

JAN 17 2025

A BILL FOR AN ACT

RELATING TO CONDOMINIUM INSURANCE.

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

1 SECTION 1. The legislature finds that before the Maui
2 wildfires on August 8, 2023, the availability of condominium
3 building master property insurance policy options within the
4 condominium insurance marketplace was already shrinking. Due in
5 part to the shrinking condominium insurance marketplace, the
6 cost of condominium building master insurance policies has
7 increased exponentially, with insurers increasing deductible
8 amounts from approximately \$10,000 to \$25,000 per unit, per
9 occurrence, to as much as \$250,000. These increased deductibles
10 are also due to consistent and high-cost losses.

11 The legislature also finds that while the State has not
12 experienced a direct, major impact from a major hurricane since
13 hurricane Iniki devastated Kauai and damaged homes along Oahu's
14 leeward coast more than thirty years ago, mortgage lenders
15 continue to require Hawaii homeowners to carry hurricane
16 insurance that can cost two to three times the amount of annual
17 premiums of a conventional homeowner policy. The governor's



1 emergency proclamation dated August 7, 2024, enabled the
2 executive branch to provide additional options for condominium
3 associations to purchase hurricane and property insurance for
4 their buildings by authorizing:

5 (1) Loans to the Hawaii hurricane relief fund and the
6 Hawaii property insurance association to facilitate
7 the issuance of hurricane and property insurance
8 policies to condominium associations; and

9 (2) The Hawaii hurricane relief fund to issue hurricane
10 insurance policies for large condominium buildings and
11 set policy limits.

12 The legislature also acknowledges that although insurance
13 coverage, excluding hurricane coverage, for condominium
14 buildings is available in the standard insurance market, the
15 availability of this coverage is not guaranteed.

16 The legislature further acknowledges that the city and
17 county of Honolulu's requirement for mandatory fire sprinkler
18 retrofits or alternative fire safety upgrades in older
19 condominium properties covered by ordinance 18-14, as amended by
20 ordinance 22-2, has resulted in insurance premium increases of
21 one hundred per cent or more since 2022, and substantial



1 expenses to comply with the ordinance for more than three
2 hundred high-rise properties on Oahu.

3 The purpose of this Act is to establish a mutual insurance
4 program to provide coverage to stabilize the insurance market
5 serving Hawaii high-rise residential condominium properties.

6 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
7 amended by adding a new article to be appropriately designated
8 and to read as follows:

9 **"ARTICLE**

10 **HAWAII CONDOMINIUM MUTUAL INSURANCE COMPANY**

11 **§431: -101 Purpose.** There is established the Hawaii
12 condominium mutual insurance company to provide property and
13 casualty insurance coverage to high-rise residential
14 condominiums and the owners of units within those condominiums
15 at the highest level of service with the lowest possible cost,
16 consistent with reasonable and applicable actuarial standards
17 and the sound financial integrity of each residential
18 condominium property association.

19 **§431: -102 Definitions.** As used in this article:

20 "Administrator" means the chief executive officer of the
21 Hawaii condominium mutual insurance company.



1 "Association" shall have the same meaning as in section
2 514B-3.

3 "Board" means the board of directors of the Hawaii
4 condominium mutual insurance company.

5 "Company" means the Hawaii condominium mutual insurance
6 company established by this article.

7 "Council" means the Hawaii condominium mutual insurance
8 company oversight council.

9 "High-rise residential condominium property" means a
10 residential building having or more stories of
11 residential units.

12 "Investment manager" means any fiduciary, who has been
13 designated by the board to manage, acquire, or dispose of the
14 company's assets, a bank as defined by law, or an insurance
15 company qualified to perform services under the laws of more
16 than one state.

17 "Qualified actuary" means a member of the American Academy
18 of Actuaries who is either a fellow of the Casualty Actuarial
19 Society or an Associate of the Casualty Actuarial Society who
20 has five or more years of experience.



1 §431: -103 Hawaii condominium mutual insurance company;

2 **established.** (a) The Hawaii condominium mutual insurance
3 company is established as an independent corporation to provide
4 condominium insurance and related services to Hawaii
5 condominiums and the owners of the units within those
6 condominiums. The company may be reorganized as a nonprofit
7 corporation under chapter 414D.

8 (b) The company shall be organized and operated as a
9 domestic mutual insurance company. The company shall comply
10 with, unless specifically excluded, all requirements of the
11 insurance code regarding a domestic mutual insurance company.
12 The company shall not be an agency of the State. The company or
13 its liabilities shall not be deemed to constitute debts or
14 liabilities of the State of Hawaii or pledges of the full faith
15 and credit of the State. The company shall write property and
16 casualty insurance policies for high-rise residential
17 condominiums and its residential unit owners as required or
18 authorized by law to the same extent as any other private
19 insurer. The company shall not write other lines of insurance,
20 reinsurance, or excess insurance.



1 (c) The company's assets shall consist of real and
2 personal property and shall include all premiums and other
3 moneys paid to the company, all property, and other income
4 acquired, earned, or otherwise gained by the use of premiums and
5 other moneys paid to the company by deposits, investments,
6 exchanges, and other transactions. The company's assets shall
7 be the sole property of the company and shall be used
8 exclusively by the company for the operation and obligations of
9 the company.

10 (d) The company is exempt from participation, and shall
11 not join, contribute financially to, nor be entitled to the
12 protection of, any plan, association, guaranty, insolvency fund,
13 or education and training fund authorized or required by this
14 chapter. Notwithstanding the foregoing exemptions, beginning
15 January 1, 2027, the company shall participate in the property
16 and liability insurance guaranty association, pursuant to
17 sections 431:16-101 to 431:16-117; provided that the company
18 shall meet the surplus requirements applicable to all other
19 domestic insurers under chapter 431 effective January 1, 2027.

20 (e) On or after January 1, 2027, the company shall provide
21 property and casualty insurance coverage to Hawaii condominiums



1 and their unit owners otherwise entitled to coverage but not
2 able to or not electing to purchase coverage in the voluntary
3 insurance market, and not authorized, either individually or as
4 a part of a group, to self-insure. An authorized self-insured
5 is eligible for coverage upon termination of self-insurance.

6 **§431: -104 Incorporation of article 14A sections.**

7 Unless the context otherwise requires, sections 431:14A-106,
8 431:14A-107, 431:14A-108, 431:14A-109, 431:14A-110, 431:14A-111,
9 431:14A-112, 431:14A-113, 431:14A-115, and 431:14A-116 are
10 incorporated by reference into this article; provided that the
11 definitions set forth in section 431: -102 shall apply when a
12 defined term is used.

13 **§431: -105 Company divisions.** The company may add one
14 or more divisions for purpose of this article.

15 **§431: -106 Board of directors, established.** (a) The
16 board of directors of the company shall be responsible for the
17 organization, management, policies, and activities of the
18 company. The board shall consist of nine voting members and one
19 nonvoting member. The voting members shall consist of the
20 following:



(1) Eight directors who shall be owners, officers, or employees of policyholders of the company; and

(2) One director who shall be a public, at-large member elected by the board of directors.

The administrator shall be the nonvoting member of the board.

(b) The initial eight directors shall be appointed by the governor and shall serve for terms of one year each.

The public, at-large member initially elected by the board shall serve for a term of one year.

The initial board of directors shall determine the staggering and length of future directors' terms; provided that no term shall exceed three years. Each director shall serve for terms as specified by the board unless sooner removed for cause pursuant to rules adopted by the board. Each director shall hold office until a successor is appointed. No person shall serve more than two consecutive full terms as director. Any other law to the contrary notwithstanding, the election and composition of the board of directors as provided in this section shall be deemed adequate to qualify the company as a mutual insurer under chapter 431.



1 (c) A vacancy on the board shall be filled by appointment
2 of the governor in the case of appointed directors, or by
3 election by the board of directors in the case of the at-large
4 member. The person appointed to fill a vacancy shall serve for
5 the remainder of the term of the person's predecessor.

6 (d) Within one year after appointment, each director shall
7 be a member or an employee of a policyholder of the company and
8 shall continue in such status during the director's term of
9 office. Any director representing a member that fails to
10 maintain workers' compensation insurance from the company shall
11 be disqualified from serving on the board.

12 (e) Each director shall receive necessary traveling and
13 board expenses incurred in the performance of duty as director
14 and a fee commensurate with the duties expected of actual
15 attendance at board meetings.

16 (f) No person shall be a director who has a direct and
17 substantial interest in a competing insurer as:

18 (1) A stockholder (excluding the holding of less than one
19 per cent of the outstanding shares in a publicly
20 traded insurer);

21 (2) An employee;



(3) An attorney; or

(4) A contracting party (excluding an independent contractor or business owner who does less than twenty-five per cent of its total annual volume of business per year with competing insurers).

§431: -107 Oversight council. (a) There is established the Hawaii condominium mutual insurance company oversight council which shall meet at least once annually. For administrative purposes only, the council shall be assigned to the department of commerce and consumer affairs. The council shall oversee the activities of the company to ensure that the company fulfills its purpose as set forth in this article.

(b) The council shall consist of five members who shall include:

(1) A member of the senate appointed by the president of the senate;

(2) A member of the house of representatives appointed by the speaker of the house of representatives;

(3) The director of the department of commerce and consumer affairs; and



(4) Two at-large members who are an owner, officer, or employee of the company policyholder appointed by the governor;

provided that if any designee under paragraphs (1) or (2) does not meet the test in subsection (c), the president of the senate, speaker of the house, or governor, as applicable, shall designate an appropriate representative. Section 26-34 shall not apply to appointments under this section.

(c) No person shall serve on the council who within the second degree of consanguinity or affinity has a direct and substantial interest in an insurer that competes with the company, including but not limited to:

(1) A stockholder of a competing company (excluding a holder of less than one per cent of the outstanding shares in a publicly traded company);

(2) An employee of a competing company;

(3) An attorney who represents a competing company; or

(4) A party who contracts with a competing company (excluding an independent contractor or business owner who does less than twenty-five per cent of its total



1 annual volume of business per year with competing
2 insurers).

3 (d) Members of the council shall serve without
4 compensation, but shall be reimbursed for reasonable expenses
5 necessary for the performance of their duties.

6 (e) The administrator shall serve as liaison officer to
7 the council. Not later than sixty days after July 20, 2027, and
8 every June 15 thereafter, the board shall provide to the council
9 any and all data and information the council may require,
10 including but not limited to:

11 (1) The company's statutorily required annual financial
12 statement;

13 (2) Copies of any reports issued by the insurance division
14 in connection with the triennial examination of the
15 company; and

16 (3) Actuarial certification of loss reserves.

17 (f) After receipt of the data and information required
18 pursuant to subsection (e), the council shall review the
19 activities of the company and determine whether the company is
20 fulfilling its purpose as set forth in this article. The
21 council shall promptly, but in no event later than October 15,



1 2027, and every October 15 thereafter, submit a report to the
2 governor with a copy to the board of directors, stating whether
3 the company is fulfilling its purpose as set forth in this
4 article. If the council determines that there are any
5 deficiencies in the company's fulfillment of its purposes as set
6 forth in this article, it shall include in its report a detailed
7 description of any deficiencies. Within a time frame
8 established by the council, but in no event later than six
9 months after delivery of the council's report in accordance with
10 this section, the company shall respond in writing to any
11 deficiencies identified in the council's report. The Hawaii
12 condominium mutual insurance company shall provide staff support
13 to the council.

14 (g) If the governor determines that corrective action is
15 appropriate after reviewing the council's report and the
16 company's response, the governor shall inform the legislature,
17 and the legislature shall consider what action is needed.

18 **§431: -108 Audits.** (a) For casualty and property
19 insurance policies issued to an association, the administrator,
20 or designated representative, shall have reasonable access to
21 association records and property during regular working hours to



1 carry out audits and obtain other information necessary for the
2 administration of this article.

3 (b) For each casualty and property insurance policy issued
4 to a unit owner, the administrator, or designated
5 representative, shall have reasonable access to the unit and
6 association records and property during regular working hours to
7 carry out audits and obtain other information necessary for the
8 administration of this article.

9 **§431: -109 Building safety and management programs. (a)**

10 The company shall work with policyholders to develop, implement,
11 and monitor building safety and management programs. The
12 programs shall include the development of a loss reduction plan
13 that promotes safe building conditions.

14 (b) The company shall promote safety programs to
15 policyholders through programs and activities, which may
16 include:

17 (1) Analyzing reports of accidents to help determine the
18 cause of those accidents;

19 (2) Conducting studies for risk and hazard identification
20 and assessments by professionals;



(3) Conducting educational programs designed to prevent frequently recurring accidents; and

(4) Inspecting properties and investigating unsafe conditions to promote safety and eliminate hazards.

(c) Company representatives shall have reasonable access to the premises of any policyholder or applicant during regular working hours to carry out evaluations.

(d) Where the company finds, upon the completion of a detailed inspection, that an insured has policies and practices in place that demonstrate a high regard for safety, the company may apply a deviation to the insured's rate structure, noting special recognition of those efforts.

(e) The company shall not incur additional legal liability toward its members or beneficiaries as a result of any action taken or not taken pursuant to this chapter beyond that explicitly created by this chapter or common law and generally applicable to the acts or omissions of all issuers of property and casualty insurance in this State."

SECTION 3. Chapter 514B, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:



1 "§514B- Condominium loan fund. (a) There is
2 established the condominium loan fund into which shall be
3 deposited all moneys appropriated by the legislature to the
4 fund, contributed or transferred to the fund, and received as
5 repayment of loans and interest payments as provided in this
6 section.

7 (b) The director of commerce and consumer affairs may make
8 loans to associations that have been subject to increased
9 insurance premium costs of per cent or more since
10 January 1, , and for which the increased insurance premium
11 costs have resulted in increased maintenance fees for unit
12 owners of the condominium.

13 (c) The director of commerce and consumer affairs may
14 delegate the authority to make loans under subsection (b) to the
15 Hawaii condominium mutual insurance company.

16 (d) All unexpended and unencumbered moneys remaining in
17 the state disaster revolving loan fund at the close of each
18 fiscal year, which are deemed by the director of finance to be
19 in excess of the moneys necessary to carry out the purposes of
20 this section over the next following fiscal year, shall lapse to
21 the credit of the general fund."



1 SECTION 4. There is appropriated out of the hurricane
2 reserve trust fund established under section 431P-16, Hawaii
3 Revised Statutes, the sum of \$ or so much thereof as
4 may be necessary for fiscal year 2025-2026 and the same sum or
5 so much thereof as may be necessary for fiscal year 2026-2027
6 for the Hawaii condominium mutual insurance company to provide
7 property and casualty insurance coverage to high-rise
8 residential condominiums, and the owners of units within those
9 condominiums, as provided under this Act, including start-up
10 costs.

11 The sums appropriated shall be expended by the Hawaii
12 condominium mutual insurance company for the purposes of this
13 Act.

14 SECTION 5. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$ or so much
16 thereof as may be necessary for fiscal year 2025-2026 and the
17 same sum or so much thereof as may be necessary for fiscal year
18 2026-2027 to be deposited into the condominium loan fund.

19 SECTION 6. There is appropriated out of the condominium
20 loan fund the sum of \$ or so much thereof as may be
21 necessary for fiscal year 2025-2026 and the same sum or so much



1 thereof as may be necessary for fiscal year 2026-2027 for loans
2 to associations of apartment owners under section 514B- ,
3 Hawaii Revised Statutes.

4 The sums appropriated shall be expended by the department
5 of commerce and consumer affairs for the purposes of this Act.

6 SECTION 7. If any provision of this Act, or the
7 application thereof to any person or circumstance is held
8 invalid, the invalidity does not affect other provisions or
9 applications of this Act which can be given effect without the
10 invalid provision or application, and to this end the provisions
11 of this Act are severable.

12 SECTION 8. Statutory material to be repealed is bracketed.
13 New statutory material is underscored.

14 SECTION 9. This Act shall take effect upon its approval;
15 provided that sections 4, 5, and 6 shall take effect on July 1,
16 2025.

17
INTRODUCED BY:

Carol Furumaga



S.B. NO. 805

Report Title:

Condominium Insurance; Mutual Insurance Company; Appropriation

Description:

Establishes the Hawaii Condominium Mutual Insurance Company to provide property and casualty insurance to high-rise residential condominium properties and the owners of those units.

Establishes a loan fund to assist associations of apartment owners experiencing increased insurance costs. Appropriates moneys.

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