JOSH GREEN, M.D.
GOVERNOR | KE KIAʻĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIAʻĀINA

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Testimony of the Department of Commerce and Consumer Affairs

Before the
House Committee on Finance
Thursday, February 22, 2024
10:00 a.m.
State Capitol, Rm. 308 & via Videoconference

On the following measure:
H.B. 2686, H.D.1, RELATING TO THE STABILIZATION OF PROPERTY INSURANCE

Chair Yamashita and Members of the Committees:

My name is Gordon Ito, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs (Department) Insurance Division. We offer comments on this bill.

The purposes of this bill are to: (1) amend the laws relating to the Hawaiʻi Hurricane Relief Fund and Hawaiʻi Property Insurance Association; (2) expand the Hawaiʻi Property Insurance Association's authority to include the issuance of property insurance other than fire insurance for certain real properties organized as a condominium; (3) reinstate the special mortgage recording fee; (4) explicitly authorize the Hawaiʻi Property Insurance Association to issue property insurance policies to certain condominiums outside of area designated for coverage by the Hawaiʻi Property Insurance Association; (5) mandate that the Hawaiʻi Property Insurance Association member insurers recoup assessment costs; (6) amend specific coverage limits, fund capitalization amounts, and assessment percentages by deleting specified dollar amounts percentages; and (7) authorize the Hawaiʻi Hurricane Relief Fund and the Hawaiʻi Property Insurance Association boards to recommend appropriate amounts and percentages to the Insurance Commissioner.

We support the intent of addressing the availability of master condominium insurance policies. Hawaiʻi is experiencing a hard market for this product. We note that a major contributing factor is the poor condition of certain condominium buildings caused by deferred maintenance and/or aging infrastructure.

In order to assure adequate liquidity for the Hawaiʻi Hurricane Relief Fund, we respectfully request that the following assessments in Hawaiʻi Revised Statutes section 431P-5 be retained and that they not be deleted:

- P. 40, lines 5-10
- P. 40, lines 15-20
- P. 41, lines 3-15
- P. 42, lines 1-20

We also respectfully request that the original language of surcharge amount (see p. 55, line 7) not exceeding seven and one-half per cent be retained and the proposed two per cent language be removed.

Thank you for the opportunity to testify on this bill.

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT GOVERNOR

Hawaii Green Infrastructure Authority
An Agency of the State of Hawaii

JAMES KUNANE TOKIOKA
CHAIR

GWEN S YAMAMOTO LAU
EXECUTIVE DIRECTOR

Testimony of
Gwen Yamamoto Lau
Executive Director
Hawaiʻi Green Infrastructure Authority
before the
HOUSE COMMITTEE ON FINANCE
Thursday, February 22, 2024, 10:00 AM
State Capitol, Conference Room 308
in consideration of
House Bill No. 2686, HD1
RELATING TO THE STABILIZATION OF PROPERTY INSURANCE

Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

Thank you for the opportunity to testify on HB 2686, HD1, relating to the stabilization of property insurance. The Hawaiʻi Green Infrastructure Authority (HGIA) **supports** this bill which expands the Hawaii Property Insurance Association's authority to include the issuance of property insurance for condominiums.

With approximately 55% of all condo units in Hawaii built prior to 1980[1], there are a significant number of 40+-year old condominium projects requiring replacements, upgrades and retrofits, including re-piping, spalling, windows and railings and alarms[2], all of which are costly and complicated. Providing a temporary insurance safety net for Condominium projects unable to access insurance, will provide Association leadership up to five years to plan, coordinate and implement necessary upgrades to increase its ability to obtain insurance in the condominium insurance marketplace.

Thank you for this opportunity to provide comments and testify in support of HB 2686, HD1.

[1] "Why Hawaii's Aging Condos Can't Afford to Defer Maintenance," First Insurance Company of Hawaii, January 5, 2004.
[2] "A Condominium Can Last Hundreds of Years, But Not Its Components," Hawaii Business Magazine, August 31, 2020.

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR

GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

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TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION

TESTIMONY ON THE FOLLOWING MEASURE:
H.B. No. 2686, H.D. 1, Relating to the Stabilization of Property Insurance.

BEFORE THE:
House Committee on Finance

DATE: Thursday, February 22, 2024
TIME: 10:00 a.m.
LOCATION: State Capitol, Room 308

Chair Yamashita, Vice-Chair Kitagawa, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding H.B. 2686, H.D. 1, for your consideration.

Parts II and III of H.B. 2686, H.D. 1, make several changes to chapter 237D, Hawaii Revised Statute (HRS), which governs transient accommodation tax (TAT), and chapter 247, HRS, which governs conveyance tax.

With respect to TAT, the measure amends sections 237D-1 and 237D-2, HRS, to add the new taxable category of "transient vacation rental" alongside the existing category of "transient accommodations," with "transient vacation rental" defined in section 237D-1 as "'short term rental', 'transient vacation rental', 'transient vacation unit', or 'transient vacation use', as defined by applicable county ordinance." The measure also adds definitions for "booking service," "county" and "hosting platform" to section 237D-1. The new TAT rate on transient vacation rentals is set as an unspecified percentage for the period beginning on July 1, 2024, with 50 percent of those revenues slated for deposit into a property insurance trust account under section 431:21-105, and the other 50 percent slated for deposit into a hurricane insurance trust account under section 431P-16.

With respect to conveyance tax, the measure creates a new section to be inserted in chapter 247, HRS, creating an additional surcharge on conveyance tax modeled off existing conveyance tax rates and bases. The surcharge percentages are mostly unspecified, except that if a purchaser is ineligible for a county homeowner's exemption on property tax, the surcharge would be forty cents per $100 for properties having a value of at least $1,000,000, but less than $2,000,000; and sixty cents per $100 for properties having a value of at least $2,000,000, but less than $4,000,000. Surcharge revenues would also be deposited into a property insurance trust account under section 431:21-105, as well as into a hurricane insurance trust account under section 431P-16, but the surcharge's respective deposit percentages are not specified. The surcharge will not apply if the conveyance is already exempt from conveyance tax under section 247-3, HRS. The measure also amends section 247-4, HRS, to specify that the cost of the surcharge shall be paid by the seller.

H.B. 2686, H.D. 1, has a defective effective date of July 1, 3000.

The Department notes that enforcement of the tax on transient vacation rentals may be challenging, as the Department does not have the subject-matter expertise to determine whether a rental unit qualifies as a transient vacation rental, as defined by county ordinance. Additionally, the definition of a transient vacation rental may vary from county to county and may change over time.

Additionally, the Department notes that the allocations on pages 14 and 15 of the bill will be difficult for the Department to administer. Currently, the Department determines the TAT allocations based on the total TAT actually collected for the month. This bill would require the Department to segregate the amounts collected from transient vacation rental units from the remainder of the TAT revenues and distribute those amounts to the trust accounts established under sections 431:21-105 and 431P- 16, HRS. This will require a fundamental change in the way that the Department accounts for and reports on TAT revenues. This would also create administrative difficulties, as the amounts reported do not always match the amounts paid with the return. Accordingly, the Department requests that the provisions that would require an allocation of TAT revenues from transient vacation rentals to the trust accounts established under sections 431:21-105 and 431P-16, HRS, be deleted. To provide funding to the trust accounts, the Department recommends that allocations instead be made as set dollar amounts or percentages of all TAT revenues collected in section 237D-6.5, HRS.

Finally, the Department requests that if the defective effective date of the bill is amended, then the effective date of the tax law changes in sections 2, 3, 4, and 5 of this measure be delayed until January 1, 2026, to provide sufficient time for the Department to make the various and necessary form, instruction, computer system, and administrative changes that this measure proposes, as well as provide taxpayer education about the changes.

Thank you for the opportunity to provide comments on this measure.

HAWAII INSURERS COUNCIL
A trade association of property and casualty insurance companies

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Alison H. Ueoka
President

TESTIMONY OF MICHAEL ONOFRIETTI

COMMITTEE ON FINANCE
Representative Kyle T. Yamashita, Chair
Representative Lisa Kitagawa, Vice Chair

Thursday, February 22, 2024
10:00 a.m.

HB 2686, HD1

Chair Yamashita, Vice Chair Kitagawa, and members of the Committee on Finance, my name is Michael Onofrietti, ACAS, MAAA, CPCU, Senior Vice President, Actuarial Services, Product Development & Management for Island Insurance and Chairman of the Auto Policy Committee for Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit association of property and casualty insurance companies licensed to do business in Hawaii. Members companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

The Hawaii Insurers Council **supports** this bill. This bill is a product of the Working Group on Property Insurance Stabilization that comprised representatives from both the House and Senate, insurance companies, insurance agents, mortgage lenders, bankers, realtors, and condominium buildings.

The purpose of the bill is to amend two existing laws, the Hawaii Property Insurance Association (HPIA) and the Hawaii Hurricane Relief Fund (HHRF) to enable these entities to underwrite certain insurance risks in the state that no standard insurer is willing to underwrite. Those risks are as follows: Condominium buildings for hurricane only coverage, condominium buildings for all other coverage excluding hurricane, condominium unit coverage excluding hurricane, single family homes for hurricane coverage, and single-family homes for all other coverage excluding hurricane. New capital is added to accommodate the expansion of risk and to broaden the base for those who contribute. In addition to insurance assessments, the bill provides for a conveyance tax increase to be allocated to each fund, a transient vacation rental tax increase to be allocated to each fund, and a mortgage recordation fee increase to the Hawaii hurricane relief fund. These markets of last resort are designed to stabilize the insurance market until which time they are depopulated back to standard insurance companies either because market conditions have changed to accommodate the risks and/or the risks themselves have become more insurable, for instance, because of re-piping of a building or mitigation for fire, wildfire, or hurricane risk.

The goal of the legislation is to encourage property insurers to remain in the state, to encourage condominium buildings to be repaired and maintained, and to allow lenders to meet the requirements of the secondary mortgage market.

The HPIA was originally enacted in the early 1990’s to accommodate homes allowed to be built in lava zones 1 and 2 on Hawaii Island. However, it is designed as a market of last resort for *all* residential properties that cannot find coverage in the standard market. Today, HPIA underwrites single family home and condominium unit insurance outside lava zones 1 and 2, statewide. There is a need now for condominium unit coverage excluding hurricane coverage, possibly single-family home insurance excluding hurricane coverage, and possibly condominium building coverage excluding hurricane. The scope of risk to be added to HPIA is undetermined because the greatest risk for losses exists in the condominium buildings’ water losses and the number of buildings that could need insurance is unknown. A secondary risk for condominium buildings is fire. In addition, there could be a large number of condominium unit owners who need to purchase insurance with high limits to accommodate the building master policies’ high deductibles. Finally, it is expected that market conditions and wildfire risk could cause some retraction in the single-family home insurance market and those risks will seek coverage from HPIA.

The HHRF was enacted also in the early 1990’s post Hurricane-Iniki to underwrite hurricane-only insurance primarily for residential single-family homes and small commercial businesses. It was in place for approximately 9 years before a hurricane-only insurer came into the standard market and depopulated the Fund. There is a need now for condominium building hurricane insurance and possibly single-family home hurricane insurance coverage. Condominium buildings that are underinsured for the hurricane risk are estimated to be between 375-390 buildings. The number of single-family homes that could need hurricane insurance is unknown at this time but some retraction in the market is expected due to the high cost of reinsurance for standard insurers, the potential for insurers to reduce their exposures because of geographical concentration, and the potential for insurers to reduce their wildfire exposure.

We urge passage of this bill. Thank you for the opportunity to testify.

HAWAII LEGISLATIVE
ACTION COMMITTEE
community
ASSOCIATIONS INSTITUTE

P.O. Box 976
Honolulu, Hawaii 96808

February 20, 2024

Honorable Kyle T. Yamashita
Honorable Lisa Kitagawa
Committee on Finance
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **HB 2686 HD1 SUPPORT**

Dear Chair Yamashita, Vice Chair Kitagawa and Committee Members:

CAI supports the intent of HB 2686 and defers to subject matter experts on the details. Stabilization of the insurance market for condominiums is essential.

> Condominiums and other common interest ownership communities (with their regimes of privately enforceable use restrictions and financial obligations paying for formerly "public facilities" such as roads, trash collection, and recreational areas) have become a critical part of our land use fabric. Indeed, virtually all new development in Hawaii consists of common interest ownership communities.

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

There would be staggering social costs if condominiums ceased to serve the valuable functions of providing housing and services to a substantial segment of the population. Inevitably, government would be charged with caring for those impoverished and displaced by uninsured catastrophic loss. It is in society's best interest to promote and to protect the effective functioning of self-governing condominiums.

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

CAI Legislative Action Committee, by

Philip Nerney

Its Chair

LEGISLATIVE TAX BILL SERVICE

TAX FOUNDATION OF HAWAII

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

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

BILL NUMBER: HB 2686 HD 1

INTRODUCED BY: House Committee on Consumer Protection & Commerce

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

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

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

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

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

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

EFFECTIVE DATE: July 1, 3000.

STAFF COMMENTS:

Transient Accommodations Tax Hike

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

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

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

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

This proposed increase in TAT will be borne largely by visitors. With the recent ability of counties to impose their own TAT charge, Hawaii already has the highest accommodation tax in the country. Although the bill's proponents may think that this is simply picking the pockets of our tourists to remediate our ravaged property insurance market, there may be ripple effects from further squeezing our tourists. What policy makers need to realize is that the more they extract from the economy in taxes and fees, the more economic performance declines. To put it specifically, tourists can't vote for our lawmakers at the ballot box but they can vote with their feet. We aren't the only resort island destination in the world, and the tourists know this. As economic performance declines, so do tax revenues.

Conveyance Tax Hike

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

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

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

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

Third, a tax increase of any magnitude in Hawaii's fragile economy will, no doubt, have a negative impact as costs soar due to higher taxes. As costs and overhead increase, employers must find ways to stay in business by either increasing prices to their customers or cut back on costs. This may take the form of reducing inventory, shortening business hours, reducing employee hours, or even laying off workers. A tax increase of any magnitude would send many companies, especially smaller ones, out of business taking with them the jobs the community so desperately needs at this time.

Digested: 2/20/2024

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February 22, 2024

The Honorable Kyle T. Yamashita, Chair
House Committee on Finance
State Capitol, Conference Room 308 & Videoconference

RE: House Bill 2686 HD1, Relating to the Stabilization of Property Insurance
HEARING: Thursday, February 22, 2024, at 10:00 a.m.

Aloha Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 11,000 members. HAR provides **comments** on House Bill 2686 HD1, which amends the laws relating to the Hawaiʻi Hurricane Relief Fund and Hawaiʻi Property Insurance Association. Expands the Hawaiʻi Property Insurance Association's authority to include the issuance of property insurance other than fire insurance for certain real properties organized as a condominium. Reinstates the special mortgage recording fee. Explicitly authorizes the Hawaiʻi Property Insurance Association to issue property insurance policies to certain condominiums outside of area designated for coverage by the Hawaiʻi Property Insurance Association. Mandates that the Hawaiʻi Property Insurance Association member insurers recoup assessment costs. Amends specific coverage limits, fund capitalization amounts, and assessment percentages by deleting specified dollar amounts percentages and authorizes the Hawaiʻi Hurricane Relief Fund and the Hawaiʻi Property Insurance Association boards to recommend appropriate amounts and percentages to the Insurance Commissioner. Effective 7/1/3000.

HAR supports the intent of this measure and respectfully requests that funding sources be diversified. In 1993, when the Hawaii Hurricane Relief Fund (HHRF) was formed in the aftermath of the devastation caused by Hurricane Iniki, it was financed by:

1. Special fees on mortgages recorded in the state,
2. Premiums from insurance policies issued by the fund, and
3. An annual assessment on private insurance companies.

We believe that the same or similar sources of funding should be explored this time as a fairer option to our insurance challenges, rather than putting much of the burden on future home buyers and sellers.

Our state grapples with a significant challenge concerning insurance accessibility and rising costs. The market for reinsurance is global; therefore, storms, wildfires, and other natural disasters that strike anywhere in the world impact what homeowners and condo association must pay for coverage in Hawaii as well. Adding to the challenge is that condominium building premiums have risen so high that hundreds of condo

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associations are reducing their coverage to less than 100%. This has become an issue for home buyers and sellers as Fannie and Freddie Mac[1] require multifamily properties to include 100% windstorm coverage, which includes hurricanes. While the issue of insurance coverage is an important issue facing our state, several of the taxes imposed in this measure are currently only directed at future home or property buyers and sellers.

This measure proposes to reactivate and increase the special mortgage recording fee to 2/10ths of 1% of the principal amount of the debt, the following are examples of the rates based on the following debt amounts:

Debt Amount:	Special Mortgage Recording Fee:
$300,000	$600
$500,000	$1,000
$800,000	$1,600
$1,000,000	$2,000

We are concerned with the inclusion of a Conveyance Tax surcharge as a funding source and respectfully request its replacement with another source of funding. While the Conveyance Tax surcharge contained in this measure is unspecified, it would impose an additional percentage surcharge on the Conveyance Tax in addition to the current Conveyance Tax rates which can drastically increase the total Conveyance Tax paid. The following is an example on if the surcharge was set at a mere 0.5%:

Conveyance Tax Tiers:	Current *Per $100:*	Current Rate (in Dollars):	0.5% Surcharge: (in Dollars):	TOTAL (Conveyance Tax + Surcharge)
< $600,000	$0.10	**$500** ($500,000 property)	**$2,500**	**$3,000**
$600,000 - $0.99 mil	$0.20	**$1,600** ($800,000)	**$4,000**	**$5,600**
$1 mil - $1.99 mil	$0.30	**$3,000** ($1 mil)	**$5,000**	**$8,000**
$2 mil - $3.99 mil	$0.50	**$15,000** ($3 mil)	**$15,000**	**$30,000**
$4 mil - $5.99 mil	$0.70	**$35,000** ($5 mil)	**$25,000**	**$60,000**
$6 mil - $9.99 mil	$0.90	**$81,000** ($9 mil)	**$45,000**	**$126,000**
$10 mil+	$1.00	**$100,000** ($10 mil)	**$50,000**	**$150,000**

Even a minimal surcharge leads to a large increase in total Conveyance Taxes. In the above example, if a family sells a $500,000 home, the extra Conveyance Taxes would increase from $500 to a total of $3,000. In addition, there would also be a $1,000 special mortgage recording fee on top. Such an increase affects the equity one builds to move into a different home and adds to the cost for homebuyers, including first-time homebuyers.

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

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Additionally, for condominiums and single-family homes which the purchaser is ineligible to qualify for a homeowner exemption, the following are the proposed rates if the surcharge was set at the 0.5% example:

Conveyance Tax Tiers:	Current *Per $100:*	Current Rate (in Dollars):	0.5% Surcharge: (in Dollars):	TOTAL (Conveyance Tax + Surcharge)
< $600,000	$0.15	**$750** ($500,000 property)	**$2,500**	**$3,250**
$600,000 - $0.99 mil	$0.25	**$2,000** ($800,000)	**$4,000**	**$6,000**
$1 mil - $1.99 mil	$0.45	**$4,500** ($1 mil)	**N/A (0.40 per $100) $4,000**	**$8,500**
$2 mil - $3.99 mil	$0.65	**$19,500** ($3 mil)	**N/A (0.60 per $100) $18,000**	**$37,500**
$4 mil - $5.99 mil	$0.85	**$42,500** ($5 mil)	**$25,000**	**$67,500**
$6 mil - $9.99 mil	$1.10	**$99,000** ($9 mil)	**$45,000**	**$144,000**
$10 mil+	$1.25	**$125,000** ($10 mil)	**$50,000**	**$175,000**

As with the previous example, even a minimal surcharge leads to a massive increase in Conveyance Taxes paid.

Our concern is also due to the fact that Conveyance Taxes are tied to the health of Hawaii's real estate market which has slowed due to rising interest rates to address inflation, resulting in a 27.22% decrease in single-family home sales and 29.15% decrease in condominium sales year-to-date as of December 2023.[2] The challenge with linking funding to the Conveyance Tax is that when the real estate market is down, there may not be enough funds to pay for the programs it supports. The Conveyance Tax is then often targeted for increase to cover these programs; however, when the market is up, there are excess funds over and above the programs' needs. This becomes a cyclical issue, and the Conveyance Tax is never lowered even in an up market, thereby contributing to the ever-increasing cost of housing in our state.

Therefore, we respectfully ask that a different source of funding be identified to fund the HHRF, such as the original sources of funding to form the HHRF. This would help address our insurance challenges, rather than putting much of the burden on future home buyers and sellers. Additionally, we look forward to continuing the conversation on this important issue and working with all stakeholders to find an equitable solution.

Mahalo for the opportunity to testify on this measure.

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

MORTGAGE BANKERS ASSOCIATION OF HAWAII

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

February 21, 2024

Rep. Kyle T. Yamashita, Chair
Rep. Lisa Kitagawa, Vice Chair
Members of the House Committee on Finance

Hearing Date: February 22, 2024
Hearing Time: 10:00 am

Re: HB 2686-HD1 relating to the stabilization of property insurance

I am Victor Brock, representing the Mortgage Bankers Association of Hawaii ("MBAH"). The MBAH is a voluntary organization of individuals involved in the real estate lending industry in Hawaii. Our membership consists of employees of banks, savings institutions, mortgage bankers, mortgage brokers, financial institutions, and companies whose business depends upon the ongoing health of the financial services industry of Hawaii. The members of the MBAH originate and service, or support the origination and servicing, of the vast majority of residential and commercial real estate mortgage loans in Hawaii. When, and if, the MBAH testifies on legislation or rules, it is related only to mortgage lending and servicing.

The MBAH SUPPORTS THIS BILL, which reinstates the Hawaii Hurricane Relief Fund (“HHRF”), which provides additional sources of financing the HHRF, and which expands the HHRF’s scope to include condominium building insurance.

The availability of hurricane insurance, particularly for condominium projects, has become increasingly limited, with certain insurers refusing to renew coverage at existing levels to insure the full estimated replacement cost of rebuilding the improvements in the event of a named storm. Fannie Mae and Freddie Mac, to whom we sell mortgages, both require hurricane insurance for the full replacement value. Even if a lender contemplates keeping a loan secured by a unit in one of the underinsured condo projects in their portfolio (as they are unable to sell the loan to Fannie Mae or Freddie Mac), prudential regulators are likely to cite safety and soundness concerns of holding a loan on our balance sheet secured by underinsured collateral. As a result, we are unable to finance units in certain condominium projects, thereby decreasing options for first-time homebuyers and low- to moderate-income borrowers to buy the most affordable type of housing in Hawaii. The impact is snowballing and currently affects hundreds of buildings and thousands of dwelling units.

Our colleagues in the insurance industry have advised us that their ability to obtain re-insurance for hurricane losses at pre-existing prices, or altogether, and to continue to write policies with coverage for the full replacement cost has been impaired by the international re-insurance market, as many of these re-insurers have experienced recent significant hurricane claim losses with climate change. Making matters worse, the risk profile of Hawaii has changed altogether due to the Maui wildfires this past August. Strong and very destructive hurricanes have not impacted Hawaii frequently in recent history, however climate change may increase the future likelihood of severe damage and losses. Therefore, historic losses for all perils are less predictive for these insurers when estimating future claim amounts. This in turn decreases their willingness to write new policies and/or renew at marginally profitable or unprofitable premium rates.

In 1993, the HHRF was established under HRS 431P to provide hurricane insurance when the private hurricane insurance market collapsed as a result of the 1992 Hurricane Iniki. It ceased operations in 2002 when the private hurricane market had been re-established. As originally structured, the HHRF was not authorized to issue hurricane insurance for condominiums in amounts sufficient to address the current underinsurance situation. Nor was it funded at levels sufficient to cover the amounts of cumulative coverage needed in today's environment. This Bill will amend the HHRF to include coverage of condominiums, while continuing to provide coverage for single-family and commercial properties.

This Bill also provisions various methods to build the fund to a level sufficient for the expected losses. As drafted, the burden of funding the HHRF will be allocated between sellers of real estate, (with a conveyance tax surcharge), buyers and/or lenders of real estate, (with a special mortgage recording fee), all property owners, (with an ongoing surcharge on policy premiums), and landlords/renters of transient vacation rentals (with an increase to the transient vacation rental tax). We understand that funding mechanisms sufficient to sustain the HHRF on an ongoing basis are necessary and we support this multi-faceted approach. However, **WE REQUEST THE FOLLOWING AMENDMENT in Section 18:**

> Leave the "special mortgage recording fee" percentage at one tenth of one per cent, as originally incorporated into HRS 431P, instead of increasing it to two-tenths of one per cent.

The average purchase mortgage loan amount in Hawaii in 2023 was $653,709[1], resulting in a fee of $653.71 at one tenth of a percent and $1,307.42 at two tenths of a percent. This fee will be borne by the home buyer and is an additional burden and obstacle to homeownership in Hawaii. Many potential homeowners are already struggling with the down payment and closing costs, and the additional $653 will be yet another impediment to deter a first-time homebuyer from achieving homeownership, but <u>doubling it makes matters even worse</u>.

(1) Source: Title Guaranty monthly Residential Market Share report

As mortgage lenders, our hands are tied to severely curtailing or discontinuing lending on units in these underinsured condo projects altogether. Additionally, our ability to provide low-downpayment financing with mortgage insurance may be impaired by mortgage insurers' unwillingness to insure condo projects that do not meet Fannie Mae's or Freddie Mac's guidelines. Therefore, first-time homebuyers and low- to moderate-income borrowers, who need low-downpayment financing, are the most adversely impacted.

We request expedited passage of this Bill by the Legislature, the signing by the Governor of this Bill into law, and re-establishment of the HHRF's ability to issue policies as soon as operationally viable.

Thank you for the opportunity to present this testimony.

Victor Brock
Mortgage Bankers Association of Hawaii

SanHi
GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 22, 2024

TO: Representative Kyle T. Yamashita
Chair, Committee on Finance

FROM: Matt Tsujimura

RE: **H.B. 2686 H.D. 1– Relating to the Stabilization of Property Insurance**
Hearing Date: Thursday, February 22, 2024, at 10:00AM
Conference Room: 308

Dear Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee on Finance:

I am Matt Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm **offers comments** to H.B. 2686 H.D. 1, which amends the laws relating to the Hawaii Hurricane Relief Fund and Hawaii Property Insurance Association.

Many of Hawaii's condominium buildings are aging. State Farm understands some condominium buildings have experienced high-cost losses, resulting from aging infrastructure including failing water pipe systems. There is no disputing that aging infrastructure and high-cost losses can have an impact on insurance rates, not to mention insurability. State Farm understands that as the costs to insure these high-rise buildings increase, some condominium associations are asking individual unit owners to cover the cost of increased deductibles.

State Farm supports the intent of H.B. 2686 H.D. 1 to ensure Hawaii has a stable insurance market, and appreciate the willingness of the Legislature to look for solutions to one of the biggest issues facing the people of Hawaii. We support the Legislatures efforts to improve the availability of insurance for Hawaii's condominium buildings and individual units. We understand the goal is to I draw more insurance companies back to Hawaii. More insurers in the market means greater accessibility and affordability for consumers.

The issues are complex, and State Farm supports continued discussions to work towards a more accessible and affordable insurance environment in the State.

For these reasons we offer this testimony. Thank you for the opportunity to testify.

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HAWAII FINANCIAL SERVICES ASSOCIATION

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February 22, 2024

Rep. Kyle T. Yamashita, Chair
Rep. Lisa Kitagawa, Vice Chair
and members of the House Committee on Finance
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **H.B. 2686, H.D. 1 (Stabilization of Property Insurance)**
<u>Hearing Date/Time: Thursday, February 22, 2024, 10:00 a.m.</u>

I am Marvin Dang, the attorney for the **Hawaii Financial Services Association** ("HFSA"). The HFSA is a trade association for Hawaii's consumer credit industry. Its members include Hawaii financial services loan companies (which make mortgage loans and other loans, and which are regulated by the Hawaii Commissioner of Financial Institutions), mortgage lenders, and financial institutions.

The HFSA **supports the intent** of this Bill.

This Bill: (a) amends the laws relating to the Hawaiʻi Hurricane Relief Fund and Hawaiʻi Property Insurance Association; (b) expands the Hawaiʻi Property Insurance Association's authority to include the issuance of property insurance other than fire insurance for certain real properties organized as a condominium; (c) reinstates the special mortgage recording fee; (d) explicitly authorizes the Hawaiʻi Property Insurance Association to issue property insurance policies to certain condominiums outside of area designated for coverage by the Hawaiʻi Property Insurance Association; (e) mandates that the Hawaiʻi Property Insurance Association member insurers recoup assessment costs; (f) amends specific coverage limits, fund capitalization amounts, and assessment percentages by deleting specified dollar amounts percentages and authorizes the Hawaiʻi Hurricane Relief Fund and the Hawaiʻi Property Insurance Association boards to recommend appropriate amounts and percentages to the Insurance Commissioner.

Hawaii's condominium buildings are confronting challenges which impact their ability to obtain adequate property insurance at reasonable premiums to cover hurricane risks and non-hurricane risks. This situation negatively impacts condominium unit owners, home buyers, and others.

The intent of this Bill is to stabilize the property insurance market in Hawaii until market conditions improve.

We support the intent of this bill because it has the potential to enable condominium unit owners and buyers to: (a) protect their investment in their condominium units, and (b) have the option to apply for mortgage loans which comply with the federal requirements of Fannie Mae and Freddie Mac (government sponsored enterprises).

Thank you for considering our testimony.

Marvin S.C. Dang
MARVIN S.C. DANG
Attorney for Hawaii Financial Services Association

(MSCD/hfsa)

SanHi
GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 22, 2024

TO: Representative Kyle T. Yamashita
Chair, Committee on Finance

Submitted Via Capitol Website

FROM: Tiffany Yajima / Mihoko Ito

RE: **H.B. 2686, HD1 – Relating to the Stabilization of Property Insurance**
Hearing Date: Thursday, February 22, 2024 at 10:00 a.m.
Conference Room: 308

Dear Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee on Finance:

We submit this testimony on behalf of the Hawaii Bankers Association (HBA). HBA represents seven Hawai`i banks and one bank from the continent with branches in Hawai`i.

HBA **supports** the intent this measure to capitalize the Hawaii Property Insurance Association and capitalize and reactivate the Hawaii Hurricane Relief Fund which could help to stabilize the property insurance market so that insurers can continue to insure properties in the State. This measure is also intended to encourage the repair and maintenance of condominium buildings thereby allowing lenders to meet the requirements of the secondary mortgage market.

To alleviate the high cost of insurance premiums, condominium boards are increasingly electing to reduce the amount of insurance coverage of condominiums. Unfortunately, this can have the unintended consequence of impacting mortgage loans for units in these condominiums because federal guidelines on Fannie Mae and Freddie Mac prohibit these entities from purchasing mortgages on condominium units that are underinsured.

Even if a lender wants to issue a loan for a unit in an underinsured condominium, holding a loan secured by underinsured collateral could affect that lender's safety and soundness rating. In addition, a lender's ability to provide low down-payment financing with mortgage insurance may be impaired by an insurer's unwillingness to insure condo projects that do not meet Fannie Mae's or Freddie Mac's guidelines. As a result, first-time homebuyers and low- to moderate-income borrowers would be disproportionately adversely impacted.

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The HBA notes, however, that this measure is funded partially through an increase in the conveyance tax on real estate transactions and an increase to the special mortgage recording fee. Any increases to these fees add to the transaction cost for homebuyers and HBA is also concerned that this could negatively affect housing affordability.

Thank you for the opportunity to submit this testimony.

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

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Testimony to the House Committee on Finance
Thursday, February 22, 2024, at 10:00 AM
Conference Room 308

Testimony in Support of HB 2686, Relating to Stabilization of Property Insurance

To: The Honorable Kyle Yamashita, Chair
The Honorable Lisa Kitagawa, Vice-Chair
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 47 Hawaii credit unions, representing over 864,000 credit union members across the state.

HCUL offers the following testimony in support of HB 2686, Relating to Stabilization of Property Insurance. This bill amends the laws relating to the Hawaiʻi Hurricane Relief Fund and Hawaiʻi Property Insurance Association, expands the Hawaiʻi Property Insurance Association's authority to include the issuance of property insurance other than fire insurance for certain real properties organized as a condominium, reinstates the special mortgage recording fee, explicitly authorizes the Hawaiʻi Property Insurance Association to issue property insurance policies to certain condominiums outside of area designated for coverage by the Hawaiʻi Property Insurance Association, mandates that the Hawaiʻi Property Insurance Association member insurers recoup assessment costs, amends specific coverage limits, fund capitalization amounts, and assessment percentages by deleting specified dollar amounts percentages and authorizes the Hawaiʻi Hurricane Relief Fund and the Hawaiʻi Property Insurance Association boards to recommend appropriate amounts and percentages to the Insurance Commissioner.

This bill is important to financial institutions who provide loans to buyers of condominium units. With the threat of destructive weather events and other natural disasters, this bill is necessary to protect property owners and consumers and to ensure that required property insurance remains affordable and attainable.

Thank you for the opportunity to provide comments on this issue.