
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 residential
11 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 condominium properties and its residential unit owners as
18 required or authorized by law to the same extent as any other
19 private insurer. The company shall not write other lines of
20 insurance, 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 through 431:16-117; provided that the
18 company shall meet the surplus requirements applicable to all
19 other domestic insurers under chapter 431 effective January 1,
20 2027.



1 (e) On or after January 1, 2027, the company shall provide
2 property and casualty insurance coverage to Hawaii condominium
3 associations and their unit owners otherwise entitled to
4 coverage but not able to or not electing to purchase coverage in
5 the voluntary insurance market, and not authorized, either
6 individually or as a part of a group, to self-insure. An
7 authorized self-insured is eligible for coverage upon
8 termination of self-insurance.

9 **§431: -104 Incorporation of article 14A sections.** Unless
10 the context otherwise requires, sections 431:14A-106, 431:14A-
11 108, 431:14A-109, 431:14A-111, 431:14A-112, 431:14A-113, and
12 431:14A-116 are incorporated by reference into this article;
13 provided that the definitions set forth in section 431: -102
14 shall apply when a defined term is used.

15 **§431: -105 Company divisions.** The company may add one or
16 more divisions for the purposes of this article.

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



1 nonvoting member. The voting members shall consist of the
2 following:

- 3 (1) Eight directors who shall be owners, officers, or
4 employees of policyholders of the company; and
5 (2) One director who shall be a public, at-large member
6 elected by the board of directors.

7 The administrator shall be the nonvoting member of the board.

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

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

12 The initial board of directors shall determine the
13 staggering and length of future directors' terms; provided that
14 no term shall exceed three years. Each director shall serve for
15 terms as specified by the board unless sooner removed for cause
16 pursuant to rules adopted by the board. Each director shall
17 hold office until a successor is appointed. No person shall
18 serve more than two consecutive full terms as director. Any
19 other law to the contrary notwithstanding, the election and
20 composition of the board of directors as provided in this



1 section shall be deemed adequate to qualify the company as a
2 mutual insurer under chapter 431.

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

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

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

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



- 1 (1) A stockholder (excluding the holding of less than one
2 per cent of the outstanding shares in a publicly
3 traded insurer);
- 4 (2) An employee;
- 5 (3) An attorney; or
- 6 (4) A contracting party (excluding an independent
7 contractor or business owner who does less than
8 twenty-five per cent of its total annual volume of
9 business per year with competing insurers).

10 **§431: -107 Duties and responsibilities.** (a) All
11 corporate powers shall be exercised by or under the authority of
12 the board, unless otherwise provided in this article or in the
13 articles of incorporation.

14 (b) The board shall discharge its duties:

- 15 (1) In accordance with the company's purpose;
- 16 (2) With the care, skill, prudence, and diligence under
17 the circumstances that a prudent director, acting in a
18 like capacity and familiar with such matters would use
19 in conducting a similar enterprise and purpose;
- 20 (3) By diversifying the company's investments to minimize
21 the risk of losses, unless it is prudent not to do so;



- 1 (4) In accordance with governing legal documents;
- 2 (5) By having an annual audit of the company by an
- 3 independent certified public accountant;
- 4 (6) By securing a fidelity bond for the administrator and
- 5 in its discretion for other agents dealing with the
- 6 company's assets at the company's expense;
- 7 (7) By purchasing liability insurance for errors and
- 8 omissions for the board, each director, and any other
- 9 fiduciary employed or contracted by the company to
- 10 cover liability or losses caused by the act or
- 11 omission of a fiduciary;
- 12 (8) By maintaining proper books of accounts and records of
- 13 the company's administration;
- 14 (9) By carrying out the reporting and disclosure
- 15 requirements required by law;
- 16 (10) By appointing a qualified actuary to develop and
- 17 recommend a responsible schedule of premium rates with
- 18 consideration of the company's investment income or
- 19 refunds, or both, and to provide actuarial
- 20 certification of the company's loss reserves; and



- 1 (11) By cooperating with and assisting the council in its
- 2 duties and responsibilities.
- 3 (c) Except as otherwise provided by law, the board may:
- 4 (1) Transact property and casualty insurance policies
- 5 required or authorized by state law to the same extent
- 6 as any other insurer;
- 7 (2) Provide the terms and conditions of an insurance
- 8 policy;
- 9 (3) Provide that any written instrument be executed for
- 10 the company by the administrator or the
- 11 administrator's agent;
- 12 (4) Enter into agreements to reinsure all or part of the
- 13 company's exposure to loss and to limit the risk to
- 14 the company; and
- 15 (5) Employ persons to administer the company, including
- 16 legal counsel, accountants, insurance consultants,
- 17 administrators, qualified actuaries, investment
- 18 managers, adjustors, other experts, and clerical
- 19 employees and pay compensation and expenses in
- 20 connection therewith.



1 **§431: -108 Oversight council.** (a) There is established
2 the Hawaii condominium mutual insurance company oversight
3 council which shall meet at least once annually. For
4 administrative purposes only, the council shall be placed in the
5 department of commerce and consumer affairs. The council shall
6 oversee the activities of the company to ensure that the company
7 fulfills its purpose as set forth in this article.

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

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

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

14 (3) The director of commerce and consumer affairs; and

15 (4) Two at-large members who are owners, officers, or
16 employees of the company policyholder appointed by the
17 governor;

18 provided that if any designee under paragraphs (1) or (2) does
19 not meet the conditions described in subsection (c), the
20 president of the senate, speaker of the house of
21 representatives, or governor, as applicable, shall designate an



1 appropriate representative. Section 26-34 shall not apply to
2 appointments under this section.

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

- 7 (1) A stockholder of a competing company (excluding a
8 holder of less than one per cent of the outstanding
9 shares in a publicly traded company);
- 10 (2) An employee of a competing company;
- 11 (3) An attorney who represents a competing company; or
- 12 (4) A party who contracts with a competing company
13 (excluding an independent contractor or business owner
14 who does less than twenty-five per cent of its total
15 annual volume of business per year with competing
16 insurers).

17 (d) Members of the council shall serve without
18 compensation, but shall be reimbursed for reasonable expenses
19 necessary for the performance of their duties.

20 (e) The administrator shall serve as liaison officer to
21 the council. Not later than sixty days after July 20, 2027, and



1 every June 15 thereafter, the board shall provide to the council
2 any and all data and information the council may require,
3 including but not limited to:

4 (1) The company's statutorily required annual financial
5 statement;

6 (2) Copies of any reports issued by the insurance division
7 in connection with the triennial examination of the
8 company; and

9 (3) Actuarial certification of loss reserves.

10 (f) After receipt of the data and information required
11 pursuant to subsection (e), the council shall review the
12 activities of the company and determine whether the company is
13 fulfilling its purpose as set forth in this article. The
14 council shall promptly, but in no event later than October 15,
15 2027, and every October 15 thereafter, submit a report to the
16 governor with a copy to the board of directors, stating whether
17 the company is fulfilling its purpose as set forth in this
18 article. If the council determines that there are any
19 deficiencies in the company's fulfillment of its purposes as set
20 forth in this article, the council shall include in its report a
21 detailed description of any deficiencies. Within a time frame



1 established by the council, but in no event later than six
2 months after delivery of the council's report in accordance with
3 this section, the company shall respond in writing to any
4 deficiencies identified in the council's report. The Hawaii
5 condominium mutual insurance company shall provide staff support
6 to the council.

7 (g) If the governor determines that corrective action is
8 appropriate after reviewing the council's report and the
9 company's response, the governor shall inform the legislature,
10 and the legislature shall consider what action is needed.

11 **§431: -109 Premium rates, determination.** (a) The board
12 shall establish the premium rates to be charged for insurance
13 sold by the company. The company shall comply with the
14 requirements set forth in this article. Premium rates shall be
15 set at levels sufficient, when invested, to carry all claims to
16 maturity, to meet the reasonable expenses for administering the
17 company, and to maintain a reasonable surplus.

18 (b) The board shall hire a qualified actuary to assist
19 with the development of sound premium rates.

20 **§431: -110 Audits.** (a) For casualty and property
21 insurance policies issued to an association, the administrator,



1 or designated representative, shall have reasonable access to
2 association records and property during regular working hours to
3 carry out audits and obtain other information necessary for the
4 administration of this article.

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

11 **§431: -111 Denial, cancellation, and termination.** The
12 company may deny coverage or renewal of an existing policy or
13 may terminate an existing policy of a policyholder or applicant
14 for:

- 15 (1) Nonpayment of an undisputed premium;
16 (2) Refusal to permit inspections;
17 (3) Failure to comply with programs required by the
18 company; or
19 (4) Failure to accurately disclose information necessary
20 for the board to carry out its purpose.



1 **§431: -112 Building safety and management programs.** (a)
2 The company shall work with policyholders to develop, implement,
3 and monitor building safety and management programs. The
4 programs shall include the development of a loss reduction plan
5 that promotes safe building conditions.

6 (b) The company shall promote safety programs to
7 policyholders through programs and activities, which may
8 include:

9 (1) Analyzing reports of accidents to help determine the
10 cause of those accidents;

11 (2) Conducting studies for risk and hazard identification
12 and assessments by professionals;

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

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

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

20 (d) Where the company finds, upon the completion of a
21 detailed inspection, that an insured has policies and practices



1 in place that demonstrate a high regard for safety, the company
2 may apply a deviation to the insured's rate structure, noting
3 special recognition of those efforts.

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

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

13 "§514B- Condominium loan fund. (a) There is
14 established in the state treasury the condominium loan fund into
15 which shall be deposited all moneys appropriated by the
16 legislature to the fund, contributed or transferred to the fund,
17 and received as repayment of loans and interest payments as
18 provided in this section.

19 (b) The director of commerce and consumer affairs may make
20 loans to associations that have been subject to increased
21 insurance premium costs of _____ per cent or more since



1 January 1, _____, and for which the increased insurance premium
2 costs have resulted in increased maintenance fees for unit
3 owners of the condominium.

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

7 (d) All unexpended and unencumbered moneys remaining in
8 the condominium loan fund at the close of each fiscal year,
9 which are deemed by the director of finance to be in excess of
10 the moneys necessary to carry out the purposes of this section
11 over the next following fiscal year, shall lapse to the credit
12 of the general fund."

13 SECTION 4. There is appropriated out of the general
14 revenues of the State of Hawaii the sum of \$ _____ or so
15 much thereof as may be necessary for fiscal year 2025-2026 to
16 provide a loan to the Hawaii condominium mutual insurance
17 company for purposes consistent with this Act.

18 The sum appropriated shall be expended by the Hawaii
19 condominium mutual insurance company for the purposes of this
20 Act until such time as the Hawaii condominium mutual insurance
21 company board of directors convenes its first meeting after the



1 effective date of this Act. Thereafter, any remaining moneys
2 appropriated pursuant to this section shall be expended by the
3 Hawaii condominium mutual insurance company board of directors
4 for the purposes of this Act.

5 SECTION 5. There is appropriated out of the condominium
6 loan fund the sum of \$ or so much thereof as may be
7 necessary for fiscal year 2025-2026 and the same sum or so much
8 thereof as may be necessary for fiscal year 2026-2027 for loans
9 to associations of apartment owners under section 514B- ,
10 Hawaii Revised Statutes.

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

13 SECTION 6. If any provision of this Act, or the
14 application thereof to any person or circumstance is held
15 invalid, the invalidity does not affect other provisions or
16 applications of this Act which can be given effect without the
17 invalid provision or application, and to this end the provisions
18 of this Act are severable.

19 SECTION 7. Statutory material to be repealed is bracketed.
20 New statutory material is underscored.



1 SECTION 8. This Act shall take effect on July 1, 2050;
2 provided that sections 4 and 5 shall take effect on July 1,
3 2025.



S.B. NO. 805
S.D. 1

Report Title:

Condominium Insurance; Property and Casualty Insurance; Hawaii
Condominium Mutual Insurance Company; Condominium Loan Fund;
Associations of Apartment Owners; Reports; Appropriations

Description:

Establishes the Hawaii Condominium Mutual Insurance Company to
provide property and casualty insurance to high-rise residential
condominium associations and the owners of those units.
Requires reports to the Governor. Establishes the Condominium
Loan Fund to assist associations of apartment owners
experiencing increased insurance costs. Appropriates funds.
Effective 7/1/2050. (SD1)

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not legislation or evidence of legislative intent.*

