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**Testimony of the Department of Commerce and Consumer Affairs**

**Before the**
**House Committee on Consumer Protection & Commerce**
**Wednesday, March 20, 2024**
**2:00 p.m.**
**State Capitol, Rm. 329 & via Videoconference**

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

Chair Nakashima 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 purposes of this bill are to: (1) amend the laws relating to the Hawaiʻi Hurricane Relief Fund and Hawaiʻi Property Insurance Association; (2) expand 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; (3) reinstate the special mortgage recording fee; (4) explicitly authorize 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; (5) mandate that the Hawaiʻi Property Insurance Association member insurers recoup assessment costs; (6) amend specific coverage limits, fund capitalization amounts, and assessment percentages by deleting specified dollar amounts percentages; and (7) authorize the Hawaiʻi Hurricane Relief Fund and the Hawaiʻi Property Insurance Association boards to recommend appropriate amounts and percentages to the Insurance Commissioner.

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

GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

STATE OF HAWAIʻI
**DEPARTMENT OF TAXATION**
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## TESTIMONY OF
## GARY S. SUGANUMA, DIRECTOR OF TAXATION

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

**BEFORE THE:**
House Committee on Consumer Protection & Commerce

**DATE:** Wednesday, March 20, 2024
**TIME:** 2.00 p.m.
**LOCATION:** State Capitol, Room 329

Chair Nakashima, Vice-Chair Sayama, and Members of the Committee:

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

Parts II and III of S.B. 3234, S.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 creates a new section to be inserted in 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, and into a hurricane insurance trust account under section 431P-16, 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 reiterates its recommendations, as noted by the Senate Ways and Means, and Judiciary committees, in their March 1, 2024, joint hearing report, that in lieu of imposing an additional tax on four different categories of "transient vacation rentals" the Department suggests increasing the TAT 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 the excess of revenues collected at the 9.25 percent rate, which is 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 from 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 14, line 16, to page 15, line 15.

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 the referenced section 237D-2(e) language in the bill, on page 13, line 6, to page 14, line 10, 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 25, lines 12 to 19, 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 45, line 16, to page 46, line 2, 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 55, lines 6 to 20, 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,~~] January 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, if this measure passes with the Department's proposed amendments, 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-SD-1**
Submitted on: 3/18/2024 2:47:48 PM
Testimony for CPC on 3/20/2024 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---|---|---|---|
| Mike Golojuch, Sr. | Palehua Townhouse | Support | Written Testimony Only |

Comments:

Our association supports SB3234. Please pass this bill.

Mike Golojuch, Sr., President

**SB-3234-SD-1**
Submitted on: 3/18/2024 3:40:41 PM
Testimony for CPC on 3/20/2024 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---|---|---|---|
| Richard Emery | Hawaii First Realty LLC | Support | Written Testimony Only |

Comments:

I support the intent of this Bill as insurance has become a major problem for the condo industry.

LEGISLATIVE TAX BILL SERVICE

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305 Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TRANSIENT ACCOMMODATIONS, CONVEYANCE, Tax Hikes to Stabilize Property Insurance

BILL NUMBER: SB 3234 SD 1

INTRODUCED BY: Senate Committees on Ways and Means and Judiciary

EXECUTIVE SUMMARY: Attempts to stabilize property insurance in the State through unspecified increases in the TAT and Conveyance Tax, and reinstatement of the special mortgage recording fee.

SYNOPSIS: As it relates to the tax laws and the special mortgage recording fee, the following changes are proposed:

Amends section 237D-1, HRS, by adding new definitions of "booking service," "county," "hosting platform," and "transient vacation rental." Amends the definition of "operator" to include the operator of a transient vacation rental.

Amends section 237D-2, HRS, to add a new section setting the TAT rate at ___% beginning on July 1, 2024. Provides that the difference between the new rate and the current rate is to be split evenly between: (1) a trust account established under section 431:21-105, HRS, 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 section 431P-16 for the purpose of providing hurricane insurance under that chapter.

Adds a new section to chapter 247, HRS, providing for a property insurance surcharge on the conveyance tax. Provides for a schedule of tax rates that is currently blank save for two entries. Provides that the surcharge is to be split evenly between the same trust funds described in the amendment to section 237D-2, HRS.

Provides that the special mortgage recording fee established by section 431P-16, HRS, may be reinstated by the insurance commissioner once the act becomes effective.

EFFECTIVE DATE: July 1, 2040.

STAFF COMMENTS: Our primary concern is with the tax hikes, indeterminate at this time. Numbers need to be inserted into the drafts to give the public an idea of the extent of hikes that are being requested.

**Transient Accommodations Tax Hike**

In law prior to 2009, the TAT was levied at the rate of 7.25% on most transient accommodations. Once collected, 44.8% of the tax, after satisfying specified earmarks, was distributed to the counties. Act 61, SLH 2009, increased the TAT rate to 8.25% between 7/1/09 and 6/30/10 and to 9.25% between 7/1/10 to 6/30/15. Act 161, SLH 2013, made permanent the TAT rate of 9.25% and changed the allocations of TAT from a percentage basis to a specific dollar amount.

After the counties complained about their allocations, Act 174, SLH 2014, required a state-county functions working group to be convened to evaluate the division of duties and responsibilities between the State and counties relating to the provision of public services and to recommend an appropriate allocation of the transient accommodations tax revenues between the State and counties that properly reflects the division of duties and responsibilities relating to the provision of public services. The working group met and issued a report to the 2015 legislature, recommending that the percentage allocation of the TAT be restored. Bills were drafted to adopt that recommendation. The bills did not pass.

In the meantime, the City & County of Honolulu, needing a bailout to continue with its rail project, pleaded for and ultimately got an additional percentage point added to the TAT to fund rail efforts in Honolulu and to enhance transportation infrastructure in the other counties. Act 1, SLH 2017 (Special Session).

And, to put the icing on the cake, a few years later, in 2021, the legislature by veto override put an end to sharing any of the TAT revenues with the counties, but instead allowed the counties to enact their own transient accommodations tax at a rate up to 3%. Act 1, SLH 2021 (1st Special Session). The counties swiftly enacted 3% taxes.

This proposed increase in TAT will be borne largely by visitors. With the recent ability of counties to impose their own TAT charge, Hawaii already has the highest accommodation tax in the country. Although the bill's proponents may think that this is simply picking the pockets of our tourists to remediate our ravaged property insurance market, there may be ripple effects from further squeezing our tourists. What policy makers need to realize is that the more they extract from the economy in taxes and fees, the more economic performance declines. To put it specifically, 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.

**Conveyance Tax Hike**

The conveyance tax was enacted by the 1966 legislature after the repeal of the federal law requiring stamps for transfers of real property. It was enacted for the sole purpose of providing the department of taxation (which at the time also administered the real property tax) with additional data for the determination of market value of properties transferred. This information was also to assist the department in establishing real property assessed values and at that time the department stated that the conveyance tax was not intended to be a revenue raising device.

Prior to 1993, the conveyance tax was imposed at the rate of 5 cents per $100 of actual and full consideration paid for a transfer of property. At the time all revenues from the tax went to the general fund. The legislature by Act 195, SLH 1993, increased the conveyance tax to 10 cents per $100 and earmarked 25% of the tax to the rental housing trust fund and another 25% to the natural area reserve fund. Because of legislation in 2005 and in 2009, the conveyance tax rates were substantially increased and bifurcated between nonowner-occupied residential properties and all other properties. Tax brackets were based on the amount of value transferred.

There are points lawmakers may wish to consider.  First, the proposed new brackets have discontinuities at the bracket break points, which means that if taxable income increases by $1 at a break point, such as from $9,999,999 to $10,000,000, the increase in tax will be substantially more than $1.  In this example the tax would go from $200,000 to $300,000.  Substantial discontinuities such as these may motivate behavior for taxpayers near a break point.  This behavior might not be desirable from an economic standpoint.  Consideration should be given to making the conveyance tax brackets more like the existing income tax brackets which do not have this problem.

Second, it should be kept in mind that a large dollar value transaction doesn't necessarily mean that a filthy rich person ripe for the fleecing is on one or the other end.  A multi-unit condominium housing development, for example, could easily sell for an eight-digit number.

Third, a tax increase of any magnitude in Hawaii's fragile economy will, no doubt, have a negative impact as costs soar due to higher taxes.  As costs and overhead increase, 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.

Digested:  3/18/2024

# 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**

March 20, 2024

Rep. Mark M. Nakashima, Chair
Rep. Jackson D. Sayama, Vice Chair
and members of the House Committee on Consumer Protection & Commerce
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **S.B. 3234, S.D. 1 (Stabilization of Property Insurance)**
**Hearing Date/Time: Tuesday, March 20, 2024, 2:00 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: (a) amends the laws relating to the Hawai'i Hurricane Relief Fund and Hawai'i Property Insurance Association; (b) expands the Hawai'i Property Insurance Association's authority to include the issuance of property insurance other than fire insurance for certain real properties organized as a condominium; (c) reinstates the special mortgage recording fee; (d) explicitly authorizes the Hawai'i Property Insurance Association to issue property insurance policies to certain condominiums outside of area designated for coverage by the Hawai'i Property Insurance Association; (e) mandates that the Hawai'i Property Insurance Association member insurers recoup assessment costs; (f) amends specific coverage limits, fund capitalization amounts, and assessment percentages by deleting specified dollar amounts percentages and authorizes the Hawai'i Hurricane Relief Fund and the Hawai'i Property Insurance Association boards to recommend appropriate amounts and percentages to the Insurance Commissioner.

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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March 18, 2024

Representative Mark M. Nakashima, Chair
Representative Jackson D. Sayama, Vice Chair
House Committee on Consumer Protection & Commerce

**Comments and Concerns Regarding SB 3234, S.D. 1, Relating to the Stabilization of Property Insurance (Amends the laws relating to the Hawaii Hurricane Relief Fund and Hawaii Property Insurance Association. Amongst other things, proposes to amend Hawaii Revised Statutes [HRS] Chapter 247 to provide for a property insurance surcharge on the Hawaii conveyance tax.)**

**Wednesday, March 20, 2024, at 02:00 p.m.; State Capitol, Conference Room 329, 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 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.** LURF understands the intent of this bill and the efforts of the Legislature to address the complicated insurance cost issues being faced by the State's aging condominiums, condominium associations, and unit owners, and has no objection to actions being taken to address those challenges. However, amongst 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.

**<u>LURF's Position</u>.** LURF's concerns regarding this bill focus on 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 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 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**.

The fact that the Hawaii conveyance tax was never intended to be and should not operate as a revenue-generating tax aside, 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, 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.

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.

LURF understands, however, that SB 3234, S.D. 1 attempts to address significant property insurance stabilization issues which deserve review and consideration by this Committee. LURF further understands that Legislators and proponents of this bill are willing to work together with LURF and impacted stakeholders to explore alternatives to fulfill the objectives of SB 3234, S.D. 1 without improperly and illegally increasing the Hawaii conveyance tax.

Due to the significance of all of the matters and issues raised by this bill, **LURF respectfully requests and recommends that SB 3234, S.D. 1 be passed forward to the next Committee for the purpose of allowing LURF and other impacted stakeholders to collaborate with Legislators and proponents of this measure to excise the section of the bill relating to any increase of the conveyance tax to subsidize the special/revolving funds identified therein (which increase, despite the unintended negative consequences and impacts anticipated therefrom, has not been substantiated in any way by supporting facts or information); and/or in the alternative, to explore and consider other appropriate and legal means of funding for said special/revolving funds, or to otherwise supplement the general fund**.

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

**SB-3234-SD-1**
Submitted on: 3/19/2024 8:23:13 AM
Testimony for CPC on 3/20/2024 2:00:00 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, less than a week ago, 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. As of today, we do not have cost numbers.

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 INSURERS COUNCIL
A trade association of property and casualty insurance companies

Pauahi Tower, Suite 2010
1003 Bishop Street
Honolulu, Hawaii 96813
Telephone (808) 525-5877

**Alison H. Ueoka**
President

# TESTIMONY OF ALISON UEOKA
**(addendum to prior testimony submitted)**

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COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Representative Mark M. Nakashima, Chair
Representative Jackson D. Sayama, Vice Chair

Wednesday, March 20, 2024
2:00 p.m.

## SB 3234, SD1

Chair Nakashima, Vice Chair Sayama, and members of the Committee on Consumer Protection & Commerce, my name is Alison Ueoka, President of Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit association of property and casualty insurance companies licensed to do business in Hawaii. Members companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

The following is an addendum to prior testimony submitted from Hawaii Insurers Council:

One of the purposes of this bill is to provide older condominium buildings that are in need of repair or replacement of components a path to have the work completed within a certain timeframe. While this bill addresses availability of insurance coverage and not affordability, fixing failing components will make the building more insurable in the long run. HPIA in its Plan of Operations is hereby encouraged to assure that those applying for coverage have plans in place for the repair and subsequent maintenance of the insured buildings. This is the only way that buildings will become insurable within five years. Some of those items include but are not limited to, a plan to replace building pipes, approval of said plan by the owners, loan approval or a timeline for loan approval, a project manager, and potential contractors. Similar items could be required for other aging components that would affect the building's insurability.

This bill is a stop-gap measure to provide insurance availability for buildings that have become uninsurable due to a lack of needed repair and maintenance. Condominium buildings that apply for coverage in HPIA will need to pay premiums that will cover its exposure to losses, not to offer a subsidy for these poor insurance risks. This measure is not designed to be a long-term solution and therefore the legislature has imposed a one-time five-year coverage period. It is expected that condominium buildings will complete or have almost completed their major component repairs and replacements that are causing ongoing insurance losses within this period and their ability to procure future building insurance is more likely.

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**Alison H. Ueoka**
President

# TESTIMONY OF ALISON UEOKA

COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Representative Mark M. Nakashima, Chair
Representative Jackson D. Sayama, Vice Chair

Wednesday, March 20, 2024
2:00 p.m.

## SB 3234, SD1

Chair Nakashima, Vice Chair Sayama, and members of the Committee on Consumer Protection & Commerce, my name is Alison Ueoka, President of Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit association of property and casualty insurance companies licensed to do business in Hawaii. Members companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **supports** this bill. 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, 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.

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, short term rentals, mortgage lenders, and real estate transactions. Without the contributions from all affected parties, short- and long-term solutions cannot succeed.

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 as we expect this difficult insurance market to get worse before it gets better.

Thank you for the opportunity to testify.

SanHi
GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: March 20, 2024

TO: Representative Mark M. Nakashima
Chair, Committee on Consumer Protection & Commerce

FROM: Tiffany Yajima / Mihoko Ito

RE: **S.B. 3234, S.D.1 – Relating to the Stabilization of Property Insurance**
**Hearing Date: Wednesday, March 20, 2024 at 2:00 p.m.**
**Conference Room: 329**

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Dear Chair Nakashima, Vice-Chair Sayama, and Members of the Committee on Consumer Protection & Commerce:

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** the intent 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.

MAUI CHAMBER OF COMMERCE
VOICE OF BUSINESS

**HEARING BEFORE THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE**
**HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 329**
**Wednesday, March 20, 2024 AT 2:00 P.M.**

To The Honorable Mark M. Nakashima, Chair
The Honorable Jackson D. Sayama, Vice Chair
Members of the Committee on Consumer Protection & Commerce

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

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

The Chamber understands the intent of this bill by addressing the availability of master condominium insurance policies. Hawai'i 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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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**.

Sincerely,

Pamela Tumpap

Pamela Tumpap
President



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SanHi
GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: March 20, 2024

TO: Representative Mark M. Nakashima
Chair, Committee on Consumer Protection & Commerce

FROM: Matt Tsujimura

RE: **S.B. 3234 S.D. 1 – Relating to the Stabilization of Property Insurance**
**Hearing Date: Wednesday, March 20, 2024, at 2:00PM**
**Conference Room: 329**

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Dear Chair Nakashima, Vice Chair Sayama, and Members of the Committee on Consumer Protection & Commerce:

I am Matt Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm **offers comments** to S.B. 3234 S.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, 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 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:

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, 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 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.

First Insurance Company of Hawaii
A Member of the Tokio Marine Group

***Todd Takayama***
*President & CEO*

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*Email: Todd.Takayama@ficoh.com*

# TESTIMONY OF TODD TAKAYAMA
# PRESIDENT & CEO OF FIRST INSURANCE COMPANY OF HAWAII

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COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Representative Mark M. Nakashima, Chair
Representative Jackson D. Sayama, Vice Chair

Wednesday, March 20, 2024
2:00 p.m.

## SB 3234, SD1

Chair Nakashima, Vice Chair Sayama, and members of the Committee on Consumer Protection & Commerce, my name is Todd Takayama, President and CEO of First Insurance Company of Hawaii (FICOH).

I believe this bill is an important step in helping to stabilize the condominium property insurance market. The effects of the current property insurance environment are much more profound than many realize. Specific to condominiums, the impact is felt by insurance companies, banks, realtors, and ultimately the owners and occupants of these condominiums.

Starting around 2019, many buildings started to experience claims at a frequency not previously seen in the past. This was the result of deferred maintenance, inadequate building reserves, mismanagement, and sometimes outright neglect. As these claims started to add up, insurance companies soon realized the “old” pricing and terms and conditions were no longer adequate to support writing this business. Some carriers raised prices, others limited the policies they offered, some stopped writing condo business altogether. Then in the past few years, we saw the market shifting into crisis mode. Fast forward to today, and rates for some buildings are as much as 10 times higher than five years ago, and hurricane insurance options are limited.

The impact on residents is real. Condominium buildings need to pass on all their expenses to the unit owners in the form of either maintenance fees or special assessments. I have heard

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*President & CEO*

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of maintenance fees for unit owners going from $700 to $2,500 a month. Not only their maintenance fees are affected – some buildings are requiring their unit owners to cover higher AOAO deductibles on their own homeowners' policies. This practice has not only increased the cost of their individual insurance; in some cases, unit owners can't find companies who are willing to offer the high limits they are now required to carry to cover the building's high deductibles.

Aside from the obvious impact of rising costs on unit owners, the implications for residents who are on fixed incomes or trying to sell their units are sobering. Imagine being a retiree, with a fully paid-off condo. Their monthly finances were fine and they were comfortable. Now, their maintenance fee is tripled. They can no longer afford their living expenses. What to do? Sell? Now, who wants or can afford a mortgage on this unit along with the high maintenance fee? They may be stuck.

This bill will not solve all the property insurance issues that plague our market today, but it is a start. <u>Premiums will only come down when losses come down</u>. In order to facilitate this, buildings need to take action and remediate their deferred maintenance and loss frequency. There is no magic wand that will suddenly revert premium to where they were before all this began. Legislation will not be able to reduce premium – actions and results are the only recourse.

High density housing is an important component to solving Hawaii's housing issues. Condominiums are an entry into the housing market for many families, as well as a good option for kupuna. We need to take steps to address the issues before they get any worse.

I fully support this bill. Thank you for the opportunity to testify.

HAWAII LEGISLATIVE ACTION COMMITTEE
community
ASSOCIATIONS INSTITUTE

P.O. Box 976
Honolulu, Hawaii 96808



March 19, 2024

COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Rep. Mark Nakashima, Chair
Rep. Jackson Sayama Vice Chair

Re: **SUPPORT FOR HB SB 3234 SD1 RELATING TO THE STABILIZATION OF PROPERTY INSURANCE**
Hearing: March 20, 2024
Time: 2:00pm
Place: State Capitol, Conference Room 329 & Videoconference

Dear Chair Nakashima and Vice Chair Sayama and Committee Members:

My name is Elaine Panlilio, CRM, CIC, CISR, Commercial Lines AOAO Unit Manager for Atlas Insurance Agency and Vice Chair for the Community Associations Institute – Hawaii Legislative Action Committee.

CAI supports the intent of HB 2686. This bill is a collective effort of a diverse group of representatives from the House and the Senate, insurance carriers, insurance agents, mortgage brokers, bankers, realtors, and condominium board members and owners.

Stabilization of property insurance for condominiums is essential because it affects a substantial number of Hawaii residents who are condominium unit owners. Due to the increasing cost of homeownership in our state, more residents are opting to purchase condominium units because these are more affordable than single family residences.

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Quoting from the Final Report to the Legislature, Recodification of Chapter 514A (2003), pages 2-3. Condominiums "have become a critical part of our land use fabric" this is even truer today than it was twenty-one years ago.

Condominiums serve the valuable functions of providing housing and services to a substantial segment of the Hawaii population – the working class and our kupuna or elders, most of whom are on fixed incomes.

Additionally, data from Non-Profit Organizations such as Housing Hawaii's Future and Grassroot Institute of Hawaii – reveal that "Hawaii residents have been moving away from the islands in droves in recent years; in fiscal 2019, more than 13,000 people departed – the highest negative net migration ever." Our state is experiencing brain drain or ohana drain, where substantial numbers of highly trained, educated Hawaii residents and their families are moving away and finding opportunities elsewhere, citing the back-breaking cost of living and unaffordable housing as the main reasons for leaving Hawaii. For a significant number of families, condominium living represents an affordable housing option, but rising insurance premiums can potentially make it financially unsustainable for these families.

CAI supports the intent of this legislation; it is in Hawaii's best interest to encourage property insurers to remain in the state and to encourage condominium buildings to be repaired and maintained so they can remain insurable. It is also in Hawaii's best interest to promote and protect the effective functioning of condominiums as self- governing entities.

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Admitted insurance carriers that write property insurance for Hawaii condominiums are continuing to face increasing reinsurance costs. Over the past 3 years, insurance and reinsurance have faced substantial losses due to Hurricane Ian in 2022, ranked as the second costliest hurricane and Hurricane Ida in 2021, ranked as the third costliest hurricane on record.[1] According to some insurance carriers, in order to remain in business in Hawaii, they need to limit their Hurricane exposure and a way to do that was to offer Hurricane sub-limits or partial Hurricane coverage only.

The instability of the property insurance market in the state affects all condominiums, so the broadest practical definition, to encompass all condominiums, should be considered.

Thank you for the opportunity to testify.

Elaine Panlilio
CAI Legislative Action Committee, Vice Chair

[1] Facts + Statistics: Hurricanes, Insurance Information Institute. (n.d.). Retrieved from https://www.iii.org/fact-statistic/facts-statistics-hurricanes

HAWAII LEGISLATIVE ACTION COMMITTEE
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## Top 10 Costliest Hurricanes In The United States (1)

($ millions)

| | | | Estimated insured loss | |
|---|---|---|---|---|
| Rank | Year | Hurricane | Dollars when occurred | In 2023 dollars (2) |
| 1 | 2005 | Hurricane Katrina | $65,000 | $101,865 |
| 2 | 2022 | Hurricane Ian | 54,000 | 55,772 |
| 3 | 2021 | Hurricane Ida | 36,000 | 40,503 |
| 4 | 2012 | Hurricane Sandy | 30,000 | 39,918 |
| 5 | 2017 | Hurricane Harvey | 30,000 | 37,609 |
| 6 | 2017 | Hurricane Irma | 30,050 | 37,473 |
| 7 | 2017 | Hurricane Maria | 29,511 | 36,802 |
| 8 | 1992 | Hurricane Andrew | 16,000 | 34,951 |
| 9 | 2008 | Hurricane Ike | 18,200 | 25,604 |
| 10 | 2005 | Hurricane Wilma | 10,700 | 16,533 |

(1) Includes Puerto Rico and the U.S. Virgin Islands and losses sustained by private insurers and government-sponsored programs such as the National Flood Insurance Program. Includes hurricanes that occurred through 2023. Subject to change as loss estimates are further developed. As of January 2024. Ranked on insured losses in 2023 dollars.
(2) Adjusted for inflation by Aon using the U.S. Consumer Price Index.

Source: Aon.

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LATE

March 20, 2024

**The Honorable Mark M. Nakashima, Chair**
House Committee on Consumer Protection & Commerce
State Capitol, Conference Room 329 & Videoconference

**RE: Senate Bill 3234, SD1, Relating to the Stabilization of Property Insurance**
**HEARING: Wednesday, March 20, 2024, at 2:00 p.m.**

Aloha Chair Nakashima, Vice Chair Sayama, 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, which amends the laws relating to the Hawaii Hurricane Relief Fund and Hawaii Property Insurance Association. Expands the Hawaii 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 Hawaii Property Insurance Association to issue property insurance policies to certain condominiums outside of area designated for coverage by the Hawaii Property Insurance Association. Mandates that the Hawaii 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 Hawaii Hurricane Relief Fund and the Hawaii Property Insurance Association boards to recommend appropriate amounts and percentages to the Insurance Commissioner. Takes effect 7/1/2040.

**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 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

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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 2/10ths of 1% of the principal amount of the debt. 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 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 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%:

| 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.

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

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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, 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.

Therefore, we respectfully ask that a different source of funding be identified to fund the HHRF, such as the original sources of funding to form the HHRF or explore other options. This would help address our insurance challenges, rather than putting much of the burden on future home buyers and sellers. Additionally, 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.

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

THE HAWAII ASSOCIATION OF MORTGAGE BROKERS & PROFESSIONALS

HAMB

The Hawaii Association of Mortgage Brokers and Professionals, Board of Directors and over 150 members fully support the proposed bill. The challenges faced by homeowners, particularly those in condominiums and their associations, are becoming increasingly burdensome due to rising insurance costs and limited availability of coverage. Condominiums in Hawaii, and specifically on Oahu are the primary market vehicle for entry level and affordable housing.  This legislation acknowledges and addresses these pressing issues with thoughtful measures aimed at stabilizing the property insurance market and ensuring homeowners have access to essential coverage.

The bill rightly identifies the significant impact of increased deductibles and limited insurance options on both condominium associations and individual unit owners. By expanding the authority of markets of last resort such as the Hawaii Property Insurance Association and the Hawaii hurricane relief fund, this legislation provides a crucial lifeline to those struggling to secure adequate coverage. By underwriting insurance risks that standard insurers are currently unwilling to cover, these entities can help bridge the gap and provide essential protection to homeowners.

Furthermore, the funding mechanisms proposed in the bill are equitable and sensible. Imposing a higher transient accommodation tax rate for transient vacation rentals and establishing property insurance surcharges on conveyance tax are pragmatic approaches to ensure the necessary funds are available to capitalize these insurance entities. Additionally, reactivating assessments on insurers and special mortgage recording fees for the hurricane relief fund are prudent measures to bolster its capacity to support homeowners in times of need. Other ways to increase this fund should also be explored.

Ultimately, this bill serves the interests of both homeowners and the broader community by attempting to stabilize the property insurance market, encouraging maintenance and repairs of condominium buildings, enabling lenders to meet mortgage market requirements, and fulfilling an important public purpose. We urge lawmakers to swiftly pass this legislation to alleviate the financial strain on homeowners and safeguard affordable housing in Hawaii.

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Testimony to the House Committee on Consumer Protection & Commerce
Wednesday, March 20, 2024, at 2:00 PM
Conference Room 329

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

To: The Honorable Mark Nakashima, Chair
The Honorable Jackson Sayama, 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.

ZEPHYR INSURANCE COMPANY, INC.
A Heritage Insurance Company

LATE

TESTIMONY OF LESLIE DOOR
Director of Product, Risk & Regulatory Compliance
Zephyr Insurance Company

COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Representative Mark M. Nakashima, Chair
Representative Jackson D. Sayama, Vice Chair

Chair Nakashima, Vice Chair Sayama, and members of the Committee on Consumer Protection and Commerce, my name is Leslie Door, Director of Product, Risk & Regulatory Compliance for Zephyr Insurance Company (Zephyr). Zephyr provides Hawaii residents with hurricane and homeowners insurance.

Zephyr supports the intent of this bill which would enable the Hawaii Property Insurance Association (HPIA) and the Hawaii Hurricane Relief Fund (HHRF) to underwrite certain insurance risks in the state that no standard insurer is willing to underwrite at this time. These markets of last resort are intended to stabilize the insurance market until which time they are depopulated back to standard insurance companies either because market conditions have changed to accommodate the risks and/or the risks themselves have become more insurable.

Thank you for the opportunity to testify.

1001 Bishop Street, Suite 2750 * Honolulu, Hawaii 96813

MORTGAGE BANKERS ASSOCIATION OF HAWAII

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



March 19, 2024

Representative Mark M. Nakashima, Chair
Representative Jackson D. Sayama, Vice Chair
Members of the House Committee on Consumer Protection & Commerce

Hearing Date: March 20, 2024
Hearing Time: 2:00 pm

Re: SB 3234-SD1 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

**SB-3234-SD-1**
Submitted on: 3/19/2024 8:26:28 AM
Testimony for CPC on 3/20/2024 2:00:00 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.

Last week PBS ran a call in program detailing the problems that condos are facing in the insurance market. Speaker Saiki, Representatives Tam and Nishimoto, and Senator Moriwaki held a town hall about the subject. Experts explained the issues, there was a question and answer session, 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-SD-1**
Submitted on: 3/19/2024 8:47:32 AM
Testimony for CPC on 3/20/2024 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---|---|---|---|
| Julia C | Individual | Support | Written Testimony Only |

Comments:

I support SB3234 SD1.

**SB-3234-SD-1**
Submitted on: 3/19/2024 10:44:19 AM
Testimony for CPC on 3/20/2024 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---|---|---|---|
| Judith A Scheu | Individual | Support | Written Testimony Only |

Comments:

As a condo owner and member of its Board of Directors, I recognize the importance of this bill to the stability of the condo market for condo owners as well as for our entire community.  Please be sure that you understand the issues we face and lend your support to the passage of the bill.

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

LATE

**SB-3234-SD-1**
Submitted on: 3/19/2024 4:03:39 PM
Testimony for CPC on 3/20/2024 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---|---|---|---|
| Philip Nerney | Individual | Support | Written Testimony Only |

Comments:

Support.