

JAN 24 2024

A BILL FOR AN ACT

RELATING TO THE STABILIZATION OF PROPERTY INSURANCE.

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

PART I

1
2 SECTION 1. The legislature finds that prior to the
3 wildfire event in Lahaina, Maui, on August 8, 2023, the
4 availability of both condominium building master insurance
5 policy and unit owner insurance policy options within the
6 condominium insurance marketplace was already 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 also finds that while the State has avoided
4 a direct, major impact from a major hurricane since Hurricane
5 Iniki devastated Kauai and damaged homes along Oahu's leeward
6 coast more than thirty years ago, mortgage lenders continue to
7 require Hawaii homeowners to carry hurricane insurance that can
8 cost two to three times the annual premiums of a conventional
9 homeowner policy.

10 The legislature further finds that Hawaii Business Magazine
11 recently reported that generally, a condominium building or
12 complex carries a master hurricane policy that covers one
13 hundred per cent of the cost to replace the property--millions
14 of dollars in many cases. Unfortunately, because insurance
15 premiums for those policies have recently risen so high, the
16 president of Insurance Associates estimates that three hundred
17 seventy-five to three hundred ninety buildings, including new
18 high-rise towers in Kakaako, Oahu, have opted to renew their
19 hurricane insurance policies having less than one hundred per
20 cent hurricane coverage. This practice of reducing coverage is
21 creating complications and adverse consequences for every person



1 and entity associated with condominiums in Hawaii, from lenders
2 and insurance agents to buyers and sellers of condominiums.

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

13 Furthermore, some condominium associations for older
14 buildings are forced to obtain hurricane insurance through the
15 secondary insurance market if they are dropped by the standard
16 insurers for having too many claims, or if their buildings have
17 delayed renovations or deferred maintenance on high-cost items
18 such as aging water pipes. The president of Insurance
19 Associates reported that more than seven hundred condominium
20 buildings on Oahu alone were built before 1990. These secondary
21 market insurers are not bound by the State's laws or



1 administrative rules governing rates, so their prices may be
2 more expensive than those of standard insurance carriers.

3 To illustrate the difference in insurance premium costs,
4 the president of Insurance Associates cites the example of one
5 high-rise condominium in Waikiki in which the condominium
6 association had been paying an annual insurance premium of
7 \$235,000 for property and hurricane insurance and had already
8 been dropped by two of the standard insurance companies when the
9 third company declined to renew their insurance policy. The
10 stated reason for the nonrenewal and rejection was that the
11 building's aging plumbing had not been replaced. As a result,
12 the condominium association was forced to purchase insurance on
13 the secondary market, which cost approximately \$1,200,000.

14 The legislature finds that the consequences of
15 under-insured condominium buildings also impact individual
16 owners. For example, if a condominium building is not insured
17 to its full value, the mortgages on individual units within that
18 building would not meet the underwriting criteria to qualify for
19 purchase through the federal government's secondary mortgage
20 market, meaning that these mortgages cannot be sold by financial
21 institutions to mortgage investor entities such as Fannie Mae



1 and Freddie Mac. In addition, Hawaii Business Magazine has also
2 reported that the 2021 collapse of the Surfside condominium
3 building in Miami is also having a ripple effect on condominium
4 lending. In 2023, Fannie Mae and Freddie Mac made permanent the
5 rules for condominium lending that were created in the wake of
6 that disaster and ceased buying loans for buildings or projects
7 that have put off major repairs--such as replacing old water
8 pipes. These new lending rules also prohibit the sale of a loan
9 on a condominium building to Fannie Mae and Freddie Mac if that
10 building has unfunded repairs totaling more than \$10,000 per
11 unit.

12 This inability to sell condominium mortgages would require
13 financial institutions that originated mortgages to retain those
14 mortgages, thereby lessening their overall financial capacity to
15 originate more mortgages. Further, the risk of loss in the
16 event of a hurricane may impair a financial institution's
17 financial safety and soundness, which would in turn hamper
18 consumers' abilities to obtain financing to purchase dwellings
19 of their own. In addition, the failure of individual
20 condominium units to maintain the property insurance required by



1 their condominium association could result in fines,
2 lender-placed insurance, and foreclosure of those units.

3 The legislature notes that the wildfire in Lahaina, Maui,
4 on August 8, 2023, has also impacted the way reinsurers and
5 standard insurers view Hawaii's wildfire risk. The president of
6 Insurance Associates estimates that while Hawaii has always been
7 rated for hurricanes for property insurance purposes, it has
8 never been rated for wildfires. Now that the State has
9 experienced wildfires, not only in Lahaina, but also in Kula,
10 West Oahu, and Mililani, parts of all islands will be rated for
11 wildfires. Moreover, it is surmised that some insurers will not
12 maintain their current policy-count in the State because of
13 their increased costs for reinsurance, geographical
14 concentration of risk, and inadequate rates both pre- and post-
15 wildfire. Insurers have the financial responsibility to pay
16 losses, and if reinsurance and premiums are not sufficient to
17 cover these losses, an insurer needs to reduce their exposure by
18 restricting new policies, reducing their policy-count, or both.
19 The legislature recognizes that the price impact on reinsurance
20 from recent wildfires is not fully known and price increases may
21 continue into the foreseeable future.



1 The legislature also understands that rates for hurricane
2 insurance and regular homeowner policies in Hawaii have
3 increased due to disasters around the United States and the
4 world. Further, the market for reinsurance, the insurance that
5 property and casualty insurance companies pay to share their
6 risk, is global. Therefore, storms and other catastrophic
7 losses occurring anywhere in the world may potentially impact
8 the amounts that homeowners and condominium associations in
9 Hawaii pay for their insurance coverage.

10 The purpose of this Act is to amend state laws governing
11 the Hawaii Property Insurance Association and the Hawaii
12 hurricane relief fund to enable these entities to underwrite
13 certain insurance risks in the State that no standard insurer is
14 currently willing to underwrite.

15 This Act expands the authority of these markets of last
16 resort to assist the stabilization of the property insurance
17 market until risks can be depopulated back to the standard
18 insurance market when market conditions improve and risks become
19 more insurable because of building component replacement or
20 maintenance, or mitigation equipment or protocols have been
21 implemented for fire, wildfire, or hurricane events.



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

- 11 (1) Imposition of a higher transient accommodation tax
12 rate for transient vacation rentals, since many
13 transient vacation rental units are situated within
14 condominiums, and using those revenues to capitalize
15 the Hawaii Property Insurance Association's
16 operations;
- 17 (2) Establishment of a property insurance surcharge on
18 conveyance tax and using those revenues to capitalize
19 the Hawaii Property Insurance Association's
20 operations;



1 rental transaction between an operator and a prospective renter,
2 and for which the person collects or receives, directly or
3 indirectly through an agent or intermediary, a fee in connection
4 with the reservation or payment services provided for the
5 transient vacation rental transaction.

6 "County" means the city and county of Honolulu and the
7 counties of Hawaii, Kauai, and Maui; provided that the county of
8 Kalawao shall be considered a part of the county of Maui for the
9 purposes of this section.

10 "Hosting platform" means a person that participates in the
11 transient vacation rental business by providing, and collecting
12 or receiving a fee for, booking services through which an
13 operator may offer a transient vacation rental unit. "Hosting
14 platform" includes persons who provide booking services through
15 an online platform that allows an operator to advertise a
16 transient vacation rental unit through a website provided by the
17 hosting platform, and through which the hosting platform
18 conducts a transaction by which potential renters arrange use
19 and payment of rent to the operator or the hosting platform.

20 "Transient vacation rental" means "short term rental",
21 "transient vacation rental", "transient vacation unit", or



1 "transient vacation use", as defined by applicable county
2 ordinance."

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

4 "Operator" means any person operating a transient
5 accommodation[-] or transient vacation rental, whether as owner
6 or proprietor or as lessee, sublessee, mortgagee in possession,
7 licensee, or otherwise, or engaging or continuing in any service
8 business which involves the actual furnishing of transient
9 accommodation[-] or transient vacation rental."

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

12 "**§237D-2 Imposition and rates.** (a) There is levied and
13 shall be assessed and collected each month a tax of:

14 (1) Five per cent for the period beginning on January 1,
15 1987, to June 30, 1994;

16 (2) Six per cent for the period beginning on July 1, 1994,
17 to December 31, 1998;

18 (3) 7.25 per cent for the period beginning on January 1,
19 1999, to June 30, 2009;

20 (4) 8.25 per cent for the period beginning on July 1,
21 2009, to June 30, 2010; and



1 (5) 9.25 per cent for the period beginning on July 1,
2 2010, and thereafter;
3 on the gross rental or gross rental proceeds derived from
4 furnishing transient accommodations.

5 (b) Every transient accommodations broker, travel agency,
6 and tour packager who arranges transient accommodations at
7 noncommissioned negotiated contract rates and every operator or
8 other taxpayer who receives gross rental proceeds shall pay to
9 the State the tax imposed by subsection (a), as provided in this
10 chapter.

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

14 (1) 7.25 per cent on the fair market rental value until
15 December 31, 2015;

16 (2) 8.25 per cent on the fair market rental value for the
17 period beginning on January 1, 2016, to December 31,
18 2016; and

19 (3) 9.25 per cent on the fair market rental value for the
20 period beginning on January 1, 2017, and thereafter.



1 (d) Every plan manager shall be liable for and pay to the
2 State the transient accommodations tax imposed by subsection (c)
3 as provided in this chapter. Every resort time share vacation
4 plan shall be represented by a plan manager who shall be subject
5 to this chapter.

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

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

17 (2) If a court of competent jurisdiction determines that
18 the amount of county surcharge on state tax revenues
19 deducted and withheld by the State, pursuant to
20 section 248-2.6, violates statutory or constitutional
21 law and, as a result, awards moneys to a county with a



1 population greater than five hundred thousand, then an
2 amount equal to the monetary award shall be deducted
3 and withheld from the tax revenues deposited under
4 paragraph (1) into the mass transit special fund, and
5 those funds shall be a general fund realization of the
6 State.

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

11 (f) Notwithstanding the tax rates established in
12 subsections (a)(5) and (c)(3) and subsection (e), the tax rate
13 levied, assessed, and collected with regard to a transient
14 vacation rental pursuant to subsections (a), (c), and (e) shall
15 be _____ per cent for the period beginning on July 1, 2024;
16 provided that:

17 (1) Fifty per cent of the tax revenues levied, assessed,
18 and collected pursuant to this subsection that are in
19 excess of the revenues realized from the levy,
20 assessment, and collection of tax at the percentage
21 rates authorized pursuant to subsections (a)(5),



1 (c) (3), and (e) shall be deposited quarterly into a
 2 trust account established pursuant to
 3 section 431:21-105 for the purpose of administering
 4 and providing property insurance for properties
 5 located outside of a lava zone that obtain property
 6 insurance under that article; and
 7 (2) Fifty per cent of the tax revenues levied, assessed,
 8 and collected pursuant to this subsection that are in
 9 excess of the revenues realized from the levy,
 10 assessment, and collection of tax at the percentage
 11 rates authorized pursuant to subsections (a) (5),
 12 (c) (3), and (e) shall be deposited quarterly into a
 13 trust account established pursuant to section 431P-16
 14 for the purpose of providing hurricane insurance under
 15 that chapter."

PART III

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

20 "§247- Property insurance surcharge on conveyance tax;
 21 disposition of revenues. (a) In addition to any tax imposed



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

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

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

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

13 (C) _____ per cent for properties having a value of
14 at least \$1,000,000, but less than \$2,000,000;

15 (D) _____ per cent for properties having a value of
16 at least \$2,000,000, but less than \$4,000,000;

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

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

21 and



- 1 (G) per cent for properties having a value of
- 2 \$10,000,000 or greater; and
- 3 (2) For the sale of a condominium unit or single family
- 4 residence for which the purchaser is ineligible for a
- 5 county homeowner's exemption on property tax:
- 6 (A) per cent for properties having a value of
- 7 less than \$600,000;
- 8 (B) per cent for properties having a value of
- 9 at least \$600,000, but less than \$1,000,000;
- 10 (C) Forty cents per \$100 for properties having a
- 11 value of at least \$1,000,000, but less than
- 12 \$2,000,000;
- 13 (D) Sixty cents per \$100 for properties having a
- 14 value of at least \$2,000,000, but less than
- 15 \$4,000,000;
- 16 (E) per cent for properties having a value of
- 17 at least \$4,000,000, but less than \$6,000,000;
- 18 (F) per cent for properties having a value of
- 19 at least \$6,000,000, but less than \$10,000,000;
- 20 and



1 (G) per cent for properties having a value of
2 \$10,000,000 or greater,
3 of actual and full consideration; provided that in the case of a
4 lease or sublease, this chapter shall apply only to a lease or
5 sublease the full unexpired term of which is for a period of
6 five years or more, and in those cases, including (where
7 appropriate) those cases in which the lease has been extended or
8 amended, the surcharge shall be based on the cash value of the
9 lease rentals discounted to present day value and capitalized at
10 the rate of per cent, plus the actual and full
11 consideration paid or to be paid for any and all improvements,
12 that shall include on-site as well as off-site improvements,
13 applicable to the leased premises; and provided further that the
14 surcharge imposed for each transaction shall be not less than
15 \$1.

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

18 (1) An amount equaling per cent shall be deposited
19 quarterly into a trust account established pursuant to
20 section 431:21-105 for the purpose of administering
21 and providing property insurance for properties



1 located outside of a lava zone that obtain property
2 insurance under that article; and
3 (2) An amount equaling per cent shall be deposited
4 quarterly into a trust account established pursuant to
5 section 431P-16 for the purpose of providing hurricane
6 insurance under that chapter.

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

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

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

17 "**§247-4 Payment and liability of the tax.** (a) The tax
18 imposed by this chapter shall be paid by the grantor, lessor,
19 sublessor, assignor, transferor, seller, conveyor, or any other
20 person conveying realty, or any interest therein, by a document
21 or instrument subject to section 247-1; except, however, in the



1 case where the United States or any agency or instrumentality
2 thereof or the State or any agency, instrumentality, or
3 governmental or political subdivision thereof is the grantor,
4 lessor, sublessor, assignor, transferor, seller, or conveyer,
5 the tax shall be paid by the grantee, lessee, sublessee,
6 assignee, transferee, purchaser, or conveyee, as the case may
7 be.

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

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



1 PART IV

2 SECTION 6. Section 431:21-102, Hawaii Revised Statutes, is
3 amended by adding two new definitions to be appropriately
4 inserted and to read as follows:

5 "Condominium" means real property that:

- 6 (1) Has an association registered with the real estate
7 commission in accordance with chapter 514B, part VI;
- 8 (2) Has four or more stories that are or can be occupied
9 by a person; and
- 10 (3) Is in insurable condition, or may be repaired,
11 renovated, or remediated into insurable condition
12 within a reasonable period under a repair, renovation,
13 or remediation plan and timetable established and
14 provided in the plan of operation or any manual of
15 rules and rates adopted under the plan of operation.

16 "Property insurance" means policies, riders, or
17 endorsements of insurance that provide indemnity, in whole or in
18 part, for the loss, destruction, or damage of property and
19 against legal liability for the death, injury, or disability of
20 any human being, or from damage to property."



1 SECTION 7. Section 431:21-105, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§431:21-105 Powers and duties of the association.** (a)

4 In addition to any other requirements imposed by law, the
5 association shall:

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

10 (2) Establish in the plan of operation a maximum period of
11 time during which a condominium association may be
12 eligible to be insured by the association, which shall
13 not exceed sixty months;

14 [~~+2~~] (3) Reimburse each servicing facility for obligations
15 of the association paid by the facility and for
16 expenses incurred by the facility while processing
17 applications and servicing policies on behalf of the
18 association; and

19 [~~+3~~] (4) Collect and maintain statistical information and
20 other information required by the commissioner.



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

- 3 (1) Add additional insurance coverages with the approval
4 of the commissioner, including coverage for commercial
5 risks up to the limits of coverage [~~for residential~~
6 ~~risks~~] as set forth in the plan of operation;
- 7 (2) Employ or retain persons as are necessary to perform
8 the duties of the association;
- 9 (3) Contract with a member insurer to perform the duties
10 of the association;
- 11 (4) Sue or be sued;
- 12 (5) Borrow funds necessary to effectuate the purposes of
13 this article in accord with the plan of operation;
- 14 (6) If approved by the commissioner, assess member
15 insurers amounts necessary to cover extraordinary
16 losses incurred by the association. Each member
17 insurer shall be notified of the assessment not later
18 than thirty days before it is due. No member insurer
19 may be assessed in any year an amount greater than two
20 per cent of that member insurer's net direct written
21 premiums for the preceding calendar year. The



1 association may exempt or defer, in whole or in part,
2 the assessment of any member insurer if the assessment
3 would cause the member insurer's financial statement
4 to reflect amounts of capital or surplus less than the
5 minimum amounts required for a certificate of
6 authority by any jurisdiction in which the member
7 insurer is authorized to transact business;

8 (7) Devise a method to give credit to member insurers [~~for~~
9 ~~homeowners and fire insurance policies individually~~
10 ~~underwritten on risks located in the area designated~~
11 ~~for coverage by the association;~~] as set forth in the
12 plan of operation;

13 (8) Negotiate and become a party to contracts as are
14 necessary to carry out the purposes of this article;
15 [and]

16 (9) Establish outside the state treasury a reserve trust
17 fund and any accounts thereunder and any other trust
18 fund or account necessary to carry out the purposes of
19 this article. Moneys deposited in the reserve trust
20 fund and any accounts thereunder or any other trust
21 fund or account established by the association shall



1 be held by the association, as trustee, in a
2 depository as defined in section 38-1 or according to
3 a similar arrangement at the discretion of the board,
4 including, but not limited to, trust or custodial
5 accounts created for the benefit of the fund's secured
6 parties under contractual claims financing
7 arrangements. These moneys may be invested and
8 reinvested in accordance with the plan of operation.

9 Disbursements from the trust funds shall not be
10 subject to chapter 103D and shall be made in
11 accordance with procedures adopted by the board;

12 (10) Receive moneys for deposit into a trust fund or
13 account from the revenues derived from the transient
14 accommodations tax imposed pursuant to
15 section 237D-2(f), the 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 [+9+] (11) Perform all other acts as are necessary or
21 proper to effectuate the purpose of this article."



1 SECTION 8. Section 431:21-106, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) The plan of operation shall:

4 (1) Establish procedures for performance of all the powers
5 and duties of the association under
6 section 431:21-105;

7 (2) Establish maximum limits of liability to be placed
8 through the association;

9 (3) Establish reasonable underwriting standards for
10 determining insurability of a risk which are
11 comparable to the standards used to determine
12 insurability of a risk located outside the area
13 designated by the commissioner as eligible for
14 association coverage;

15 (4) Establish a schedule of deductibles, if appropriate;

16 (5) Establish a maximum period of time during which a
17 condominium may be eligible to be insured by the
18 association, which shall not exceed sixty months;

19 [~~5~~] (6) Establish the commission to be paid to licensed
20 producers;



- 1 [~~+6~~] (7) Establish the rates to be charged for the
2 insurance coverages, so that the total premium income
3 from all association policies, when combined with the
4 investment income, shall annually fund the
5 administration of the association. The administration
6 of the association shall include the expenses incurred
7 in processing applications, conducting inspections,
8 issuing and servicing policies, paying commissions,
9 and paying claims, but shall not include assessments
10 approved by the commissioner;
- 11 [~~+7~~] (8) Establish the manner and scope of the inspection
12 and the form of the inspection report. The inspection
13 guidelines may include setting minimum conditions the
14 property must meet before an inspection is required;
- 15 [~~+8~~] (9) Establish procedures whereby selections for the
16 board of directors will be submitted to the
17 commissioner for the commissioner's information;
- 18 [~~+9~~] (10) Establish procedures for records to be kept of
19 all financial transactions of the association, its
20 producers, and its board of directors;



1 ~~[(10)]~~ (11) Establish procedures by which applications will
2 be received and serviced by the association;

3 ~~[(11)]~~ (12) Establish guidelines for the investigation and
4 payment of claims; and

5 ~~[(12)]~~ (13) Establish procedures whereby the association may
6 assume and cede reinsurance on risks written through
7 the association."

8 SECTION 9. Section 431:21-107, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~[(1)]~~§431:21-107~~[(1)]~~—~~Designation~~ Coverage eligibility;
11 designation of [area.] areas within certain lava zones;

12 condominiums within the State. (a) After consultation with
13 representatives of the United States Geological Survey, the
14 state department of defense, and the county in which the area is
15 located, the commissioner shall designate the geographical area
16 eligible for coverage in lava zones 1 and 2 through the
17 association. Those properties in the designated area that meet
18 the standards set forth in the plan of operation shall be
19 provided insurance through the association.

20 For the purposes of this subsection, "lava zones 1 and 2"
21 means the two zones designated on the United States Geological



1 Survey's lava flow hazard zone map that are the most hazardous
2 and includes volcanic vents in the summits and rift zones of the
3 two most active volcanoes within the State.

4 (b) A condominium association registered under chapter
5 514B, part VI, having an insurable interest in real or tangible
6 property that is a condominium that is subject to this chapter,
7 located within the State, and that meets the criteria and
8 requirements set forth in the plan of operation, may be provided
9 insurance through the association."

10 SECTION 10. Section 431:21-115, Hawaii Revised Statutes,
11 is amended as follows:

12 " ~~[§431:21-115] Credits for~~ **Recoupment of assessments**
13 **paid.** ~~[A member insurer may offset against its premium tax~~
14 ~~liability to this State an assessment made with the~~
15 ~~commissioner's approval to the extent of twenty per cent of the~~
16 ~~amount of the assessment for each of the five calendar years~~
17 ~~following the year in which the assessment was paid. In the~~
18 ~~event a member insurer should cease doing business in this~~
19 ~~State, all uncredited assessments may be credited against its~~
20 ~~premium tax liability for the year it ceases doing business.]~~

21 (a) Each member insurer shall annually recoup assessments paid



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

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

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

18 (d) The amount of and reason for any surcharge shall be
19 separately stated on any billing sent to an insured. The
20 surcharge shall not be considered premiums for any other



1 purpose, including the computation of gross premium tax or the
2 determination of producer commissions."

3 SECTION 11. Section 431:21-109, Hawaii Revised Statutes,
4 is repealed.

5 [~~"§431:21-109 Insurance coverages available under plan.~~

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

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

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



1 PART V

2 SECTION 12. Chapter 431P, Hawaii Revised Statutes, is
3 amended by adding a new section to be appropriately designated
4 and to read as follows:

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

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



1 (c) Each property and casualty insurer shall provide to
2 the fund an accounting of its recoupments. The fund shall
3 compile the property and casualty insurers' accountings and
4 submit them as part of the fund's annual report to the
5 commissioner.

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

11 SECTION 13. Section 431P-1, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By adding a new definition to be appropriately inserted
14 and to read:

15 "Condominium" means real property that:

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

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

20 (3) Is in insurable condition, or may be repaired,
21 renovated, or remediated into insurable condition



1 within a reasonable period under a repair, renovation,
2 or remediation plan and timetable established and
3 provided in the plan of operation or any manual of
4 rules and rates adopted under the plan of operation."

5 2. By amending the definition of "eligible property" to
6 read:

7 "Eligible property" means:

- 8 (1) Real property [~~of one to four units~~] used for
9 residential purposes and [~~which~~] that is in insurable
10 condition, and [~~which~~] that may include tangible
11 personal property located therein or thereon and other
12 structures at the insured location, as provided in the
13 plan of operation or any manual of rules and rates
14 adopted under the plan of operation;
- 15 (2) Real property used for business, commercial, or
16 industrial purposes [~~which~~] that is in insurable
17 condition, and [~~which~~] that may include tangible
18 personal property located therein or thereon, as
19 provided in the plan of operation or any manual of
20 rules and rates adopted under the plan of operation;



1 (3) Tangible personal property owned by an occupant of and
2 located in or on real property of the types described
3 in paragraph (1), as provided in the plan of operation
4 or any manual of rules and rates adopted under the
5 plan of operation; provided that the owner of the
6 tangible personal property does not own the real
7 property in or [~~on~~] upon which the tangible personal
8 property is located; and

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

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

19 "Licensed property and casualty insurer" means[+
20 +1+ ~~Any~~] any insurer licensed to transact any one or more
21 classes of insurance authorized in section 431:3-204



1 where premiums written within such authority are
2 required to be reported in the "Exhibit of Premiums
3 and Losses" for this State in the National Association
4 of Insurance Commissioners fire and casualty annual
5 statement convention blank that is required to be
6 filed with the commissioner under section 431:3-302[+
7 and

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

10 4. By amending the definition of "policy of hurricane
11 property insurance" to read:

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

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



1 ~~of rules and rates adopted under the plan of~~
2 ~~operation, and~~
3 ~~(2) \$500,000 per risk on real and personal property used~~
4 ~~for business, commercial, or industrial purposes,~~
5 ~~subject to the limits defined by the plan of operation~~
6 ~~or any manual of rules and rates adopted under the~~
7 ~~plan of operation; provided that the board may~~
8 ~~designate an association of property owners or~~
9 ~~cooperative housing corporation to be a commercial~~
10 ~~risk; provided that this policy or endorsement shall~~
11 ~~not include coverage for business interruption and~~
12 ~~other similar coverages.] subject to the limits and~~
13 ~~deductibles allowed by the plan of operation or any~~
14 ~~manual of rules and rates adopted under the plan of~~
15 ~~operation."~~

16 SECTION 14. Section 431P-5, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

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

20 (1) Adopt and administer a plan of operation in accordance
21 with section 431P-7, and a manual of rules and rates



1 to provide persons having an insurable interest in
2 eligible property with insurance coverage provided by
3 the fund;

4 (2) Authorize the provision of hurricane coverage by the
5 fund for real property and tangible personal property
6 located in or on real property and establish limits of
7 liability for specific coverages within the range of
8 authorized coverage;

9 (3) Adopt actuarially sound rates based on reasonable
10 assumptions relative to expectations of hurricane
11 frequency and severity for all coverage provided under
12 policies or endorsements issued by the fund. Rates
13 adopted shall be subject to approval by the
14 commissioner pursuant to article 14 of chapter 431.
15 Rates adopted shall provide for classification of
16 risks and shall include past and prospective losses
17 and expense experience in this State;

18 (4) Adopt procedures, guidelines, and surcharges
19 applicable to policies of hurricane property insurance
20 issued in connection with an underlying property
21 policy issued by an unauthorized insurer;



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



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



1 ~~gross direct written premiums for property~~
2 ~~insurance in this State.]~~ The assessment for a
3 year in which a covered event has not occurred
4 shall be collected quarterly during each calendar
5 year;

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

19 ~~(i) For calendar year 1998, a percentage as~~
20 ~~fixed by the board in the plan of operation,~~



1 ~~but in no event shall the total assessment~~
2 ~~exceed \$500,000,000;~~

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

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

5 ~~(iv) For calendar year 2001, and each calendar~~
6 ~~year thereafter, 1.5 per cent.~~

7 ~~A separate total assessment shall be made for~~
8 ~~each covered event. The total assessment shall~~
9 ~~be allocated to each servicing facility based on~~
10 ~~the proportion of the total amount of the fund's~~
11 ~~gross direct written premiums for policies of~~
12 ~~hurricane property insurance serviced by each~~
13 ~~servicing facility to the total amount of the~~
14 ~~fund's gross direct written premiums for policies~~
15 ~~of hurricane property insurance, in each case,~~
16 ~~during the twelve months ending at the start of~~
17 ~~the month preceding the month in which the~~
18 ~~covered event occurs. Assessments made under~~
19 ~~this subparagraph and those under subparagraph~~
20 ~~(A) in a year in which a covered event has~~
21 ~~occurred are due from each insurer based on~~



- 1 ~~assessment procedures established by the fund to~~
2 ~~meet its obligations to policyholders in a timely~~
3 ~~manner;~~] and
4 [~~(C) The fund may exempt~~] (B) Exempt or defer, in
5 whole or in part, the assessment of any insurer
6 if the assessment would cause the insurer's
7 financial statement to reflect amounts of capital
8 or surplus less than the minimum amounts required
9 for a certificate of authority in this State;
- 10 (9) Develop a program of incentives to encourage insurers
11 to provide policies of hurricane property insurance in
12 the event the commissioner authorizes the provision of
13 comparable insurance pursuant to section 431P-10(b)
14 [~~which~~] that may include but are not limited to
15 exemption of the insurer's gross direct written
16 premium for property insurance from the assessment
17 pursuant to paragraph (8) (A);
- 18 [~~(10) Develop a credit based on the difference between~~
19 ~~premiums written in 1993 and the premiums written in~~
20 ~~1992 by each property insurer against the assessment~~
21 ~~for gross direct written premiums written in 1993;~~



- 1 ~~(11)~~ (10) Develop procedures regarding policies written by
2 unauthorized insurers comparable to the assessments,
3 surcharges, and other contributions made by insurers
4 authorized to do business in this State;
- 5 ~~(12)~~ (11) Accumulate reserves or funds, including the
6 investment income thereon, to be used for paying
7 expenses, making or repaying loans or other
8 obligations of the fund, providing loss mitigation
9 incentives, and paying valid claims for covered events
10 insured by the fund;
- 11 ~~(13)~~ (12) Collect and maintain statistical and other data
12 as may be required by the commissioner;
- 13 ~~(14)~~ (13) Exempt mortgage transactions from payments of
14 the special mortgage recording fee and provide for
15 maximum limits on or, uniform reduction of the special
16 mortgage recording fee, pursuant to rules adopted by
17 the board;
- 18 ~~(15)~~ (14) Suspend or reactivate the special mortgage
19 recording fee pursuant to resolution of the board;
- 20 ~~(16)~~ (15) Impose fines for each incident of nonpayment of
21 amounts due to the fund under this chapter; provided



1 that the fines shall not exceed twenty-five per cent
2 of the amount then due;

3 ~~(17)~~ (16) Create loss mitigation incentives, including but
4 not limited to premium credits, premium rebates,
5 loans, or cash payments;

6 ~~(18)~~ (17) Enter into claims financing transactions,
7 including but not limited to reinsurance transactions,
8 debt transactions, and other transactions
9 incorporating elements of reinsurance, insurance,
10 debt, or equity;

11 ~~(19)~~ (18) Establish business and corporate entities or
12 organizations pursuant to the purposes of this
13 chapter; ~~and~~

14 (19) Receive moneys for deposit into a trust fund or
15 account from the revenues derived from the transient
16 accommodations tax imposed pursuant to
17 section 237D-2(f), the surcharge established pursuant
18 to section 247- , and special mortgage recording fee
19 authorized after June 30, 2024, pursuant to section
20 431P-16, and any other source of revenue available to
21 the board; and



1 (20) Perform any and all acts reasonably necessary to carry
2 out the purposes of this chapter."

3 SECTION 15. Section 431P-5.5, Hawaii Revised Statutes, is
4 amended as follows:

5 "~~§431P-5.5~~ **Accumulation of [~~\$500,000,000~~ in] funds and**
6 **commitments.** (a) Upon written confirmation from the insurance
7 commissioner that the director of finance has secured
8 [~~\$500,000,000~~], in the aggregate, a target amount established by
9 the plan of operation in the form of:

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

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

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

16 the Hawaii hurricane relief fund shall[+

17 ~~(1) Control]~~ control or freeze rates[+] and

18 ~~[-(2) Continue]~~ continue accumulating premiums from policies
19 of hurricane property insurance and the special
20 mortgage recording fee, conveyance tax surcharge, and
21 transient accommodations tax revenue, net of any



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

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

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

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



1 the insurance commissioner, necessary to replenish the account
2 balance to [~~\$500,000,000,~~] the target amount established by the
3 plan of operation as promptly as reasonably practicable. The
4 director of finance shall seek to arrange additional commitments
5 whenever the account balance falls below [~~\$500,000,000.~~] the
6 target amount established by the plan of 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 16. 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 431P-5.5(d), subject to the
- 4 approval of both the commissioner and the director;
- 5 ~~[(10)]~~ (11) Establish procedures for prorating available
- 6 funds pursuant to section 431P-15;
- 7 ~~[(11)]~~ (12) Establish procedures for obtaining reinsurance;
- 8 ~~[(12)]~~ (13) Establish procedures to borrow funds; and
- 9 ~~[(13)]~~ (14) Develop a plan for the investment of moneys held
- 10 by the fund ~~[subject to the limitations in article 6~~
- 11 ~~of chapter 431]."~~

12 SECTION 17. Section 431P-10, Hawaii Revised Statutes, is

13 amended to read as follows:

14 "**§431P-10 Coverage available from the fund; deductible.**

15 ~~[(a) Policies]~~ Coverage limits and deductibles for policies

16 issued by the fund covering eligible property shall ~~[provide a~~

17 ~~maximum aggregate coverage of up to \$750,000 per risk on real~~

18 ~~property of one to four units used for residential purposes and~~

19 ~~\$500,000 per risk for real property used for business,~~

20 ~~commercial, or industrial purposes and shall provide for a~~

21 ~~mandatory deductible. The deductible amount for residential~~



1 ~~property policies shall be the greater of \$1,000 or one per cent~~
2 ~~of the insured value or the greater of \$2,000 or two per cent of~~
3 ~~the insured value; provided that the board may establish higher~~
4 ~~deductible limits. The deductible amount for commercial~~
5 ~~property policies shall be the greater of \$5,000 or five per~~
6 ~~cent of the insured value or an amount equivalent to all the~~
7 ~~other perils deductible of the companion policy; provided that~~
8 ~~the board may establish higher deductible limits.~~

9 ~~(b) Insurers seeking to provide multi peril coverage for~~
10 ~~residential property, including multi peril coverage of the~~
11 ~~hurricane peril, subject to the fund's program for incentives~~
12 ~~and credits, shall submit to the commissioner a written request~~
13 ~~for permission to write the coverage; provided that in the~~
14 ~~absence of such authorization, no other policy of residential~~
15 ~~property insurance or endorsement to a policy of residential~~
16 ~~property insurance on eligible residential property located in~~
17 ~~this State shall be issued to provide insurance for damages or~~
18 ~~losses caused by a covered event if such coverage is less than~~
19 ~~that offered by the fund. If multi peril coverage on commercial~~
20 ~~property is no longer being offered by the fund, any multi peril~~
21 ~~coverage on commercial property offered by an insurer shall~~



1 ~~qualify as a comparable coverage under section 431P-5(b)(8)(A).~~
 2 ~~Multi peril coverage on residential property which [includes]~~
 3 ~~coverage for hurricane losses offered by an insurer shall~~
 4 ~~qualify as a comparable coverage under section 431P-5(b)(8)(A).]~~
 5 be established in the plan of operation, subject to approval by
 6 the commissioner."

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

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

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

19 The special mortgage recording fee shall be an amount equal
 20 to [~~one-tenth~~] two-tenths of one per cent of the stated
 21 principal amount of the debt secured by the mortgage or, in the



1 case of an amendment or refinancing of a mortgage, an amount
2 equal to [~~one tenth of one per cent~~] an adequate percentage
3 recommended by the board and approved by the insurance
4 commissioner of the amount of the increase of the stated
5 principal amount of the secured debt; provided that the board
6 may establish a lower special mortgage recording fee amount
7 pursuant to section [~~431P-5(b)(14).~~] 431P-5(b)(13). With
8 respect to an open end revolving loan, the principal amount of
9 the debt on which the special mortgage recording fee is
10 calculated shall be the maximum amount [~~which~~] that may be
11 outstanding under the loan at any one time. With respect to a
12 mortgage securing a nonmonetary or inchoate obligation, the
13 principal amount of the debt [~~en~~] upon which the special
14 mortgage recording fee is calculated shall be the monetary
15 amount [~~which~~] that the mortgagee attributes to the obligation.
16 If the debt is stated in a foreign currency, it shall be
17 converted to U.S. dollars using an exchange rate published in a
18 newspaper of general circulation in this State within one week
19 prior to recordation of the mortgage or amendment of mortgage.
20 The special mortgage recording fee shall be in addition to
21 any applicable fees under chapter 501 or 502. The special



1 mortgage recording fee shall be submitted to and collected by
2 the bureau of conveyances or the assistant registrar of the land
3 court of the State and shall be deposited into the hurricane
4 reserve trust fund. The special mortgage recording fee shall be
5 submitted at the time the mortgage or amendment of mortgage is
6 recorded together with any related forms or certifications
7 required by the bureau of conveyances or the assistant registrar
8 of the land court of the State.

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

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

21 2. By amending subsection (e) to read:



1 "(e) After each covered event, if the board determines
2 that the moneys in the hurricane reserve trust fund, excluding
3 moneys determined by the board to be needed to continue fund
4 operations following the covered event, will be insufficient to
5 pay claims and other obligations of the fund arising out of that
6 covered event, the Hawaii hurricane relief fund shall levy a
7 surcharge not to exceed [~~seven and one-half~~] two per cent a year
8 on premiums charged for all property and casualty insurance
9 policies issued for risks insured in this State. These moneys
10 may be deposited into the hurricane reserve trust fund or into
11 trust or custodial accounts created for the benefit of the
12 fund's secured parties that are held inside or outside the
13 hurricane reserve trust fund. The surcharge shall remain in
14 effect until all claims and other obligations of the fund,
15 including but not limited to claims under fund policies of
16 hurricane property insurance, claims financing transactions,
17 bonds, notes, and other obligations arising out of that covered
18 event have been fully discharged. The amount and reason for any
19 surcharge made pursuant to this subsection shall be separately
20 stated on any billing sent to an insured. The surcharge shall
21 not be considered premiums for any other purpose including the



1 computation of gross premium tax or the determination of
2 producers' commissions. The fund may establish procedures for
3 insurers to collect the surcharge from customers who hold
4 property or casualty policies."

5 3. By amending subsection (g) to read:

6 "(g) Any proceeds from loans or other moneys from the
7 federal government, any proceeds from bonds issued pursuant to
8 this chapter loaned by the director to the Hawaii hurricane
9 relief fund, all revenues realized from the transient
10 accommodations tax established pursuant to section 237D-2(f) on
11 transient vacation rentals and the surcharge on conveyance tax
12 established pursuant to section 247- , and other moneys as the
13 State may make available from time to time shall be deposited
14 into the hurricane reserve trust fund[-]; provided that
15 commencing on July 1, 2024, all revenues realized from the
16 transient accommodations tax established pursuant to section
17 237D-2(f) on transient vacation rentals, the surcharge on
18 conveyance tax established pursuant to section 247- , and any
19 special mortgage recording fee that is reinstated after July 1,
20 2024, shall be deposited into the hurricane reserve trust fund."

21 4. By amending subsection (i) to read:



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

4 (1) The net moneys in the hurricane reserve trust fund
5 shall revert to the state general fund after payments
6 by the fund on behalf of licensed property and
7 casualty insurers or the State that are required to be
8 made pursuant to any federal disaster insurance
9 program enacted to provide insurance or reinsurance
10 for hurricane risks are completed; and

11 (2) If [~~such~~] the moneys are paid on behalf of licensed
12 property and casualty insurers, payment shall be made
13 in proportion to the premiums from policies of
14 hurricane property insurance serviced by the insurers
15 in the twelve months prior to dissolution of the fund;
16 provided that commencing July 1, 2024, all interest earned from
17 the principal in the hurricane reserve trust fund shall be
18 transferred and deposited into [~~the general~~] the hurricane
19 reserve trust fund each year that the hurricane reserve trust
20 fund remains in existence."



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

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

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

16 PART VI

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



1 SECTION 21. This Act shall take effect upon its approval.

2

INTRODUCED BY: _____

A handwritten signature in black ink, appearing to be 'JML', is written over a horizontal line that follows the text 'INTRODUCED BY:'. The signature is stylized and somewhat cursive.

S.B. NO. 3234

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 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.

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

