Kitagawa, and members of the Committee on Finance, my name is Michael Onofrietti, ACAS, MAAA, CPCU, Senior Vice President, Chief Actuary & Chief Risk Officer for Island Insurance and Chairman of the Auto Policy Committee for Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council supports the intent of this bill, but we have serious reservations about its funding. Hawaii's property insurance market is at a critical juncture and the fragility of the market will affect everyone who lives here. Even before the tragic Lahaina fire, the property insurance market was suffering in many areas including underpriced insurance in some cases, huge year-over-year global catastrophe losses, large increases in the cost of reinsurance, and greater severity and frequency of water losses in condominiums. After the fire, every issue is exacerbated, and the risk of wildfire is now an added peril.

There is an immediate need for condo unit insurance and some single-family home insurance statewide. In addition, condominium buildings are having difficulty obtaining hurricane insurance up to their building value while some condos are experiencing ongoing water losses simultaneously. We ask that the following amendments be made to clarify that condominium buildings may apply for coverage to the Hawaii Hurricane Relief

Fund: (1) add a comma and the phrase “including a condominium” on page 35, line 18 after “residential purposes”; and (2) the same changes to page 36, line 4 after “industrial purposes”.

This bill is a potential solution for the availability of some insurance coverage until such time the voluntary market returns and certain risks are mitigated, becoming more insurable. This bill asks for no general funding, however, does require contributions from those directly affected by this impending crisis including property and casualty insurers, mortgage lenders, and real estate transactions. Without the contributions from all affected parties, short- and long-term solutions cannot succeed.

To that end, we are very concerned about the lack of detail in the bill for other funders besides the property and casualty insurance industry. There are blanks in the bill for all other tax amounts except for the mortgage recordation fee which is very small at 2/10 of 1%. In stark contrast, there are now **<u>three</u>** assessments against property and casualty insurers which will be recouped against all who purchase insurance.

Some of these assessments are on lines of business totally unrelated to the current real estate and lending crisis and will be paid by:

- Business owners through higher workers’ compensation, general liability, commercial motor vehicle, commercial umbrella and other non-property insurance premiums.
- Consumers through higher personal motor vehicle, motorcycle, personal umbrella, watercraft and other non-property insurance premiums.

Premiums such as workers’ compensation, general liability, and motor vehicle insurance do not have a direct nexus to properties that are unable to obtain insurance because their risk is uninsurable or because of Fannie Mae/Freddie Mac requirements. The total amount assessable and taxable to insurers based on $3.1 billion of premiums in 2022 is $371,513,000 every year if there is a hurricane.

If the Legislature decides to move forward in this manner, we believe unaffected lines of insurance should be eliminated from assessment and that mortgage transactions and real estate transactions be assessed at the same dollar amount as the property and casualty insurance industry.

It is clear that this crisis is broad and can affect the very financial fiber of Hawaii. One of the tools used to cede risk is insurance and we are now at a crossroads. We believe preserving our property and casualty insurance market is vital and added taxes and assessments against insurers may have the opposite effect and cause an even more pronounced market disruption. Those entities concerned about added costs to the purchase transactions from which they benefit should be more concerned about what will happen if there are no or many fewer such transactions due to the unavailability of property insurance coverage.

Hawaii must act to stabilize the property insurance market before it is untenable. Some insurers are restricting new business, non-renewing certain policies, and some are considering leaving Hawaii altogether. In our very small market, a lack of insurance companies could financially cripple our economy and risk its collapse.

Hawaii Insurers Council learned from this type of pull-back of homeowners insurance after Hurricane Iniki and therefore has been proactively working to find solutions for all of Hawaii. Property insurance is a vital piece of home ownership and housing stability. We urge the Legislature to act in 2024 in an expedient and equitable manner as we expect this difficult insurance market to get worse before it gets better.

Thank you for the opportunity to testify.

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April 2, 2024

The Honorable Kyle T. Yamashita, Chair
House Committee on Finance
State Capitol, Conference Room 308 & Videoconference

RE: Senate Bill 3234, SD1, HD1, Relating to the Stabilization of Property Insurance

HEARING: Tuesday, April 2, 2024, at 2:30 p.m.

Aloha Chair Yamashita, Vice Chair Kitagawa, and Members of the Committees:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 11,000 members. HAR **supports and provides comments** on Senate Bill 3234, SD1, HD1, which amends the laws relating to the Hawai'i Hurricane Relief Fund and Hawai'i Property Insurance Association by: imposing a different transient accommodation tax rate for transient vacation rentals and a property insurance surcharge on conveyance tax to capitalize the Association and Fund; expanding the statutory authorization for the Association to issue property insurance for certain condominiums and amending the designated geographic area eligible for coverage to specifically include lava zones 1 and 2; requiring Association member insurers and licensed property and casualty insurers to recoup assessment costs paid into the Association and Fund through a surcharge on premiums; requiring coverage limits and deductibles and fund capitalization amounts for licensed property and casualty insurers to be established in a plan of operation for the Fund, subject to approval by the Insurance Commissioner; and reinstating the special mortgage recording fee to capitalize the Fund. Effective 7/1/3000.

HAR supports the intent of this measure and respectfully requests that funding sources be diversified. In 1993, when the Hawaii Hurricane Relief Fund (HHRF) was formed in the aftermath of the devastation caused by Hurricane Iniki, it was financed by:

1. Special fees on mortgages recorded in the state,
2. Premiums from insurance policies issued by the fund, and
3. An annual assessment on private insurance companies.

We believe that the same or similar sources of funding should be explored this time as a fairer option to our insurance challenges, rather than putting much of the burden on future home buyers and sellers.

Our state grapples with a significant challenge concerning insurance accessibility and rising costs. The market for reinsurance is global; therefore, storms, wildfires, and

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other natural disasters that strike anywhere in the world impact what homeowners and condo association must pay for coverage in Hawaii as well. Adding to the challenge is that condominium building premiums have risen so high that hundreds of condo associations are reducing their coverage to less than 100%. This has become an issue for home buyers and sellers as Fannie and Freddie Mac[1] require multifamily properties to include 100% windstorm coverage, which includes hurricanes. While the issue of insurance coverage is an important issue facing our state, several of the taxes imposed in this measure are currently only directed at future home or property buyers and sellers.

This measure proposes to reactivate and increase the special mortgage recording fee to 2/10^{ths} of 1% of the principal amount of the debt. This is double the original fee when the HHRF was first established. We would also note that the special mortgage recording fee would not apply to all-cash buyers who would not have a mortgage. The following are examples of the rates buyers are responsible for based on the following debt amounts:

Debt Amount:	Special Mortgage Recording Fee:
$300,000	$600
$500,000	$1,000
$800,000	$1,600
$1,000,000	$2,000

We would also echo many of the concerns that the Department of Taxation raises with the surcharge on short-term rentals (STRs). It should be noted that the legislature is considering other measures this session that intend to give counties the power to phase out/amortize legal short-term rentals, which are the properties that would help to fund this bill (Part II of this measure). If the state would like to utilize tax revenue from legal STRs for this and other programs, giving counties the power to do away with legal STRs that pay their taxes and cut off that funding source would not be ideal.

We are concerned with the inclusion of a Conveyance Tax surcharge as a funding source and respectfully request its replacement with another source of funding. While the Conveyance Tax surcharge contained in this measure is unspecified, it would impose an additional percentage surcharge on the Conveyance Tax in addition to the current Conveyance Tax rates which can drastically increase the total Conveyance Tax paid. The following is an example on if the surcharge was set at a mere 0.5%:

[1] Fannie Mae. (n.d.). *Fannie Mae Multifamily Guide*. https://mfguide.fanniemae.com/node/4516

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Conveyance Tax Tiers:	Current *Per $100:*	Current Rate (in Dollars):	0.5% Surcharge: (in Dollars):	TOTAL (Conveyance Tax + Surcharge)
< $600,000	$0.10	**$500** ($500,000 property)	**$2,500**	**$3,000**
$600,000 - $0.99 mil	$0.20	**$1,600** ($800,000)	**$4,000**	**$5,600**
$1 mil - $1.99 mil	$0.30	**$3,000** ($1 mil)	**$5,000**	**$8,000**
$2 mil - $3.99 mil	$0.50	**$15,000** ($3 mil)	**$15,000**	**$30,000**
$4 mil - $5.99 mil	$0.70	**$35,000** ($5 mil)	**$25,000**	**$60,000**
$6 mil - $9.99 mil	$0.90	**$81,000** ($9 mil)	**$45,000**	**$126,000**
$10 mil+	$1.00	**$100,000** ($10 mil)	**$50,000**	**$150,000**

Even a minimal surcharge leads to a large increase in total Conveyance Taxes. In the above example, if a family sells a $500,000 home, the extra Conveyance Taxes would increase from $500 to a total of $3,000. In addition, there would also be a $1,000 special mortgage recording fee on top. Such an increase affects the equity one builds to move into a different home and adds to the cost for homebuyers, including first-time homebuyers.

Additionally, for condominiums and single-family homes which the purchaser is ineligible to qualify for a homeowner exemption, the following are the proposed rates if the surcharge was set at the 0.5% example:

Conveyance Tax Tiers:	Current *Per $100:*	Current Rate (in Dollars):	0.5% Surcharge: (in Dollars):	TOTAL (Conveyance Tax + Surcharge)
< $600,000	$0.15	**$750** ($500,000 property)	**$2,500**	**$3,250**
$600,000 - $0.99 mil	$0.25	**$2,000** ($800,000)	**$4,000**	**$6,000**
$1 mil - $1.99 mil	$0.45	**$4,500** ($1 mil)	**N/A (0.40 per $100) $4,000**	**$8,500**
$2 mil - $3.99 mil	$0.65	**$19,500** ($3 mil)	**N/A (0.60 per $100) $18,000**	**$37,500**
$4 mil - $5.99 mil	$0.85	**$42,500** ($5 mil)	**$25,000**	**$67,500**
$6 mil - $9.99 mil	$1.10	**$99,000** ($9 mil)	**$45,000**	**$144,000**
$10 mil+	$1.25	**$125,000** ($10 mil)	**$50,000**	**$175,000**

As with the previous example, even a minimal surcharge leads to a massive increase in Conveyance Taxes paid.

Our concern is also due to the fact that Conveyance Taxes are tied to the health of Hawaii's real estate market which has slowed due to rising interest rates to address inflation, resulting in a 27.22% decrease in single-family home sales and 29.15% decrease in condominium sales year-to-date as of December 2023.[2] The challenge with linking funding to the Conveyance Tax is that when the real estate market is down,

[2] Hawai'i REALTORS®. (2023). *Statewide Real Estate Statistics.* www.hawaiirealtors.com/resources/housing-trends-2

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there may not be enough funds to pay for the programs it supports. The Conveyance Tax is then often targeted for increase to cover these programs; however, when the market is up, there are excess funds over and above the programs' needs. This becomes a cyclical issue, and the Conveyance Tax is never lowered even in an up market, thereby contributing to the ever-increasing cost of housing in our state.

While our strong preference is not to burden future home buyers and sellers with extra taxes and fees, we understand that in order to continue the conversation around a different source of funding for this program, a compromise must be made. Therefore, we are suggesting the following proposed amendments for consideration as we hope they strike the appropriate balance. The new "Temporary Property Insurance Stabilization Fee" that we are suggesting is solely intended to help fund the HHRF, has a sunset (we suggest five years), and includes the intent of having sellers as well as buyers contribute into the program while not causing too much undue burden on either. Therefore, we are asking that Temporary Property Insurance Stabilization Fee replace both the Conveyance Tax and the Special Mortgage Recording Fee. The fee is set at one-tenth of one percent of the property value and buyers and sellers would share in paying the fee unless otherwise negotiated between both parties. Notably, the Temporary Property Insurance Stabilization Fee ensures inclusion of cash buyers, instead of relying solely on buyers with mortgages as would be the case with the Special Mortgage Recording Fee.

We look forward to continuing the conversation on this important issue and working with all stakeholders to find an equitable solution.

Mahalo for the opportunity to testify on this measure.

Note: Additional conforming amendments would need to be made throughout the bill.

PART III

~~SECTION 4. Chapter 247, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:~~

~~"**§247- Property insurance surcharge on conveyance tax; disposition of revenues.** (a) In addition to any tax imposed under this chapter, there shall be levied, assessed, and~~

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~~collected a property insurance surcharge on conveyance tax on all transfers or conveyances of realty or any interest therein that is subject to section 247-1. The rate of the surcharge on conveyance tax shall be based on the basis and tax rates established in section 247-2 and levied, assessed, and collected as follows:~~

~~(1) Except as provided in paragraph (2):~~

~~(A) ____ per cent for properties having a value of less than $600,000;~~

~~(B) ____ per cent for properties having a value of at least $600,000, but less than $1,000,000;~~

~~(C) ____ per cent for properties having a value of at least $1,000,000, but less than $2,000,000;~~

~~(D) ____ per cent for properties having a value of at least $2,000,000, but less than $4,000,000;~~

~~(E) ____ per cent for properties having a value of at least $4,000,000, but less than $6,000,000;~~

~~(F) ____ per cent for properties having a value of at least $6,000,000, but less than $10,000,000; and~~

~~(G) ____ per cent for properties having a value of $10,000,000 or greater; and~~

~~(2) For the sale of a condominium unit or single family residence for which the purchaser is ineligible for a county homeowner's exemption on property tax:~~

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~~(A) _____ per cent for properties having a value of less than $600,000;~~

~~(B) _____ per cent for properties having a value of at least $600,000, but less than $1,000,000;~~

~~(C) 40 cents per $100 for properties having a value of at least $1,000,000, but less than $2,000,000;~~

~~(D) 60 cents per $100 for properties having a value of at least $2,000,000, but less than $4,000,000;~~

~~(E) _____ per cent for properties having a value of at least $4,000,000, but less than $6,000,000;~~

~~(F) _____ per cent for properties having a value of at least $6,000,000, but less than $10,000,000; and~~

~~(G) _____ per cent for properties having a value of $10,000,000 or greater,~~

~~of actual and full consideration; provided that in the case of a lease or sublease, this chapter shall apply only to a lease or sublease the full unexpired term of which is for a period of five years or more, and in those cases, including (where appropriate) those cases in which the lease has been extended or amended, the surcharge shall be based on the cash value of the lease rentals discounted to present day value and capitalized at the rate of _____ per cent, plus the actual and full consideration paid or to be paid for any and all improvements, that shall include on-site as well as off-site improvements, applicable to the leased premises; provided further that the surcharge imposed for each transaction shall be no less than $1.~~

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~~(b) All surcharge on conveyance tax revenues realized pursuant to this section shall be deposited as follows:~~

~~(1) An amount equaling per cent shall be deposited quarterly into a trust account established pursuant to section 431:21-105 for the purpose of administering and providing property insurance for properties located outside of a lava zone that obtain property insurance under that article; and~~

~~(2) An amount equaling per cent shall be deposited quarterly into a trust account established pursuant to section 431P-16 for the purpose of providing hurricane insurance under that chapter.~~

~~(c) The surcharge established pursuant to this section shall not apply to any document, transaction, deed, lease, sublease, assignment of lease, agreement of sale, assignment of agreement of sale, or writing exempted pursuant to section 247-3.~~

~~(d) For the purposes of this section, "condominium unit" means an individual dwelling unit located within a residential building or complex."~~

~~SECTION 5. Section 247-4, Hawaii Revised Statutes, is amended to read as follows:~~

~~"**§247-4 Payment and liability of the tax.** (a) The tax imposed by this chapter shall be paid by the grantor, lessor, sublessor, assignor, transferor, seller, conveyor, or any other person conveying realty, or any interest therein, by a document~~

~~or instrument subject to section 247-1; except, however, in the case where the United States or any agency or instrumentality thereof or the State or any agency, instrumentality, or governmental or political subdivision thereof is the grantor, lessor, sublessor, assignor, transferor, seller, or conveyor, the tax shall be paid by the grantee, lessee, sublessee, assignee, transferee, purchaser, or conveyee, as the case may be.~~

~~(b) The tax imposed by this chapter shall be paid at [such] a place or places as the director of taxation may direct and shall be due and payable no later than ninety days after the taxable transaction, and [in any event prior to] before the imprinting of the seal or seals as provided by section 247-5. Penalties and interest shall be added to and become a part of the tax, when and as provided by section 231-39.~~

~~(c) Notwithstanding any requirement of subsection (a) to the contrary, the cost of the property insurance surcharge on conveyance tax established under section 247-   shall be paid by the seller."~~

PART V

SECTION 18. Section 431P-16, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (b) and (c) to read:

"(b) The hurricane reserve trust fund shall receive deposits of the ~~special mortgage recording~~ temporary property insurance stabilization fee established by this chapter. Except

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as determined by board order, the ~~special mortgage recording~~ temporary property insurance stabilization fee shall be imposed on or after ________, on all transfers or conveyances of realty or any interest therein, by way of deeds, leases, subleases, assignments of lease, agreements of sale, assignments of agreement of sale, instruments, writings, and any other document, whereby any lands, interests in land, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, lessee or lessees, sublessee or sublessees, assignee or assignees, or any other person or persons, by the person's or their direction; provided that:

(1) The temporary property insurance stabilization fee established by this section shall not apply to any document, transaction, deed, lease, sublease, assignment of lease, agreement of sale, assignment of agreement of sale, or writing under section 247-3; and

(2) In no event shall the temporary property insurance stabilization fee be imposed after __________. ~~each mortgage and each amendment to a mortgage which, in each case, increases the principal amount of the secured debt and [which] is recorded in the bureau of conveyances of the State under chapter 502 or filed with the assistant registrar of the land court of the State under chapter 501~~.

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The ~~special mortgage recording~~ temporary property insurance stabilization fee shall be an amount equal to ~~[one-tenth]~~ ~~two-tenths~~ of one per cent of the actual and full consideration (whether cash or otherwise, including any promise, act, forbearance, property interest, value, gain, advantage, benefit, or profit), paid or to be paid for all transfers or conveyance of realty or any interest therein, that shall include any liens or encumbrances thereon at the time of sale, lease, sublease, assignment, transfer, or conveyance ~~stated principal amount of the debt secured by the mortgage or, in the case of an amendment or refinancing of a mortgage, an amount equal to [one-tenth of one per cent] an adequate percentage recommended by the board and approved by the commissioner of the amount of the increase of the stated principal amount of the secured debt~~; provided that the board may establish a lower ~~special mortgage recording~~ temporary property insurance stabilization fee amount pursuant to section [~~431P-5(b)(14).~~] 431P-5(b)(13). ~~With respect to an open end revolving loan, the principal amount of the debt on which the special mortgage recording fee is calculated shall be the maximum amount [which] that may be outstanding under the loan at any one time. With respect to a mortgage securing a nonmonetary or inchoate obligation, the principal amount of the debt [on] upon which the special mortgage recording fee is calculated shall be the monetary amount [which] that the mortgagee attributes to the obligation. If the debt is stated in a foreign currency, it shall be converted to U.S. dollars~~

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~~using an exchange rate published in a newspaper of general circulation in this State within one week [prior to] before recordation of the mortgage or amendment of mortgage.~~

The ~~special mortgage recording~~ temporary property insurance stabilization fee shall be in addition to any applicable fees under chapter 501 or 502. The ~~special mortgage recording~~ temporary property insurance stabilization fee shall be submitted to and collected by the bureau of conveyances or the assistant registrar of the land court of the State ~~and shall be deposited into the hurricane reserve trust fund~~. The ~~special mortgage recording~~ temporary property insurance stabilization fee shall be shared, unless otherwise agreed to, by the grantor, lessor, sublessor, assignor, transferor, seller, conveyor, or any other person conveying realty and the grantee, lessee, sublessee, assignee, transferee, purchaser, or conveyee or any other person purchasing, leasing, subleasing, assigning, transferring or conveying any realty that is subject to this section; and shall be submitted at the time the transaction is recorded ~~submitted at the time the mortgage or amendment of mortgage is recorded together with any related forms or certifications required~~ by the bureau of conveyances or the assistant registrar of the land court of the State. All revenues realized from the temporary property insurance stabilization fee shall be deposited as follows:

(1) An amount equaling ______ per cent shall be deposited quarterly into a trust account established pursuant to

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section 431:21-105 for the purpose of administering and providing property insurance for properties located outside of a lava zone that obtain property insurance under that article; and

(2) An amount equaling ____ per cent shall be deposited quarterly into a trust account established pursuant to this section.

(c) The Hawaii hurricane relief fund shall implement the assessments of all property and casualty insurers as authorized by section 431P-5(b)(8)(A) and (B) and the proceeds from the assessments shall be deposited into the hurricane reserve trust fund or into trust or custodial accounts, created for the benefit of the fund's secured parties, that are held inside or outside the hurricane reserve trust fund[~~.~~]; provided that after June 30, 2024, all proceeds realized from the collection of the assessments shall be deposited into a separate trust account within the hurricane reserve trust fund.

Property and casualty insurers shall annually recoup assessments paid pursuant to section 431P-____."

2. By amending subsection (g) to read:

"(g) Any proceeds from loans or other moneys from the federal government, any proceeds from bonds issued pursuant to this chapter loaned by the director to the Hawaii hurricane relief fund, all revenues realized from the transient accommodations tax established pursuant to section 237D-2(f) on transient vacation rentals and the temporary property insurance

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stabilization fee ~~surcharge on conveyance tax established~~ pursuant to this section ~~247-~~, and other moneys as the State may make available from time to time shall be deposited into the hurricane reserve trust fund[~~.~~]; provided that commencing on July 1, 2024, all revenues realized from the transient accommodations tax established pursuant to section 237D-2(f) on transient vacation rentals~~, the surcharge on conveyance tax established pursuant to section 247- ,~~ and any ~~special mortgage recording~~ temporary property insurance stabilization fee that is ~~reinstated~~ collected after July 1, 2024, shall be deposited into the hurricane reserve trust fund."

3. By amending subsection (i) to read:

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

(1) The net moneys in the hurricane reserve trust fund shall revert to the state general fund after 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 are completed; and

(2) If [~~such~~] the 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 the dissolution of the fund; provided that commencing July 1,

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2024, all interest earned from the principal in the hurricane reserve trust fund shall be transferred and deposited into [~~the general~~] the hurricane reserve trust fund each year that the hurricane reserve trust fund remains in existence."

~~SECTION 19. (a) Notwithstanding the specific powers provided to the Hawaii hurricane relief fund board of directors pursuant to section 431P-5, Hawaii Revised Statutes, or any other law to the contrary, the special mortgage recording fee established pursuant to section 431P-16, Hawaii Revised Statutes, may be reinstated by the insurance commissioner on any date after the effective date of this Act.~~

~~(b) The special mortgage recording fee amount shall be assessed at the same rate and under the same conditions that existed on June 30, 2001, the day prior to the enactment of Act 153, Session Laws of Hawaii 2001.~~

~~(c) The special mortgage recording fee amount shall remain in force at the rate established pursuant to subsection (b) until suspended or amended by the Hawaii hurricane relief fund board of directors.~~

PART VI

SECTION 20. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 21. This Act shall take effect on July 1, 3000.

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Removing barriers to Hawaii's prosperity

April 2, 2024, 2:30 p.m.
Hawaii State Capitol
Conference Room 308 and Videoconference

To: House Committee on Finance
Rep. Kyle T. Yamashita, Chair
Rep. Lisa Kitagawa, Vice-Chair

From: Grassroot Institute of Hawaii
Ted Kefalas, Director of Strategic Campaigns

COMMENTS ON SB3234 SD1 HD1 — RELATING TO THE STABILIZATION OF PROPERTY INSURANCE

Aloha Chair Yamashita, Vice-Chair Kitagawa and other members of the Committee,

The Grassroot Institute of Hawaii would like to offer **comments on** SB3234 SD1 HD1, which would create a new transient accommodations tax rate for transient vacation rentals and a conveyance tax surcharge.

Both new taxes are intended to help fund the stabilization of property insurance for certain categories, especially in which premiums have gone up sharply in response to increased risk and the need to mitigate that risk through building maintenance or new equipment and protocols.

We are deeply concerned that this measure, despite its good intentions, will further distort Hawaii's insurance market. Rather than incentivizing property owners to mitigate risk themselves, it promises that the government will help delay the cost of that risk and places the burden of that cost onto others.

The bill envisions a five-year limit for condominium insurance under the plan, but there is no similar limit placed upon the tax increases. This suggests that we are looking at a permanent tax increase and insurance subsidy.

Under such circumstances, there would be little incentive for covered buildings to ensure that their problems are resolved in that time period when they could more easily lobby for an extension of the time limit. Having come to the rescue of these vulnerable groups once, the Legislature would doubtless have difficulty not doing so again.

In fact, this creates a moral hazard, wherein more and more building owners might opt to avoid maintenance and upgrade costs that would help mitigate their high insurance rates because it would be reasonable to believe that the Legislature and taxpayers would come to the rescue.

An additional problem is that there would be no clear nexus between the benefit of insurance stabilization and the source of the funding for that benefit — tourism and conveyance taxes — which would violate state law governing special funds.

Moreover, given the blank amounts and the unknown costs of this program, one cannot properly estimate the budgetary impact of this proposed program or the tax increase.

It is fundamentally unfair to the public to consider and pass "blank" tax increases. The people have a right to know the size of the tax increase or cut under consideration.

However, we will assume that these blanks, however inadvisable, represent a moderate to sizable tax increase. In that case, we must caution that the tax hikes in this bill will be harmful to Hawaii homebuyers and businesses.

For example, regarding the conveyance tax surcharge, a report by the Sage Policy Group on transfer taxes noted that such laws can "lead to decreases in population, real incomes, real estate transactions, investment in structures and quality of the built environment."[1]

When applied to higher-value properties, transfer taxes reduce investment in both commercial and residential properties, leading to lost jobs and reduced economic activity.

Further, a conveyance tax surcharge might discourage adaptive reuse — the conversion of old buildings to new purposes. Hawaii's counties can leverage adaptive reuse to add to their housing stock, as they are doing now,[2] but higher conveyance taxes could chill the sale of old buildings, which may not necessarily qualify as "multifamily residential property" at the time of sale.

The Sage report stated: "Many properties will need to be upgraded and/or adaptively reused to remain viable. Excessive transfer tax rates can frustrate the exchange of property that is often required to return to commercial viability."[3]

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[1] "The Unintended Consequences of Excessive Transfer Taxes," Sage Policy Group, Inc. on behalf of the Community Coalition for Jobs and Housing, June 2022, p. 3.
[2] Lana Teramae, "Local Architects Talk About Repurposing Existing Buildings in Post-Pandemic Hawai'i," Hawaii Business Magazine, Sept. 6, 2021.
[3] "The Unintended Consequences of Excessive Transfer Taxes," p. 3.

Meanwhile, a hike in the TAT would fall not only on tourists, but also Hawaii residents who travel interisland, for whatever reason, or even just want to stay at a local hotel for a "staycation."

More to the point, a large body of research demonstrates that increasing taxes on tourists can affect both the competitiveness of Hawaii's tourism industry and the health of local businesses that depend upon tourism dollars — which means the tax affects most, if not all, Hawaii residents, albeit in some cases indirectly.

A 2017 European Union study on the impact of taxation on tourism in Europe found that high tourism taxes, passed on to tourists through higher prices, affected the competitiveness of particular destinations.[4] Coastal and leisure destinations in particular were most adversely affected by increases in tourism taxes, especially compared to locations that were more focused on business travelers.

In addition, occupancy taxes such as Hawaii's TAT were singled out as inequitable and especially frustrating to tourists. The EU study recommended that countries that depend heavily on tourism should reduce their tourism taxes in order to increase competitiveness.

Looking at the even broader picture, one must consider that tax increases in general are not a good idea for Hawaii's economy, especially not now when it already has one of the highest tax burdens in the nation.[5] Consider these points:

>> Hawaii's population has been declining for the past six years,[6] with tens of thousands of Hawaii residents moving to the mainland over the past six years — mainly to states without income taxes, such as Washington, Nevada, Texas and Florida.[7] Their departure from the islands is not only emotionally distressing, but economically depressing as well.

>> Fewer people remaining means fewer people to work at our private businesses, or even staff our government agencies. It also means fewer people to help pay for Hawaii's ever-increasing tax burden.

>> Higher taxes for the residents who still live here is more fuel for the exodus of talent and capital — our friends, neighbors and family — to places that are more affordable. It's a downward spiral economically fostered by the relentless upward spiral of more and more taxes.

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[4] PricewaterhouseCoopers LLP, "The Impact of Taxes on the Competitiveness of European Tourism," European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, October 2017.
[5] Jared Walczak and Erica York, "State and Local Tax Burdens, Calendar Year 2022," Tax Foundation, April 7, 2022.
[6] Maria Wood, "Where People from Hawaii Are Moving to the Most," 24/7 Wall Street, Jan. 23, 2022.
[7] Katherine Loughead, "How Do Taxes Affect Interstate Migration?" Tax Foundation, Oct. 11, 2022.

>> Hawaii taxes high-income earners at 11%, second only to California at 13.3%.[8] Hawaii's top 1.5% of taxpayers already pay 34.9% of all income taxes in the state.[9]

>> Finally, Hawaii is suffering from a stagnant economy, and both the Economic Research Organization at the University of Hawai'i[10] and the state Department of Business, Economic Development and Tourism[11] have predicted continued slow economic growth in 2024. Tax hikes could exacerbate this slowdown, since entrepreneurs will be less likely to want to invest their capital — or "wealth assets," as the case may be[12] — in Hawaii's economy.

In short, Hawaii's residents and businesses need a break from new taxes, tax increase, fees and surcharges. This is not the time to make Hawaii a more expensive place to live and do business.

If the Legislature wishes to help address problems in the insurance market, they should not rely on special funds and taxes as the mechanism to do so.

Thank you for the opportunity to testify.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

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[8] Timothy Vermeer, "State Individual Income Tax Rates and Brackets for 2023," Tax Foundation, Feb. 21, 2023.
[9] "Hawaii Individual Income Tax Statistics," Hawaii Department of Taxation report for Tax Year 2021, August 2023, Table 12A.
[10] Carl Bonham, Byron Gagnes, Steven Bond-Smith, et al., "State Facing Headwinds as Maui Recovery Begins," Economic Research Organization at the University of Hawai'i, Dec. 15, 2023.
[11] Hawaii Department of Business, Economic Development, and Tourism, "Hawaii Economic Growth Remains Low for 2024 as Recovery Continues," Dec. 11, 2023.
[12] Aaron Hedlund, "How Do Taxes Affect Entrepreneurship, Innovation, and Productivity?" Center for Growth and Opportunity at Utah State University, Dec. 23, 2019; Ergete Ferede, "The Effects on Entrepreneurship of Increasing Provincial Top Personal Income Tax Rates in Canada," Fraser Institute, July 10, 2018; Robert Carroll, Douglas Holtz-Eakin, Mark Rider and Harvey S. Rosen, "Personal Income Taxes and the Growth of Small Firms," National Bureau of Economic Research, October 2000.

LAND USE RESEARCH
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March 29, 2024

Representative Kyle T. Yamashita, Chair
Representative Lisa Kitagawa, Vice Chair
House Committee on Finance

Comments and Concerns Regarding SB 3234, S.D. 1, H.D. 1, Relating to the Stabilization of Property Insurance (Amends the laws relating to the Hawaii Hurricane Relief Fund and Hawaii Property Insurance Association by, amongst other things, providing for a property insurance surcharge on the Hawaii conveyance tax to capitalize the Association and Fund. Effective 7/1/3000.)

Tuesday, April 2, 2024, at 02:30 p.m.; State Capitol, Conference Room 308, Via Videoconference.

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers, and utility companies. One of LURF's missions is to advocate for reasonable, rational, and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide **comments and concerns regarding** this bill, specifically **opposition to the proposed increase of the Hawaii conveyance tax** by a conveyance tax surcharge, the revenues from which are to be used as a funding source for designated special/revolving funds.

SB 3234, S.D. 1, H.D. 1. LURF understands the intent of this bill and the efforts of the Legislature to address complex insurance issues relating to and being faced by the insurance industry, aging condominiums, condominium associations, and unit owners, and is not opposed in any way to actions being taken to address those challenges. However, to effectuate those actions, this bill proposes to increase the Hawaii conveyance tax via a conveyance tax surcharge in unspecified amounts/percentages, revenues from which will be split between two trust funds to be established pursuant to HRS Section 237D-2, namely 1) a trust account established pursuant to HRS Section 431:21-105 for the purpose of administering and providing property insurance for properties located outside of a lava zone that obtain property insurance under that article; and 2) a trust account established pursuant to HRS Section 431P-16 for the purpose of providing hurricane insurance under that chapter.

LURF's Position. LURF's concerns regarding this bill focus on, and are limited to the proposed establishment of such a conveyance tax surcharge and the application of the revenues therefrom to the identified trusts to be used as a funding source to address the specified insurance challenges, which is arguably inappropriate, improper, and illegal for the following reasons:

1. **The Hawaii conveyance tax was never intended to be and should not operate as a revenue-generating tax**.

Chapter 247 (Conveyance Tax) of the HRS was purposefully enacted in 1966 to provide the State Department of Taxation ("DoTax") with informational data for the determination of market value of properties transferred, and to assist the DoTax in establishing real property assessed values. In short, the sole intent of the conveyance tax was originally to cover the administrative costs of collecting and assessing said informational data, which necessarily entails the recording of real estate transactions, as performed by the Bureau of Conveyances.

Since the enactment of HRS Chapter 247, however, the State Legislature has proposed, and has managed to implement changes to the law 1) to allow application of conveyance tax revenue to a number of non-conveyance type uses (land conservation fund; rental housing trust fund; and natural area reserve fund) to the point where there is no longer any clear nexus between the benefits sought by the original Act and the charges now proposed to be levied upon property-holding entities transferring ownership; and 2) also to increase the tax rates to the point where said revenues now far exceed the initially stated purpose of the Act. Moreover, supplemental funding for some of those expanded uses for which conveyance tax revenues were subsequently authorized has since been determined to be unnecessary, and recommended by the State Auditor to be discontinued, creating an even stronger basis for legal objection and challenge.

Such expansions and deviations, including the allocation of conveyance tax surcharge revenues to special funds established specifically for the purpose of addressing current insurance challenges, go far beyond the scope of the original intent of the conveyance tax law, and are concerning to LURF since the proposed bill, particularly if proposed to unlawfully target specific types of transactions or groups of property owners, could be characterized as imposing an improper penalty which may be subject to legal challenge.

2. **SB 3234, S.D. 1, H.D. 1 is arguably illegal and in violation of Sections 37-52.3 and 37-52.4, HRS, because it attempts to use the conveyance tax to subsidize special funds which do not have a clear link between the program and the sources of revenue.**

Special funds are subject to HRS Sections 37-52.3 and 37-52.4. Criteria for the establishment and continuance of special and revolving funds was enacted by the 2002 Legislature through Act 178, SLH 2002, Sections 37-52.3 and 37-52.4, HRS. To be approved for continuance, a special fund must:

a. serve the purpose for which it was originally established;
b. reflect a <u>clear nexus</u> between the benefits sought and charges made upon the users or beneficiaries of the program *or a clear link between the program and the sources of revenue*, as opposed to serving primarily as a means to provide the program or users with an automatic means of support that is removed from the normal budget and appropriation process;
c. provide an appropriate means of financing for the program or activity; and
d. demonstrate the capacity to be financially self-sustaining.

The first and second criteria are nearly identical to those in Act 240, SLH 1990, codified in Section 23-11, HRS, requiring the Auditor to review all legislative bills in each session to establish new special or revolving funds. It appears that the intent of SB 3234, S.D. 1, H.D. 1 is to find an additional source of funding to address issues relating to the stabilization of the insurance market for certain properties in Hawaii. However, the State Auditor has in the past concluded that an arrangement where there is no *clear link* with the funding source (i.e., individuals and companies buying and selling real property) should be repealed.

3. Other legal and voluntary alternatives may be available to fund or incentivize support for the identified insurance challenges.

In lieu of improperly imposing increases of conveyance taxes to increase the State's general fund, and subsidizing or increasing revenue for certain unrelated special funds with no clear link to the conveyance tax purposes or beneficiaries, proponents of this bill are urged to look to other possible legitimate means to do so, including funding support through other "related" or "linked" state and county charges, federal funding, fees, or taxes. By way of example, why aren't all of the same or similar funding sources relied upon for original establishment of the Hurricane Reserve Trust Fund being used, or at the very least being investigated as funding options in this case rather than once again improperly resorting to the conveyance tax as a means of funding which would inequitably place the cost burden only upon buyers and sellers of real property? As far as LURF is aware, no information or facts regarding the exploration of such funding alternatives have been presented by proponents in support of this bill, nor has any discussion regarding alternative funding sources been initiated to explain the use of conveyance tax revenues for the purposes of subsidizing the funds identified in the bill.

There also appears to be no informational facts or data regarding the dollar amount of revenues anticipated to be collected from the surcharge, and whether said amount (if known) will even be sufficient to satisfy the reported purpose(s) for the special funds which are to be established.

While the surcharge percentage amount on the conveyance tax has not yet been specified in this measure, LURF understands that even a nominal surcharge rate could substantially increase the total conveyance tax payable upon the sale/purchase of a property. Would that **substantial increase** which would be suffered only by buyers and sellers of real property (as opposed to the general public) in Hawaii warrant the imposition of the surcharge on and increase of conveyance tax proposed by this bill?

Given the *"clear nexus"* requirement for special and revolving funds, and also given that general funding and alternative methods to secure revenues for these funds may exist, expansions and deviations of HRS Chapter 247 which go beyond the scope of the original intent of the conveyance tax law are again concerning since this proposed bill, particularly if it unlawfully targets transactions involving a particular group of individuals or entities which own real property in the State, could be characterized as imposing an improper penalty which may be subject to legal challenge.

4. **Attempts to utilize the State conveyance tax as a revenue generating tax without meeting the "*clear nexus*" requirement and without rightful justification based on necessary fact-finding, research, and expert consultation will likely cause serious unintended negative consequences.**

   a. **Hawaii's working-class residents, long-time property owners, and large *kama`aina* landowners will likely be negatively affected**.

Aside from the fact that the Hawaii conveyance tax was never intended to be and should not operate as a revenue-generating tax, given the recent increase in property values in Hawaii which have escalated over the past years, it is not at all inconceivable for Hawaii's middle-income, working-class homeowners and senior citizens on fixed incomes who own what are now high-valued properties, to be negatively impacted by this measure upon sale of their long-time residences. These types of proposed bills would also affect kama`aina landowners who may be transferring large properties for agricultural farms, housing developments, environmental programs, or other developments that would serve the community and create needed employment.

It is LURF's understanding that while **the conveyance tax surcharge is yet unspecified**, the imposition of **any** additional percentage surcharge on the conveyance tax can dramatically increase the total conveyance tax which must be paid, and that even a very minimal percentage surcharge could result in a substantial increase in the total conveyance taxes payable upon the transfer of a property.

Again, as far as LURF has been able to ascertain, proponents of this bill have never consulted with housing, commercial, and agricultural developers (e.g., NAIOP, Land Use Foundation of Hawaii), or experts in the real estate industry (e.g., Hawaii Association of Realtors), as to the impact of this bill. Neither have proponents likely consulted with or addressed the comments and concerns of tax and economic experts (e.g., DoTax, the Tax Foundation, the University of Hawaii, and other independent experts) relating to the underlying intent and legal purpose of the conveyance tax and what legal and economic effects and consequences may result from the proposed improper and inappropriate use of conveyance tax revenues.

As a result, it appears that proponents of this bill have not offered any information or provided any factual data regarding the number and types of property owners and transactions which would be impacted by, as well as the expected dollar amounts which will actually be generated by this measure, and the total amount which is necessary to support this bill. Also unknown at this time is whether said amounts would even be close to sufficient for the funds identified and for the purposes specified, and whether those amounts would weigh against and warrant the consequences which may be cast upon property sellers and buyers and other stakeholders.

b. Such measures would create significant disincentive for business in Hawaii.

At a time when the State continues to reel from the effects of the Covid pandemic and the Maui wildfires, and is still attempting to encourage business expansion in, and attract business operations to Hawaii, measures implemented to utilize the State conveyance tax as a revenue generating tax would create a disincentive and will have a substantial negative impact on persuading new and existing businesses to open or expand in Hawaii, or to relocate their operations to this State. The proposed additional cost of doing business in Hawaii would certainly appear to negatively outweigh any positive revenue impact resulting from the imposition of increased conveyance taxes and/or surcharges pursuant to these types of measures.

c. This type of legislation would drive up the cost of lands for agricultural production, affordable and market homes, and commercial development.

Your Committees should be aware that this proposed measure may **impact many industries** and **harm broad segments of Hawaii's economy**. The imposition of the proposed conveyance tax surcharge on transfers which affect **agricultural lands** will be passed on to farmers and other agricultural operators, making it even harder for agriculture to survive in Hawaii; the proposed imposition of the surcharge on transfers which affect **land intended for non-government assisted housing developments** will be passed on to home buyers and will thus increase the price of homes and exacerbate the affordable housing problem in Hawaii; the proposed imposition of the conveyance tax surcharge onto transfers which affect **commercial properties** will also be passed on to small businesses, creating yet another substantial financial burden on them. In addition, the proposed imposition of the surcharge on transfers of **properties for health care-related facilities** may increase the cost of health care, and properties needed to be transferred for other facilities such as **renewable energy** and **sustainable tourism** may impact those industries and raise related costs for the public as well.

<u>Conclusion</u>.

Given the incontrovertibly clear and express intent of Hawaii's conveyance tax law (HRS Chapter 247), which is to use State conveyance tax revenue to specifically cover administrative costs incurred by DoTax to collect and assess informational data, any use of State conveyance tax revenue must be strictly limited to that purpose as set out in the original Act. Use of conveyance tax revenue for any other purpose is subject to scrutiny and legal challenge.

LURF understands the efforts of the Legislature and the intent of SB 3234, S.D. 1, H.D. 1 to address significant property insurance stabilization issues which deserve review and consideration by this Committee. However, there is also significant concern that proposed measures which attempt to utilize the conveyance tax as a revenue generating tax will likely cause unintended negative consequences which would be detrimental to the State.

In view of these issues, legislators should be advised to act with caution, and to proceed judiciously when considering measures which propose to utilize or apply the conveyance tax as a revenue generating tax, especially to support the establishment or continuance of special, revolving and trust funds – some of which have not even adequately justified the need for or amount of such funding. Request is therefore made for this Legislature to **delete provisions relating to the increase of conveyance taxes and explore and consider other appropriate and legal means of funding for said special/revolving funds, or to otherwise supplement or use the general fund without improperly increasing the Hawaii conveyance tax**.

Thank you for the opportunity to provide comments and concerns regarding this important measure.

MORTGAGE BANKERS ASSOCIATION OF HAWAII

Mortgage Bankers Association of Hawaii
P.O. Box 4129, Honolulu, Hawaii 96812

April 1, 2024

Rep. Kyle T. Yamashita, Chair
Rep. Lisa Kitagawa, Vice Chair
Members of the House Committee on Finance

Hearing Date: April 2, 2024
Hearing Time: 2:30 pm

Re: SB 3234-SD1, HD1 relating to the stabilization of property insurance

I am Victor Brock, representing the Mortgage Bankers Association of Hawaii ("MBAH"). The MBAH is a voluntary organization of individuals involved in the real estate lending industry in Hawaii. Our membership consists of employees of banks, savings institutions, mortgage bankers, mortgage brokers, financial institutions, and companies whose business depends upon the ongoing health of the financial services industry of Hawaii. The members of the MBAH originate and service, or support the origination and servicing, of the vast majority of residential and commercial real estate mortgage loans in Hawaii. When, and if, the MBAH testifies on legislation or rules, it is related only to mortgage lending and servicing.

The MBAH SUPPORTS THIS BILL, which reinstates the Hawaii Hurricane Relief Fund ("HHRF"), which provides additional sources of financing the HHRF, and which expands the HHRF's scope to include condominium building insurance.

The availability of hurricane insurance, particularly for condominium projects, has become increasingly limited, with certain insurers refusing to renew coverage at existing levels to insure the full estimated replacement cost of rebuilding the improvements in the event of a named storm. Fannie Mae and Freddie Mac, to whom we sell mortgages, both require hurricane insurance for the full replacement value. Even if a lender contemplates keeping a loan secured by a unit in one of the underinsured condo projects in their portfolio (as they are unable to sell the loan to Fannie Mae or Freddie Mac), prudential regulators are likely to cite safety and soundness concerns of holding a loan on our balance sheet secured by underinsured collateral. As a result, we are unable to finance units in certain condominium projects, thereby decreasing options for first-time homebuyers and low- to moderate-income borrowers to buy the most affordable type of housing in Hawaii. The impact is snowballing and currently affects hundreds of buildings and thousands of dwelling units.

Our colleagues in the insurance industry have advised us that their ability to obtain re-insurance for hurricane losses at pre-existing prices, or altogether, and to continue to write policies with coverage for the full replacement cost has been impaired by the international re-insurance market, as many of these re-insurers have experienced recent significant hurricane claim losses with climate change. Making matters worse, the risk profile of Hawaii has changed altogether due to the Maui wildfires this past August. Strong and very destructive hurricanes have not impacted Hawaii frequently in recent history, however climate change may increase the future likelihood of severe damage and losses. Therefore, historic losses for all perils are less predictive for these insurers when estimating future claim amounts. This in turn decreases their willingness to write new policies and/or renew at marginally profitable or unprofitable premium rates.

In 1993, the HHRF was established under HRS 431P to provide hurricane insurance when the private hurricane insurance market collapsed as a result of the 1992 Hurricane Iniki. It ceased operations in 2002 when the private hurricane market had been re-established. As originally structured, the HHRF was not authorized to issue hurricane insurance for condominiums in amounts sufficient to address the current underinsurance situation. Nor was it funded at levels sufficient to cover the amounts of cumulative coverage needed in today's environment. This Bill will amend the HHRF to include coverage of condominiums, while continuing to provide coverage for single-family and commercial properties.

This Bill also provisions various methods to build the fund to a level sufficient for the expected losses. As drafted, the burden of funding the HHRF will be allocated between sellers of real estate, (with a conveyance tax surcharge), buyers and/or lenders of real estate, (with a special mortgage recording fee), all property owners, (with an ongoing surcharge on policy premiums), and landlords/renters of transient vacation rentals (with an increase to the transient vacation rental tax). We understand that funding mechanisms sufficient to sustain the HHRF on an ongoing basis are necessary and we support this multi-faceted approach. However, **WE REQUEST THE FOLLOWING AMENDMENT in Section 18:**

> Leave the "special mortgage recording fee" percentage at one tenth of one per cent, as originally incorporated into HRS 431P, instead of increasing it to two-tenths of one per cent.

The average purchase mortgage loan amount in Hawaii in 2023 was $653,709[(1),] resulting in a fee of $653.71 at one tenth of a percent and $1,307.42 at two tenths of a percent. This fee will be borne by the home buyer and is an additional burden and obstacle to homeownership in Hawaii. Many potential homeowners are already struggling with the down payment and closing costs, and the additional $653 will be yet another impediment to deter a first-time homebuyer from achieving homeownership, but <u>doubling it makes matters even worse</u>.

(1) Source: Title Guaranty monthly Residential Market Share report

As mortgage lenders, our hands are tied to severely curtailing or discontinuing lending on units in these underinsured condo projects altogether. Additionally, our ability to provide low-downpayment financing with mortgage insurance may be impaired by mortgage insurers' unwillingness to insure condo projects that do not meet Fannie Mae's or Freddie Mac's guidelines. Therefore, first-time homebuyers and low- to moderate-income borrowers, who need low-downpayment financing, are the most adversely impacted.

We request expedited passage of this Bill by the Legislature, the signing by the Governor of this Bill into law, and re-establishment of the HHRF's ability to issue policies as soon as operationally viable.

Thank you for the opportunity to present this testimony.

Victor Brock
Mortgage Bankers Association of Hawaii

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

holomua
COLLABORATIVE

OUR MISSION
To support and advance public policies that make Hawai'i affordable for all working families.

OUR VISION
Collaborative, sustainable, and evidence-based public policies that create a diverse and sustainable Hawai'i economy, an abundance of quality job opportunities, and a future where all working families living in Hawai'i can thrive.

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Committee:	**House Committee on Finance**
Bill Number:	**SB 3234, SD1, HD1, Relating to the Stabilization of Property Insurance**
Hearing Date and Time:	**April 2, 2024 at 2:30pm (Room 308)**
Re:	**Testimony of Holomua Collaborative in support**

Aloha Chair Yamashita, Vice Chair Kitagawa, and Committee Members:

We write in support of SB 3234, SD1, HD1, Relating to the Stabilization of Property Insurance, as it expands the Hawai'i Property Insurance Association's authority to include providing property insurance for condominiums. Hawaii's property insurance market is at a critical juncture and its precarious nature has the capacity to affect all local working families in Hawai'i. Acting now to stabilize our local insurance market is prudent.

Approximately 55% of all condominium units in Hawai'i were constructed before 1980. As a result, many of our condominium projects are almost half a century old and in need of replacements, upgrades, and retrofits, such as re-piping, spalling, windows, railings, and alarms. All these types of fixes are costly, complex, and time-consuming.

Offering a temporary insurance safety net for condominium projects that are otherwise unable to secure insurance will give association leadership up to five years to plan, coordinate, and implement necessary upgrades. This will enhance their ability to obtain insurance in the condominium insurance marketplace. In other words, this bill provides a safety bridge of insurance coverage until the voluntary market returns more fully.

We note that in its current format this bill is funded partially through an increase in the conveyance tax on real estate transactions and an increase to the special mortgage recording fee. Any increases to these fees will add to the transaction cost for homebuyers and could affect housing affordability. For that reason, we recommend that a preferred funding mechanism for this measure would be the imposition of a higher transient accommodation tax on short-term rentals. This mechanism would export more of the cost, rather than having it be borne by local families.

As an organization that is dedicated to keeping all local working families in Hawaii by making sure that they can afford to stay, we support this measure. As is the case with HB 2801, which would provide access to C-PACER financing to condominiums for similar reasons (and which we are also supporting), this bill will likely provide the greatest benefit to people of modest incomes who live in these older condominiums. We are happy to support it.

Sincerely,

Joshua Wisch

Josh Wisch
President & Executive Director

SB-3234-HD-1
Submitted on: 3/30/2024 10:57:23 AM
Testimony for FIN on 4/2/2024 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

I am an owner and board member of a Downtown Honolulu condo. Circumstances beyond our control make this measure necessary. Insurance companies are leaving the state, dropping customers because the companies say there is too much deferred maintenance, buildings need to be repiped, hurricane insurance premiums must be raised because of repeated hurricanes in communities on the mainland, etc. It is estimated that 400 buildings are underinsured for hurricanes and prospective buyers are having a hard time obtaining mortgages.

On March 14, PBS ran a call in program detailing the problems that condos are facing in the insurance market. Earlier that week Speaker Saiki, Representatives Tam and Nishimoto, and Senator Moriwakiheld a town hall about the subject. Experts explained the issues, there was a question and answersession, including horror stories about insurance cancellations, high premiums, etc.
The higher premiums are hard for many associations to pay, and will, if paid, result in continued deferred maintenance because there are just so may dollars owners can spend. Many are on a fixed income. This bill will also allow lenders to meet the requirements of the secondary mortgage market.

The time to act is now. The 1/3 of the population that lives in condos cannot wait until next year or later. Please support this bill.

SB-3234-HD-1
Submitted on: 3/31/2024 10:25:50 AM
Testimony for FIN on 4/2/2024 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Audrey Lee	Individual	Support	Written Testimony Only

Comments:

When we had Hurricane Iniki, the insurance situation took about 2 years to stabilize. With the crisis in Lahaina, some have forecasted perhaps 2-3 years before the availability and cost of insurance becomes stable. In the meantime, many condo buildings are losing their building insurance since insurance companies are able to only insure a certain amount of risk in their portfolios. Those buildings who lost or will be in danger of losing their insurance will have to get insured by a company that is not regulated in their pricing and are charging 4-10x+ the current fees for their insurance. On the resident (owner/tenant) side, since the buildings have only a certain amount of reserve for projects needed by the buildings to be maintained, the unexpected costs will be passed over to the owners. Many units in aging buildings are owned or rented by those on fixed incomes, but even others cannot afford to pay 4-10x+ the amount they are currently paying for their maintenance fees. Because of this, **I strongly support** this bill. Thank you!

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

SB-3234-HD-1
Submitted on: 4/2/2024 8:53:08 AM
Testimony for FIN on 4/2/2024 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Ken Sim	Individual	Oppose	Written Testimony Only

Comments:

I oppose this Bill in its present form. Its funding method is discriminatory.

The funding falls on only one select group of condo owners who rent short term rentals, it is discriminatory to select only one type of condo owner and **not include all condo owners**.

Secondly, if transient accommodations are to be selected to fund this Bill, there is not a direct nexus to transient accommodation operators, but if there were, it should be applied to the entire category of those who are in the business of providing transient accommodations such as hotels, timeshares, and room rentals.

Please remedy the discriminatory funding or defer this Bill.

Thank you.