
A BILL FOR AN ACT

RELATING TO THE STABILIZATION OF PROPERTY INSURANCE.

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

1 PART I

2 SECTION 1. The legislature finds that before the August
3 2023 Maui wildfire, the availability of both condominium
4 building master insurance policy and unit owner insurance policy
5 options within the condominium insurance marketplace was already
6 shrinking.

7 For condominium building master insurance policies,
8 insurers have increased deductible amounts from what used to be
9 between \$10,000 to \$25,000 per unit, per occurrence, to as much
10 as \$250,000. These increased deductibles were due to consistent
11 and high-cost losses, primarily water damage losses within
12 condominium buildings caused by failing water pipe systems.
13 These large deductible costs were then transferred to unit
14 owners who needed to provide proof to the condominium
15 association that they were insured up to the higher deductible
16 amount. These water damage losses also contributed to unit
17 owner property insurance becoming scarce, with one or two



1 insurers willing to underwrite this coverage with higher
2 deductibles of \$75,000 and up.

3 The legislature finds that the purpose of this Act is to,
4 in part, provide older condominium buildings that are in need of
5 repair or replacement of components a path to have the work
6 completed within a certain timeframe. While this Act addresses
7 availability of insurance coverage and not affordability, fixing
8 failing components will make the building more insurable in the
9 long-term. The Hawaii Property Insurance Association in its
10 Plan of Operations is encouraged to assure that those applying
11 for coverage have plans in place for the repair and subsequent
12 maintenance of the insured buildings. This is the only way that
13 buildings will become insurable within five years. Some of
14 those items include but are not limited to a plan to replace
15 building pipes, approval of the plan by the owners, loan
16 approval or a timeline for loan approval, a project manager, and
17 potential contractors. Similar items could be required for
18 other aging components that would affect the building's
19 insurability. Accordingly, this Act is a stop-gap measure to
20 provide insurance availability for buildings that have become
21 uninsurable due to a lack of needed repair and maintenance.



1 Condominium buildings that apply for coverage through the Hawaii
2 Property Insurance Association will need to pay premiums that
3 will cover its exposure to losses, not to offer a subsidy for
4 these poor insurance risks. This Act is not designed to be a
5 long-term solution and therefore, the legislature has imposed a
6 one-time five-year coverage period. It is expected that
7 condominium buildings will complete, or have almost completed,
8 their major component repairs and replacements that are causing
9 ongoing insurance losses within this period and their ability to
10 procure future building insurance is more likely.

11 The legislature also finds that while the State has avoided
12 a direct impact from a major hurricane since Hurricane Iniki
13 devastated Kauai and damaged homes along Oahu's leeward coast
14 more than thirty years ago, mortgage lenders continue to require
15 Hawaii homeowners to carry hurricane insurance that can cost two
16 to three times the annual premiums of a conventional homeowner
17 policy.

18 The legislature further finds that Hawaii Business Magazine
19 recently reported that generally, a condominium building or
20 complex carries a master hurricane policy that covers one
21 hundred per cent of the cost to replace the property--millions



1 of dollars in many cases. Unfortunately, because insurance
2 premiums for those policies have recently risen so high, the
3 president of Insurance Associates estimates that three hundred
4 seventy-five to three hundred ninety buildings, including new
5 high-rise towers in Kakaako, Oahu, have opted to renew their
6 hurricane insurance policies with less than one hundred per cent
7 hurricane coverage. This practice of reducing coverage is
8 creating complications and adverse consequences for every person
9 and entity associated with condominiums in Hawaii, from lenders
10 and insurance agents to buyers and sellers of condominiums.

11 The legislature understands that there are four standard
12 insurance companies that write property and hurricane insurance
13 policies for condominiums, of which two are willing to insure up
14 to the full value of the property, albeit with rising
15 deductibles. A third insurer only offers hurricane insurance
16 capped at a maximum insured value of \$10,000,000 to \$25,000,000
17 in coverage, regardless of whether the overall value of the
18 building exceeds this valuation range. The fourth insurer
19 continues to write renewals, but has not issued a new policy in
20 the State since Hurricane Iniki in 1992.



1 Furthermore, some condominium associations for older
2 buildings are forced to obtain hurricane insurance through the
3 secondary insurance market if they are dropped by the standard
4 insurers for having too many claims, or if their buildings have
5 delayed renovations or deferred maintenance on high-cost items
6 such as aging water pipes. The president of Insurance
7 Associates reported that more than seven hundred condominium
8 buildings on Oahu alone were built before 1990. These secondary
9 market insurers are not bound by the State's laws or
10 administrative rules governing rates, so their prices may be
11 more expensive than those of standard insurance carriers.

12 To illustrate the difference in insurance premium costs,
13 the president of Insurance Associates cites the example of one
14 high-rise condominium in Waikiki in which the condominium
15 association had been paying an annual insurance premium of
16 \$235,000 for property and hurricane insurance and had already
17 been dropped by two of the standard insurance companies when the
18 third company declined to renew their insurance policy. The
19 stated reason for the nonrenewal and rejection was that the
20 building's aging plumbing had not been replaced. As a result,



1 the condominium association was forced to purchase insurance on
2 the secondary market, which cost approximately \$1,200,000.

3 The legislature finds that the consequences of
4 under-insured condominium buildings also impact individual
5 owners. For example, if a condominium building is not insured
6 to its full value, the mortgages on individual units within that
7 building would not meet the underwriting criteria to qualify for
8 purchase through the federal government's secondary mortgage
9 market, meaning that these mortgages cannot be sold by financial
10 institutions to mortgage investor entities such as Fannie Mae
11 and Freddie Mac. In addition, Hawaii Business Magazine has also
12 reported that the 2021 collapse of the Surfside condominium
13 building in Miami is also having a ripple effect on condominium
14 lending. In 2023, Fannie Mae and Freddie Mac made permanent the
15 rules for condominium lending that were created in the wake of
16 that disaster and ceased buying loans for buildings or projects
17 that have put off major repairs--such as replacing old water
18 pipes. These new lending rules also prohibit the sale of a loan
19 on a condominium building to Fannie Mae and Freddie Mac if that
20 building has unfunded repairs totaling more than \$10,000 per
21 unit.



1 This inability to sell condominium mortgages would require
2 financial institutions that originated mortgages to retain those
3 mortgages, thereby lessening their overall financial capacity to
4 originate more mortgages. Further, the risk of loss in the
5 event of a hurricane may impair a financial institution's
6 financial safety and soundness, which would in turn hamper
7 consumers' abilities to obtain financing to purchase dwellings
8 of their own. In addition, the failure of individual
9 condominium units to maintain the property insurance required by
10 their condominium association could result in fines,
11 lender-placed insurance, and foreclosure of those units.

12 The legislature notes that the August 2023 Maui wildfires
13 also impacted the way reinsurers and standard insurers view
14 Hawaii's wildfire risk. The president of Insurance Associates
15 estimates that while Hawaii has always been rated for hurricanes
16 for property insurance purposes, it has never been rated for
17 wildfires. Now that the State has experienced wildfires, not
18 only in Lahaina, but also in Kula, West Oahu, and Mililani,
19 parts of all islands will be rated for wildfires. Moreover, it
20 is surmised that some insurers will not maintain their current
21 policy-count in the State because of their increased costs for



1 reinsurance, geographical concentration of risk, and inadequate
2 rates both pre- and post-wildfire. Insurers have the financial
3 responsibility to pay losses, and if reinsurance and premiums
4 are not sufficient to cover these losses, an insurer needs to
5 reduce their exposure by restricting new policies, reducing
6 their policy-count, or both. The legislature recognizes that
7 the price impact on reinsurance from recent wildfires is not
8 fully known and price increases may continue into the
9 foreseeable future.

10 The legislature also understands that rates for hurricane
11 insurance and regular homeowner policies in Hawaii have
12 increased due to disasters around the United States and the
13 world. Further, the market for reinsurance, the insurance that
14 property and casualty insurance companies pay to share their
15 risk, is global. Therefore, storms and other catastrophic
16 losses occurring anywhere in the world may potentially impact
17 the amounts that homeowners and condominium associations in
18 Hawaii pay for their insurance coverage.

19 This Act expands the authority of the markets of last
20 resort, the Hawaii property insurance association and Hawaii
21 hurricane relief fund, to assist the stabilization of the



1 property insurance market until risks can be depopulated back to
2 the standard insurance market when market conditions improve and
3 risks become more insurable because of building component
4 replacement or maintenance, or mitigation equipment or protocols
5 have been implemented for fire, wildfire, or hurricane events.

6 The legislature believes that it is critical to adequately
7 capitalize the respective funds because insuring these risks
8 could bring an enormous amount of risk exposure to the funds.
9 Therefore, funding mechanisms must be broad on an initial and
10 ongoing basis and spread among as many parties involved in real
11 property transactions within the State as possible to ensure
12 that the financial impacts are apportioned as equitably as
13 practicable, and that reserve funds are adequately capitalized
14 if losses exceed the funds' capacities. This Act provides these
15 funding mechanisms through the:

- 16 (1) Imposition of a higher transient accommodation tax
17 rate for transient vacation rentals, since many
18 transient vacation rental units are situated within
19 condominiums, and using those revenues to capitalize
20 the Hawaii Property Insurance Association's
21 operations;



1 (2) Increase from 4.265 per cent to 4.275 per cent of the
2 tax on the gross premiums charged against each
3 authorized insurer;

4 (3) Establishment of a property insurance surcharge on
5 conveyance tax and using those revenues to capitalize
6 the Hawaii Property Insurance Association's
7 operations;

8 (4) Reactivation of the assessment of insurers to
9 capitalize the Hawaii hurricane relief fund; and

10 (5) Reactivation of the Hawaii hurricane relief fund's
11 special mortgage recording fee that was last imposed
12 in 2001 to capitalize the Hawaii hurricane relief
13 fund.

14 The legislature finds that this Act is necessary to:

15 (1) Stabilize the property insurance market so that
16 insurers continue to insure properties in the State;

17 (2) Encourage the repair and maintenance of condominium
18 buildings;

19 (3) Allow lenders to meet the requirements of the
20 secondary mortgage market; and

21 (4) Serve an important public purpose.



1 "Hosting platform" means a person that participates in the
2 transient vacation rental business by providing, and collecting
3 or receiving a fee for, booking services through which an
4 operator may offer a transient vacation rental. "Hosting
5 platform" includes persons who provide booking services through
6 an online platform that allows an operator to advertise a
7 transient vacation rental through a website provided by the
8 hosting platform, and through which the hosting platform
9 conducts a transaction by which potential renters arrange use
10 and payment of rent to the operator or the hosting platform.

11 "Transient vacation rental" means "short term rental",
12 "transient vacation rental", "transient vacation unit", or
13 "transient vacation use", as defined by applicable county
14 ordinance."

15 2. By amending the definition of "operator" to read:

16 "Operator" means any person operating a transient
17 accommodation[-] or transient vacation rental, whether as owner
18 or proprietor or as lessee, sublessee, mortgagee in possession,
19 licensee, or otherwise, or engaging or continuing in any service
20 business which involves the actual furnishing of transient
21 accommodation[-] or transient vacation rental."



1 SECTION 3. Section 237D-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§237D-2 Imposition and rates.** (a) There is levied and
4 shall be assessed and collected each month a tax of:

- 5 (1) Five per cent for the period beginning on January 1,
6 1987, to June 30, 1994;
- 7 (2) Six per cent for the period beginning on July 1, 1994,
8 to December 31, 1998;
- 9 (3) 7.25 per cent for the period beginning on January 1,
10 1999, to June 30, 2009;
- 11 (4) 8.25 per cent for the period beginning on July 1,
12 2009, to June 30, 2010; and
- 13 (5) 9.25 per cent for the period beginning on July 1,
14 2010, and thereafter;

15 on the gross rental or gross rental proceeds derived from
16 furnishing transient accommodations.

17 (b) Every transient accommodations broker, travel agency,
18 and tour packager who arranges transient accommodations at
19 noncommissioned negotiated contract rates and every operator or
20 other taxpayer who receives gross rental proceeds shall pay to



1 the State the tax imposed by subsection (a), as provided in this
2 chapter.

3 (c) There is levied and shall be assessed and collected
4 each month, on the occupant of a resort time share vacation
5 unit, a transient accommodations tax of:

6 (1) 7.25 per cent on the fair market rental value until
7 December 31, 2015;

8 (2) 8.25 per cent on the fair market rental value for the
9 period beginning on January 1, 2016, to December 31,
10 2016; and

11 (3) 9.25 per cent on the fair market rental value for the
12 period beginning on January 1, 2017, and thereafter.

13 (d) Every plan manager shall be liable for and pay to the
14 State the transient accommodations tax imposed by subsection (c)
15 as provided in this chapter. Every resort time share vacation
16 plan shall be represented by a plan manager who shall be subject
17 to this chapter.

18 (e) Notwithstanding the tax rates established in
19 subsections (a)(5) and (c)(3), the tax rates levied, assessed,
20 and collected pursuant to subsections (a) and (c) shall be 10.25



1 per cent for the period beginning on January 1, 2018, to
2 December 31, 2030; provided that:

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

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



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

5 (f) Notwithstanding the tax rates established in
6 subsections (a)(5), (c)(3), and (e), the tax rate levied,
7 assessed, and collected with regard to a transient vacation
8 rental pursuant to subsections (a), (c), and (e) shall
9 be per cent for the period beginning on January 1, 2026."

10 SECTION 4. Section 237D-6.5, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 "(b) Except for the revenues collected pursuant to section
13 237D-2(e), revenues collected under this chapter shall be
14 distributed in the following priority, with the excess revenues
15 to be deposited into the general fund:

16 (1) \$1,500,000 shall be allocated to the Turtle Bay
17 conservation easement special fund beginning July 1,
18 2015, for the reimbursement to the state general fund
19 of debt service on reimbursable general obligation
20 bonds, including ongoing expenses related to the
21 issuance of the bonds, the proceeds of which were used



1 to acquire the conservation easement and other real
2 property interests in Turtle Bay, Oahu, for the
3 protection, preservation, and enhancement of natural
4 resources important to the State, until the bonds are
5 fully amortized;

6 (2) \$11,000,000 shall be allocated to the convention
7 center enterprise special fund established under
8 section 201B-8;

9 (3) An allocation shall be deposited into the tourism
10 emergency special fund, established in section
11 201B-10, in a manner sufficient to maintain a fund
12 balance of \$5,000,000 in the tourism emergency special
13 fund; [~~and~~]

14 (4) \$3,000,000 shall be allocated to the special land and
15 development fund established under section 171-19;
16 provided that the allocation shall be expended in
17 accordance with the Hawaii tourism authority strategic
18 plan for:

19 (A) The protection, preservation, maintenance, and
20 enhancement of natural resources, including
21 beaches, important to the visitor industry;



1 (B) Planning, construction, and repair of facilities;
2 and

3 (C) Operation and maintenance costs of public lands,
4 including beaches, connected with enhancing the
5 visitor experience[-];

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

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

16 All transient accommodations taxes shall be paid into the
17 state treasury each month within ten days after collection and
18 shall be kept by the state director of finance in special
19 accounts for distribution as provided in this subsection.



1 (1) By showing that it has been properly allocated or
2 apportioned and reported as a taxable premium of
3 another state or other appropriate taxing authority;
4 or

5 (2) By facts as to the residence, situation, or location
6 of the risks or property, conclusively showing the
7 nontaxability of the premium."

8 PART IV

9 SECTION 6. Chapter 247, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§247- Property insurance surcharge on conveyance tax;
13 disposition of revenues. (a) In addition to any tax imposed
14 under this chapter, there shall be levied, assessed, and
15 collected a property insurance surcharge on conveyance tax on
16 all transfers or conveyances of realty or any interest therein
17 that is subject to section 247-1. The rate of the surcharge on
18 conveyance tax shall be based on the basis and tax rates
19 established in section 247-2 and levied, assessed, and collected
20 as follows:

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



- 1 (A) per cent for properties having a value of
- 2 less than \$600,000;
- 3 (B) per cent for properties having a value of at
- 4 least \$600,000, but less than \$1,000,000;
- 5 (C) per cent for properties having a value of at
- 6 least \$1,000,000, but less than \$2,000,000;
- 7 (D) per cent for properties having a value of at
- 8 least \$2,000,000, but less than \$4,000,000;
- 9 (E) per cent for properties having a value of at
- 10 least \$4,000,000, but less than \$6,000,000;
- 11 (F) per cent for properties having a value of at
- 12 least \$6,000,000, but less than \$10,000,000; and
- 13 (G) per cent for properties having a value of
- 14 \$10,000,000 or greater; and
- 15 (2) For the sale of a condominium unit or single family
- 16 residence for which the purchaser is ineligible for a
- 17 county homeowner's exemption on property tax:
- 18 (A) per cent for properties having a value of
- 19 less than \$600,000;
- 20 (B) per cent for properties having a value of at
- 21 least \$600,000, but less than \$1,000,000;



1 (C) 40 cents per \$100 for properties having a value
2 of at least \$1,000,000, but less than \$2,000,000;
3 (D) 60 cents per \$100 for properties having a value
4 of at least \$2,000,000, but less than \$4,000,000;
5 (E) _____ per cent for properties having a value of at
6 least \$4,000,000, but less than \$6,000,000;
7 (F) _____ per cent for properties having a value of at
8 least \$6,000,000, but less than \$10,000,000; and
9 (G) _____ per cent for properties having a value of
10 \$10,000,000 or greater,
11 of actual and full consideration; provided that in the case of a
12 lease or sublease, this chapter shall apply only to a lease or
13 sublease the full unexpired term of which is for a period of
14 five years or more, and in those cases, including (where
15 appropriate) those cases in which the lease has been extended or
16 amended, the surcharge shall be based on the cash value of the
17 lease rentals discounted to present day value and capitalized at
18 the rate of _____ per cent, plus the actual and full
19 consideration paid or to be paid for any and all improvements,
20 that shall include on-site as well as off-site improvements,



1 applicable to the leased premises; provided further that the
2 surcharge imposed for each transaction shall be no less than \$1.

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

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

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

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



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

4 SECTION 7. Section 247-4, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§247-4 Payment and liability of the tax.** (a) The tax
7 imposed by this chapter shall be paid by the grantor, lessor,
8 sublessor, assignor, transferor, seller, conveyor, or any other
9 person conveying realty, or any interest therein, by a document
10 or instrument subject to section 247-1; except, however, in the
11 case where the United States or any agency or instrumentality
12 thereof or the State or any agency, instrumentality, or
13 governmental or political subdivision thereof is the grantor,
14 lessor, sublessor, assignor, transferor, seller, or conveyor,
15 the tax shall be paid by the grantee, lessee, sublessee,
16 assignee, transferee, purchaser, or conveyee, as the case may
17 be.

18 (b) The tax imposed by this chapter shall be paid at
19 [~~such~~] a place or places as the director of taxation may direct
20 and shall be due and payable no later than ninety days after the
21 taxable transaction, and [~~in any event prior to~~] before the



1 imprinting of the seal or seals as provided by section 247-5.
2 Penalties and interest shall be added to and become a part of
3 the tax, when and as provided by section 231-39.

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

8 PART V

9 SECTION 8. Section 431:21-102, Hawaii Revised Statutes, is
10 amended by adding two new definitions to be appropriately
11 inserted and to read as follows:

12 "Condominium" means real property that:

13 (1) Has an association registered with the real estate
14 commission in accordance with chapter 514B, part VI;

15 (2) Has four or more stories that are or can be occupied
16 by a person; and

17 (3) Is in insurable condition, or may be repaired,
18 renovated, or remediated into insurable condition
19 within a reasonable period under a repair, renovation,
20 or remediation plan and timetable established and



1 provided in the plan of operation or any manual of
2 rules and rates adopted under the plan of operation.

3 "Property insurance" means policies, riders, or
4 endorsements of insurance that provide indemnity, in whole or in
5 part, for the loss, destruction, or damage of property and
6 against legal liability for the death, injury, or disability of
7 any individual, or from damage to property."

8 SECTION 9. Section 431:21-105, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§431:21-105 Powers and duties of the association. (a)**

11 In addition to any other requirements imposed by law, the
12 association shall:

13 (1) Formulate and administer a plan of operation to insure
14 persons having an insurable interest in real or
15 tangible personal property in [~~the~~] an area designated
16 by the commissioner;

17 (2) Establish in the plan of operation a maximum period of
18 time during which a condominium association may be
19 eligible to be insured by the association, which shall
20 not exceed sixty months;



1 [+2+] (3) Reimburse each servicing facility for obligations
2 of the association paid by the facility and for
3 expenses incurred by the facility while processing
4 applications and servicing policies on behalf of the
5 association; and

6 [+3+] (4) Collect and maintain statistical information and
7 other information required by the commissioner.

8 (b) In addition to any other powers allowed by law, the
9 association may:

10 (1) Add additional insurance coverages with the approval
11 of the commissioner, including coverage for commercial
12 risks up to the limits of coverage [~~for residential~~
13 ~~risks~~] as set forth in the plan of operation;

14 (2) Employ or retain persons as are necessary to perform
15 the duties of the association;

16 (3) Contract with a member insurer to perform the duties
17 of the association;

18 (4) Sue or be sued;

19 (5) Borrow funds necessary to effectuate the purposes of
20 this article in accord with the plan of operation;



- 1 (6) If approved by the commissioner, assess member
2 insurers amounts necessary to cover extraordinary
3 losses incurred by the association. Each member
4 insurer shall be notified of the assessment not later
5 than thirty days before it is due. No member insurer
6 may be assessed in any year an amount greater than two
7 per cent of that member insurer's net direct written
8 premiums for the preceding calendar year. The
9 association may exempt or defer, in whole or in part,
10 the assessment of any member insurer if the assessment
11 would cause the member insurer's financial statement
12 to reflect amounts of capital or surplus less than the
13 minimum amounts required for a certificate of
14 authority by any jurisdiction in which the member
15 insurer is authorized to transact business;
- 16 (7) Devise a method to give credit to member insurers [~~for~~
17 ~~homeowners and fire insurance policies individually~~
18 ~~underwritten on risks located in the area designated~~
19 ~~for coverage by the association;~~] as set forth in the
20 plan of operation;



1 (8) Negotiate and become a party to contracts as are
2 necessary to carry out the purposes of this article;
3 [and]

4 (9) Establish outside the state treasury a reserve trust
5 fund and any accounts thereunder and any other trust
6 fund or account necessary to carry out the purposes of
7 this article. Moneys deposited in the reserve trust
8 fund and any accounts thereunder or any other trust
9 fund or account established by the association shall
10 be held by the association, as trustee, in a
11 depository as defined in section 38-1 or according to
12 a similar arrangement at the discretion of the board,
13 including but not limited to trust or custodial
14 accounts created for the benefit of the fund's secured
15 parties under contractual claims financing
16 arrangements. These moneys may be invested and
17 reinvested in accordance with the plan of operation.
18 Disbursements from the trust funds shall not be
19 subject to chapter 103D and shall be made in
20 accordance with procedures adopted by the board;



1 (10) Receive moneys for deposit into a trust fund or
 2 account from the revenues derived from the transient
 3 accommodations tax pursuant to section 237D-6.5, the
 4 property insurance surcharge on conveyance tax
 5 established pursuant to section 247- , and special
 6 mortgage recording fee authorized after June 30, 2024,
 7 pursuant to section 431P-16, and any other source of
 8 revenue available to the board; and

9 [~~9~~] (11) Perform all other acts as are necessary or
 10 proper to effectuate the purpose of this article."

11 SECTION 10. Section 431:21-106, Hawaii Revised Statutes,
 12 is amended by amending subsection (c) to read as follows:

13 "(c) The plan of operation shall:

- 14 (1) Establish procedures for performance of all the powers
 15 and duties of the association under
 16 section 431:21-105;
- 17 (2) Establish maximum limits of liability to be placed
 18 through the association;
- 19 (3) Establish reasonable underwriting standards for
 20 determining insurability of a risk [~~which~~] that are
 21 comparable to the standards used to determine



- 1 insurability of a risk located outside the area
2 designated by the commissioner as eligible for
3 association coverage;
- 4 (4) Establish a schedule of deductibles, if appropriate;
- 5 (5) Establish a maximum period of time during which a
6 condominium may be eligible to be insured by the
7 association, which shall not exceed sixty months;
- 8 [~~+5~~] (6) Establish the commission to be paid to licensed
9 producers;
- 10 [~~+6~~] (7) Establish the rates to be charged for the
11 insurance coverages, so that the total premium income
12 from all association policies, when combined with the
13 investment income, shall annually fund the
14 administration of the association. The administration
15 of the association shall include the expenses incurred
16 in processing applications, conducting inspections,
17 issuing and servicing policies, paying commissions,
18 and paying claims, but shall not include assessments
19 approved by the commissioner;
- 20 [~~+7~~] (8) Establish the manner and scope of the inspection
21 and the form of the inspection report. The inspection



- 1 guidelines may include setting minimum conditions the
- 2 property must meet before an inspection is required;
- 3 ~~[(+8)]~~ (9) Establish procedures whereby selections for the
- 4 board of directors will be submitted to the
- 5 commissioner for the commissioner's information;
- 6 ~~[(+9)]~~ (10) Establish procedures for records to be kept of
- 7 all financial transactions of the association, its
- 8 producers, and its board of directors;
- 9 ~~[(+10)]~~ (11) Establish procedures by which applications will
- 10 be received and serviced by the association;
- 11 ~~[(+11)]~~ (12) Establish guidelines for the investigation and
- 12 payment of claims; and
- 13 ~~[(+12)]~~ (13) Establish procedures whereby the association may
- 14 assume and cede reinsurance on risks written through
- 15 the association."

16 SECTION 11. Section 431:21-107, Hawaii Revised Statutes,
17 is amended to read as follows:

18 "~~[(+)]~~§431:21-107~~[-] — Designation~~ Coverage eligibility;
19 designation of [area.] areas within certain lava zones;
20 condominiums within the State. (a) After consultation with
21 representatives of the United States Geological Survey, the



1 state department of defense, and the county in which the area is
2 located, the commissioner shall designate the geographical area
3 eligible for coverage in lava zones 1 and 2 through the
4 association. Those properties in the designated area that meet
5 the standards set forth in the plan of operation shall be
6 provided insurance through the association.

7 For the purposes of this subsection, "lava zones 1 and 2"
8 means the two zones designated on the United States Geological
9 Survey's lava flow hazard zone map that are the most hazardous
10 and includes volcanic vents in the summits and rift zones of the
11 two most active volcanoes within the State.

12 (b) A condominium association registered under chapter
13 514B, part VI, having an insurable interest in real or tangible
14 property that is a condominium that is subject to this chapter,
15 located within the State, and that meets the criteria and
16 requirements set forth in the plan of operation, may be provided
17 property insurance through the association."

18 SECTION 12. Section 431:21-112, Hawaii Revised Statutes,
19 is amended by amending its title and subsection (a) to read as
20 follows:



1 "~~[+]§431:21-112[+]~~ **Reports.** (a) The association shall
2 submit to the commissioner and the legislature each year not
3 later than one hundred twenty days after the association's
4 fiscal year, a ~~[financial report in a form approved by the~~
5 ~~commissioner.]~~ report that shall include financial information,
6 including:

- 7 (1) An update on the property insurance market;
8 (2) The status of repair and maintenance of condominium
9 buildings; and
10 (3) The ability of lenders to meet the requirements of the
11 secondary lending market."

12 SECTION 13. Section 431:21-115, Hawaii Revised Statutes,
13 is amended as follows:

14 "~~[+]§431:21-115[+]~~ ~~Credits for]~~ Recoupment of assessments
15 **paid.** ~~[A member insurer may offset against its premium tax~~
16 ~~liability to this State an assessment made with the~~
17 ~~commissioner's approval to the extent of twenty per cent of the~~
18 ~~amount of the assessment for each of the five calendar years~~
19 ~~following the year in which the assessment was paid. In the~~
20 ~~event a member insurer should cease doing business in this~~
21 ~~State, all uncredited assessments may be credited against its~~



1 ~~premium tax liability for the year it ceases doing business.]~~

2 (a) Each member insurer shall annually recoup assessments paid
3 by the member insurer under section 431:21-105(b)(6). The
4 recoupment shall be recovered by means of a surcharge on
5 premiums charged by the member insurer for policies of all
6 kinds. Any excess recovery by a member insurer shall be used to
7 pay the amount of any subsequent assessment. A member insurer
8 may continue to surcharge premiums until the full assessments
9 are recouped.

10 (b) The surcharge required under subsection (a) shall be
11 two per cent of the total premiums charged for each policy by
12 the member insurer.

13 (c) Each member insurer shall provide to the association
14 an accounting of its recoupments. The association shall compile
15 the member insurers' accountings and submit them as part of the
16 association's annual report to the commissioner.

17 (d) The amount of and reason for any surcharge shall be
18 separately stated on any billing sent to an insured. The
19 surcharge shall not be considered premiums for any other
20 purpose, including the computation of gross premium tax or the
21 determination of producer commissions."



1 SECTION 14. Section 431:21-109, Hawaii Revised Statutes,
2 is repealed.

3 [~~"§431:21-109 Insurance coverages available under plan.~~

4 ~~(a) All properties qualifying for coverage under the plan of~~
5 ~~operation shall be eligible for the standard fire policy and~~
6 ~~extended coverage endorsement. The association shall provide~~
7 ~~additional coverages when directed by the commissioner or when~~
8 ~~approved by the commissioner.~~

9 ~~(b) At the written request of any person who is, or is~~
10 ~~attempting to become, a mortgagor on real property that~~
11 ~~qualifies for coverage under the plan of operation, the~~
12 ~~association shall provide coverage for an amount not less than~~
13 ~~the amount of the mortgage obligation, but no greater than the~~
14 ~~value of the property being insured; provided that it does not~~
15 ~~exceed the limits of the plan. The policy shall name the~~
16 ~~intended mortgagee as the beneficiary for the amount equal to~~
17 ~~the outstanding balance on the mortgage.~~

18 ~~(c) In the application of subsection (b), the amount~~
19 ~~covered under the policy shall comply with article 10E."]~~

20 PART VI



1 SECTION 15. Chapter 431P, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§431P- Recoupment of assessments paid. (a) Each
5 licensed property and casualty insurer shall annually recoup
6 assessments paid by the licensed property and casualty insurer
7 under sections 431P-5(b) (8) (A) and (B), and 431P-16(e). The
8 recoupment shall be recovered by means of a surcharge on
9 premiums charged by the licensed property and casualty insurer
10 for policies on which the assessment was made. Any excess
11 recovery by a licensed property and casualty insurer shall be
12 used to pay the amount of the subsequent assessment. A licensed
13 property and casualty insurer may continue to collect a
14 surcharge on premiums until the full assessments are recouped.

15 (b) The surcharge required under subsection (a) shall be
16 the same percentage of the total premiums charged for each
17 policy assessed under sections 431:P-5(b) (8) (A) and (B), and
18 431P-16(e).

19 (c) Each licensed property and casualty insurer shall
20 provide to the fund an accounting of its recoupments. The fund
21 shall compile the licensed property and casualty insurers'



1 accountings and submit them as part of the fund's annual report
2 to the commissioner.

3 (d) The amount of and reason for any surcharge shall be
4 separately stated on any billing sent to an insured. The
5 surcharge shall not be considered a premium for any other
6 purpose, including the computation of gross premium tax or the
7 determination of producer commissions."

8 SECTION 16. Section 431P-1, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By adding a new definition to be appropriately inserted
11 and to read:

12 "Condominium" means real property that:

- 13 (1) Has an association registered with the real estate
14 commission in accordance with chapter 514B, part VI;
15 (2) Has four or more stories that are or can be occupied
16 by a person; and
17 (3) Is in insurable condition, or may be repaired,
18 renovated, or remediated into insurable condition
19 within a reasonable period under a repair, renovation,
20 or remediation plan and timetable established and



1 provided in the plan of operation or any manual of
2 rules and rates adopted under the plan of operation."

3 2. By amending the definition of "eligible property" to
4 read:

5 ""Eligible property" means:

6 (1) Real property [~~of one to four units~~] used for
7 residential purposes and [~~which~~] that is in insurable
8 condition, and [~~which~~] that may include tangible
9 personal property located therein or thereon and other
10 structures at the insured location, as provided in the
11 plan of operation or any manual of rules and rates
12 adopted under the plan of operation;

13 (2) Real property used for business, commercial, or
14 industrial purposes [~~which~~] that is in insurable
15 condition, and [~~which~~] that may include tangible
16 personal property located therein or thereon, as
17 provided in the plan of operation or any manual of
18 rules and rates adopted under the plan of operation;

19 (3) Tangible personal property owned by an occupant of and
20 located in or on real property of the types described
21 in paragraph (1), as provided in the plan of operation



1 or any manual of rules and rates adopted under the
2 plan of operation; provided that the owner of the
3 tangible personal property does not own the real
4 property in or [~~on~~] upon which the tangible personal
5 property is located; and

6 (4) Tangible personal property owned by an occupant of and
7 located in or on real property of the types described
8 in paragraph (2) as provided in the plan of operation
9 or any manual of rules and rates adopted under the
10 plan of operation; provided that the owner of the
11 tangible personal property does not own the real
12 property in or [~~on~~] upon which the tangible personal
13 property is located."

14 3. By amending the definition of "licensed property and
15 casualty insurer" to read:

16 ""Licensed property and casualty insurer" means[~~±~~
17 ~~(1)~~ ~~Any~~] any insurer licensed to transact any one or more
18 classes of insurance authorized in section 431:3-204
19 where premiums written within such authority are
20 required to be reported in the "Exhibit of Premiums
21 and Losses" for this State in the National Association



1 of Insurance Commissioners fire and casualty annual
2 statement convention blank that is required to be
3 filed with the commissioner under section 431:3-302[~~+~~
4 and

5 ~~(2) The Hawaii Property Insurance Association created in~~
6 ~~article 21 of chapter 431]."~~

7 4. By amending the definition of "policy of hurricane
8 property insurance" to read:

9 ""Policy of hurricane property insurance" means a policy or
10 endorsement of insurance issued by the fund insuring only
11 against damage or loss to eligible property caused by a covered
12 event [~~in excess of the deductible and up to:~~

13 ~~(1) \$750,000 per risk on real property of one to four~~
14 ~~units used for residential purposes and the personal~~
15 ~~property located therein or thereon and other~~
16 ~~structures at the insured location, subject to the~~
17 ~~limits defined by the plan of operation or any manual~~
18 ~~of rules and rates adopted under the plan of~~
19 ~~operation; and~~

20 ~~(2) \$500,000 per risk on real and personal property used~~
21 ~~for business, commercial, or industrial purposes,~~



1 ~~subject to the limits defined by the plan of operation~~
2 ~~or any manual of rules and rates adopted under the~~
3 ~~plan of operation; provided that the board may~~
4 ~~designate an association of property owners or~~
5 ~~cooperative housing corporation to be a commercial~~
6 ~~risk; provided that this policy or endorsement shall~~
7 ~~not include coverage for business interruption and~~
8 ~~other similar coverages.] subject to the limits and~~
9 ~~deductibles allowed by the plan of operation or any~~
10 ~~manual of rules and rates adopted under the plan of~~
11 ~~operation."~~

12 SECTION 17. Section 431P-5, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) In addition to the general powers under subsection
15 (a), the fund shall have the specific power to:

16 (1) Adopt and administer a plan of operation in accordance
17 with section 431P-7, and a manual of rules and rates
18 to provide persons having an insurable interest in
19 eligible property with insurance coverage provided by
20 the fund;



- 1 (2) Authorize the provision of hurricane coverage by the
2 fund for real property and tangible personal property
3 located in or on real property and establish limits of
4 liability for specific coverages within the range of
5 authorized coverage;
- 6 (3) Adopt actuarially sound rates based on reasonable
7 assumptions relative to expectations of hurricane
8 frequency and severity for all coverage provided under
9 policies or endorsements issued by the fund. Rates
10 adopted shall be subject to approval by the
11 commissioner pursuant to article 14 of chapter 431.
12 Rates adopted shall provide for classification of
13 risks and shall include past and prospective losses
14 and expense experience in this State;
- 15 (4) Adopt procedures, guidelines, and surcharges
16 applicable to policies of hurricane property insurance
17 issued in connection with an underlying property
18 policy issued by an unauthorized insurer;
- 19 (5) Adopt any form of insurance policy necessary for
20 providing policies of hurricane property insurance by
21 the fund, with the approval of the commissioner;



- 1 (6) Issue policies of hurricane property insurance and pay
2 claims for coverage over the mandatory deductible or
3 other deductible provided in the plan of operation or
4 any manual of rules and rates adopted under the plan
5 of operation;
- 6 (7) [~~Require every~~] Contract with one or more licensed
7 property and casualty [~~insurer~~] insurers transacting
8 direct property insurance business in this State to
9 act as a servicing facility, and by contract with that
10 insurer authorize the insurer to inspect eligible
11 properties, service policies and policyholders of
12 hurricane property insurance, provide claim services,
13 and perform any other duties as authorized by the fund
14 for applicants to the fund and those insured by it;
- 15 (8) (A) Assess all licensed property and casualty
16 insurers the amounts [~~which,~~] that, together with
17 the other assets of the fund, are sufficient to
18 meet all necessary obligations of the fund. The
19 assessment shall be made on the insurer's gross
20 direct written premiums for property and casualty
21 insurance in this State for the preceding



1 calendar year. The rate of assessment in a year
2 in which a covered event has not occurred shall
3 be 3.75 per cent and shall not include the
4 insurer's gross direct written premiums for motor
5 vehicle insurance in this State; provided that
6 following a covered event, the rate of assessment
7 may be increased to an amount not to exceed five
8 per cent and may include the insurer's gross
9 direct written premiums for motor vehicle
10 insurance in this State. This increase shall
11 remain in effect until [~~such~~] the time [~~as~~] all
12 claims and other obligations, including but not
13 limited to bonds and notes, arising out of a
14 covered event [~~shall~~] have been fully discharged.
15 [~~An insurer authorized to provide comparable~~
16 ~~coverage under section 431P-10(b) and which is~~
17 ~~providing hurricane property insurance in the~~
18 ~~State shall be assessed an amount that excludes~~
19 ~~gross direct written premiums for property~~
20 ~~insurance in this State.] The assessment for a
21 year in which a covered event has not occurred~~



1 shall be collected quarterly during each calendar
2 year;

3 (B) In the event of a loss from a covered event the
4 fund, in addition to the assessment in
5 subparagraph (A), shall assess those insurers
6 which acted as servicing facilities during the
7 twelve months ending at the start of the month
8 preceding the month in which the covered event
9 occurs. The total assessment shall be a fixed
10 percentage of the total coverage provided by the
11 fund under its policies of hurricane property
12 insurance during the month preceding the month in
13 which the covered event occurs. The percentage
14 to be used in calculating the total assessment
15 shall be ~~[as follows:~~

16 ~~(i) For calendar year 1998, a percentage as~~
17 ~~fixed by the board in the plan of operation,~~
18 ~~but in no event shall the total assessment~~
19 ~~exceed \$500,000,000;~~

20 ~~(ii) For calendar year 1999, 1.125 per cent;~~

21 ~~(iii) For calendar year 2000, 1.25 per cent; and~~



1 (C) [~~The fund may exempt~~] Exempt or defer, in whole
2 or in part, the assessment of any insurer if the
3 assessment would cause the insurer's financial
4 statement to reflect amounts of capital or
5 surplus less than the minimum amounts required
6 for a certificate of authority in this State;

7 (9) Develop a program of incentives to encourage insurers
8 to provide policies of hurricane property insurance in
9 the event the commissioner authorizes the provision of
10 comparable insurance pursuant to section [~~431P-10(b)~~
11 ~~which~~] 431P-10 that may include but are not limited to
12 exemption of the insurer's gross direct written
13 premium for property insurance from the assessment
14 pursuant to paragraph (8) (A);

15 [~~(10)~~] ~~Develop a credit based on the difference between~~
16 ~~premiums written in 1993 and the premiums written in~~
17 ~~1992 by each property insurer against the assessment~~
18 ~~for gross direct written premiums written in 1993;~~

19 ~~(11)]~~ (10) Develop procedures regarding policies written by
20 unauthorized insurers comparable to the assessments,



1 surcharges, and other contributions made by insurers
2 authorized to do business in this State;

3 ~~[(12)]~~ (11) Accumulate reserves or funds, including the
4 investment income thereon, to be used for paying
5 expenses, making or repaying loans or other
6 obligations of the fund, providing loss mitigation
7 incentives, and paying valid claims for covered events
8 insured by the fund;

9 ~~[(13)]~~ (12) Collect and maintain statistical and other data
10 as may be required by the commissioner;

11 ~~[(14)]~~ (13) Exempt mortgage transactions from payments of
12 the special mortgage recording fee and provide for
13 maximum limits on or, uniform reduction of the special
14 mortgage recording fee, pursuant to rules adopted by
15 the board;

16 ~~[(15)]~~ (14) Suspend or reactivate the special mortgage
17 recording fee pursuant to resolution of the board;

18 ~~[(16)]~~ (15) Impose fines for each incident of nonpayment of
19 amounts due to the fund under this chapter; provided
20 that the fines shall not exceed twenty-five per cent
21 of the amount then due;



- 1 ~~[(17)]~~ (16) Create loss mitigation incentives, including but
2 not limited to premium credits, premium rebates,
3 loans, or cash payments;
- 4 ~~[(18)]~~ (17) Enter into claims financing transactions,
5 including but not limited to reinsurance transactions,
6 debt transactions, and other transactions
7 incorporating elements of reinsurance, insurance,
8 debt, or equity;
- 9 ~~[(19)]~~ (18) Establish business and corporate entities or
10 organizations pursuant to the purposes of this
11 chapter; ~~[and]~~
- 12 (19) Receive moneys for deposit into a trust fund or
13 account from the revenues derived from the transient
14 accommodations tax pursuant to section 237D-6.5; the
15 property insurance surcharge on conveyance tax
16 established pursuant to section 247- ; and special
17 mortgage recording fee authorized after June 30, 2024,
18 pursuant to section 431P-16; and any other source of
19 revenue available to the board; and
- 20 (20) Perform any and all acts reasonably necessary to carry
21 out the purposes of this chapter."



1 SECTION 18. Section 431P-5.5, Hawaii Revised Statutes, is
2 amended as follows:

3 "~~§431P-5.5 Accumulation of [\$500,000,000 in] funds and~~
4 ~~commitments.~~ (a) Upon written confirmation from the
5 [~~insurance~~] commissioner that the director [~~of finance~~] has
6 secured [~~\$500,000,000~~], in the aggregate, a target amount
7 established by the plan of operation in the form of:

8 (1) Commitments from either the federal government or an
9 agency of the federal government or a financial
10 institution;

11 (2) Revenue bonds other than those issued or to be issued
12 in response to the occurrence of a covered event; or

13 (3) A combination of the commitments or bonds;

14 the Hawaii hurricane relief fund shall[~~+~~

15 [~~+~~] ~~Control~~] control or freeze rates[~~+~~] and

16 [~~+~~] ~~Continue~~] continue accumulating premiums from policies
17 of hurricane property insurance [~~and~~], the special
18 mortgage recording fee, property insurance surcharge
19 on conveyance tax, and transient accommodations tax
20 revenue, net of any reinsurance payments, operating



1 expenses, and funds necessary for the development of a
2 comprehensive loss reduction plan.

3 (b) When the balance of the net moneys accumulated totals
4 ~~[\$500,000,000,]~~ the target amount established by the plan of
5 operation, the Hawaii hurricane relief fund may notify the
6 ~~[insurance]~~ commissioner of that fact. The ~~[insurance]~~
7 commissioner, in turn, may order, following the receipt of the
8 notice, a reduction in the rates for policies of hurricane
9 property insurance.

10 (c) ~~[In the event of]~~ If a loss from a covered event~~[,]~~
11 occurs, the net moneys accumulated shall be used to settle
12 claims and pay current and ongoing expenses of the Hawaii
13 hurricane relief fund. The net accumulated moneys, commitments,
14 and bonds described in subsection (a)(2) shall be used only ~~[in~~
15 ~~the event]~~ if losses from a covered event exceed the assessment
16 pursuant to section 431P-5(b)(8)(B).

17 (d) ~~[In the event]~~ If the balance of the net accumulated
18 moneys falls below ~~[\$400,000,000,]~~ the minimum amount
19 established by the plan of operation, the Hawaii hurricane
20 relief fund shall establish rates, subject to the approval of
21 the ~~[insurance]~~ commissioner, necessary to replenish the account



1 balance to [~~\$500,000,000,~~] the target amount established by the
2 plan of operation as promptly as reasonably practicable. The
3 director [~~of finance~~] shall seek to arrange additional
4 commitments whenever the account balance falls below
5 [~~\$400,000,000.~~] the target amount established by the plan of
6 operation.

7 (e) The Hawaii hurricane relief fund shall be exempt from
8 paying all taxes and fees levied by the State on other
9 insurers."

10 SECTION 19. Section 431P-7, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) The plan of operation shall:

13 (1) Establish procedures for performance of all powers and
14 duties of the fund;

15 (2) Establish procedures for providing notice to all
16 persons with interests insurable by the fund in the
17 State of the type of insurance available from the fund
18 [~~in the event~~] if the fund offers insurance;

19 (3) Provide for and adopt all necessary forms, including
20 insurance policies to be used by and on behalf of the
21 fund, for use by the fund and servicing facilities;



- 1 (4) Adopt actuarially sound rates, based on reasonable
2 assumptions relative to expectations of hurricane
3 frequency and severity, to be charged for insurance
4 provided by the fund, in accordance with article 14 of
5 chapter 431;
- 6 (5) Publish manuals of rules, rates, and rating and
7 classification plans, which shall address mandatory
8 deductibles, limits of coverage, and the
9 classification of risks and rate modifications based
10 on the exposure of insureds[+], subject to the
11 approval of the commissioner;
- 12 (6) Establish procedures for receiving and servicing
13 applications to the fund;
- 14 (7) Establish procedures for processing and maintaining
15 records of the fund relating to its financial
16 transactions, its agents, its employees, its
17 operations, and all transactions with any servicing
18 facility;
- 19 (8) Establish procedures for the collection and remittance
20 of the premiums and return of unearned premiums where
21 applicable;



- 1 (9) Establish procedures for the payment of valid claims;
2 (10) Establish the target amount under section 431P-5.5(b)
3 and minimum amount under section 431P-5.5(d), subject
4 to the approval of both the commissioner and the
5 director;
- 6 [~~10~~] (11) Establish procedures for prorating available
7 funds pursuant to section 431P-15;
- 8 [~~11~~] (12) Establish procedures for obtaining reinsurance;
- 9 [~~12~~] (13) Establish procedures to borrow funds; and
- 10 [~~13~~] (14) Develop a plan for the investment of moneys held
11 by the fund [~~subject to the limitations in article 6~~
12 ~~of chapter 431~~]."

13 SECTION 20. Section 431P-8, Hawaii Revised Statutes, is
14 amended by amending its title and subsection (a) to read as
15 follows:

16 "[~~§~~431P-8~~§~~] **Annual statements.** (a) The fund shall
17 submit to the commissioner and legislature each year, not later
18 than one hundred twenty days after the end of the fund's fiscal
19 year, a [~~financial report in a form approved by the~~
20 ~~commissioner.~~] report that shall include financial information,
21 including:



- 1 (1) An update on the hurricane property insurance market;
2 and
3 (2) The ability of lenders to meet the requirements of the
4 secondary lending market."

5 SECTION 21. Section 431P-10, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§431P-10 Coverage available from the fund; deductible.**

8 [~~(a) Policies~~] Coverage limits and deductibles for policies
9 issued by the fund covering eligible property shall [~~provide a~~
10 ~~maximum aggregate coverage of up to \$750,000 per risk on real~~
11 ~~property of one to four units used for residential purposes and~~
12 ~~\$500,000 per risk for real property used for business,~~
13 ~~commercial, or industrial purposes and shall provide for a~~
14 ~~mandatory deductible. The deductible amount for residential~~
15 ~~property policies shall be the greater of \$1,000 or one per cent~~
16 ~~of the insured value or the greater of \$2,000 or two per cent of~~
17 ~~the insured value; provided that the board may establish higher~~
18 ~~deductible limits. The deductible amount for commercial~~
19 ~~property policies shall be the greater of \$5,000 or five per~~
20 ~~cent of the insured value or an amount equivalent to all the~~



1 ~~other perils deductible of the companion policy; provided that~~
2 ~~the board may establish higher deductible limits.~~

3 ~~(b) Insurers seeking to provide multi-peril coverage for~~
4 ~~residential property, including multi-peril coverage of the~~
5 ~~hurricane peril, subject to the fund's program for incentives~~
6 ~~and credits, shall submit to the commissioner a written request~~
7 ~~for permission to write the coverage; provided that in the~~
8 ~~absence of such authorization, no other policy of residential~~
9 ~~property insurance or endorsement to a policy of residential~~
10 ~~property insurance on eligible residential property located in~~
11 ~~this State shall be issued to provide insurance for damages or~~
12 ~~losses caused by a covered event if such coverage is less than~~
13 ~~that offered by the fund. If multi-peril coverage on commercial~~
14 ~~property is no longer being offered by the fund, any multi-peril~~
15 ~~coverage on commercial property offered by an insurer shall~~
16 ~~qualify as a comparable coverage under section 431P-5(b)(8)(A).~~
17 ~~Multi-peril coverage on residential property which [includes]~~
18 ~~coverage for hurricane losses offered by an insurer shall~~
19 ~~qualify as a comparable coverage under section 431P-5(b)(8)(A).]~~
20 be established in the plan of operation, subject to approval by
21 the commissioner."



1 SECTION 22. Section 431P-16, Hawaii Revised Statutes, is
2 amended as follows:

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

4 "(b) The hurricane reserve trust fund shall receive
5 deposits of the special mortgage recording fee established by
6 this chapter. Except as determined by board order, the special
7 mortgage recording fee shall be imposed on each mortgage and
8 each amendment to a mortgage which, in each case, increases the
9 principal amount of the secured debt and [~~which~~] is recorded in
10 the bureau of conveyances of the State under chapter 502 or
11 filed with the assistant registrar of the land court of the
12 State under chapter 501.

13 The special mortgage recording fee shall be an amount equal
14 to [~~one-tenth~~] two-tenths of one per cent of the stated
15 principal amount of the debt secured by the mortgage or, in the
16 case of an amendment or refinancing of a mortgage, an amount
17 equal to [~~one-tenth of one per cent~~] an adequate percentage
18 recommended by the board and approved by the commissioner of the
19 amount of the increase of the stated principal amount of the
20 secured debt; provided that the board may establish a lower
21 special mortgage recording fee amount pursuant to section



1 ~~[431P-5(b)(14).]~~ 431P-5(b)(13). With respect to an open end
 2 revolving loan, the principal amount of the debt on which the
 3 special mortgage recording fee is calculated shall be the
 4 maximum amount ~~[which]~~ that may be outstanding under the loan at
 5 any one time. With respect to a mortgage securing a nonmonetary
 6 or inchoate obligation, the principal amount of the debt ~~[on]~~
 7 upon which the special mortgage recording fee is calculated
 8 shall be the monetary amount ~~[which]~~ that the mortgagee
 9 attributes to the obligation. If the debt is stated in a
 10 foreign currency, it shall be converted to U.S. dollars using an
 11 exchange rate published in a newspaper of general circulation in
 12 this State within one week ~~[prior to]~~ before recordation of the
 13 mortgage or amendment of mortgage.

14 The special mortgage recording fee shall be in addition to
 15 any applicable fees under chapter 501 or 502. The special
 16 mortgage recording fee shall be submitted to and collected by
 17 the bureau of conveyances or the assistant registrar of the land
 18 court of the State and shall be deposited into the hurricane
 19 reserve trust fund. The special mortgage recording fee shall be
 20 submitted at the time the mortgage or amendment of mortgage is
 21 recorded together with any related forms or certifications



1 required by the bureau of conveyances or the assistant registrar
2 of the land court of the State.

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

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

15 2. By amending subsection (g) to read:

16 "(g) Any proceeds from loans or other moneys from the
17 federal government, any proceeds from bonds issued pursuant to
18 this chapter loaned by the director to the Hawaii hurricane
19 relief fund, all revenues realized from the transient
20 accommodations tax pursuant to section 237D-6.5 and the property
21 insurance surcharge on conveyance tax established pursuant to



1 section 247- , and other moneys as the State may make
2 available from time to time shall be deposited into the
3 hurricane reserve trust fund[-]; provided that commencing on
4 July 1, 2026, all revenues realized from the transient
5 accommodations tax pursuant to section 237D-6.5, the property
6 insurance surcharge on conveyance tax established pursuant to
7 section 247- , and any special mortgage recording fee that is
8 reinstated after July 1, 2024, shall be deposited into the
9 hurricane reserve trust fund."

10 3. By amending subsection (i) to read:

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

14 (1) The net moneys in the hurricane reserve trust fund
15 shall revert to the state general fund after payments
16 by the fund on behalf of licensed property and
17 casualty insurers or the State that are required to be
18 made pursuant to any federal disaster insurance
19 program enacted to provide insurance or reinsurance
20 for hurricane risks are completed; and



1 (2) If [~~such~~] the moneys are paid on behalf of licensed
2 property and casualty insurers, payment shall be made
3 in proportion to the premiums from policies of
4 hurricane property insurance serviced by the insurers
5 in the twelve months [~~prior to~~] before dissolution of
6 the fund;

7 provided that commencing July 1, 2024, all interest earned from
8 the principal in the hurricane reserve trust fund shall be
9 transferred and deposited into [~~the general~~] the hurricane
10 reserve trust fund each year that the hurricane reserve trust
11 fund remains in existence."

12 SECTION 23. (a) Notwithstanding the specific powers
13 provided to the Hawaii hurricane relief fund board of directors
14 pursuant to section 431P-5, Hawaii Revised Statutes, or any
15 other law to the contrary, the special mortgage recording fee
16 established pursuant to section 431P-16, Hawaii Revised
17 Statutes, may be reinstated by the insurance commissioner on any
18 date after the effective date of this Act.

19 (b) The special mortgage recording fee amount shall be
20 assessed at the same rate and under the same conditions that



1 existed on June 30, 2001, the day prior to the enactment of
2 Act 153, Session Laws of Hawaii 2001.

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

7 PART VII

8 SECTION 24. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 25. This Act shall take effect on July 1, 3000.



Report Title:

Property Insurance; HHRF; HPIA; Condominiums

Description:

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 and 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. Effective 7/1/3000. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

