
A BILL FOR AN ACT

RELATING TO THE STABILIZATION OF PROPERTY INSURANCE.

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

1 PART I

2 SECTION 1. The legislature finds that before the wildfire
3 event in Lahaina, Maui, on August 8, 2023, the availability of
4 both condominium building master insurance policy and unit owner
5 insurance policy options within the condominium insurance
6 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 with less than one hundred per cent
20 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 This Act expands the authority of the markets of last
11 resort, the Hawaii property insurance association and Hawaii
12 hurricane relief fund, to assist the stabilization of the
13 property insurance market until risks can be depopulated back to
14 the standard insurance market when market conditions improve and
15 risks become more insurable because of building component
16 replacement or maintenance, or mitigation equipment or protocols
17 have been implemented for fire, wildfire, or hurricane events.

18 The legislature believes that it is critical to adequately
19 capitalize the respective funds because insuring these risks
20 could bring an enormous amount of risk exposure to the funds.
21 Therefore, funding mechanisms must be broad on an initial and



1 ongoing basis and spread among as many parties involved in real
2 property transactions within the State as possible to ensure
3 that the financial impacts are apportioned as equitably as
4 practicable, and that reserve funds are adequately capitalized
5 if losses exceed the funds' capacities. This Act provides these
6 funding mechanisms through the:

- 7 (1) Imposition of a higher transient accommodation tax
8 rate for transient vacation rentals, since many
9 transient vacation rental units are situated within
10 condominiums, and using those revenues to capitalize
11 the Hawaii property insurance association's
12 operations;
- 13 (2) Establishment of a property insurance surcharge on
14 conveyance tax and using those revenues to capitalize
15 the Hawaii property insurance association's
16 operations;
- 17 (3) Reactivation of the assessment of insurers to
18 capitalize the Hawaii hurricane relief fund; and
- 19 (4) Reactivation of the Hawaii hurricane relief fund's
20 special mortgage recording fee that was last imposed



1 in 2001 to capitalize the Hawaii hurricane relief
2 fund.

3 The legislature finds that this Act is necessary to:

- 4 (1) Stabilize the property insurance market so that
- 5 insurers continue to insure properties in the State;
- 6 (2) Encourage the repair and maintenance of condominium
- 7 buildings;
- 8 (3) Allow lenders to meet the requirements of the
- 9 secondary mortgage market; and
- 10 (4) Serve an important public purpose.

11 One of the purposes of this Act is to provide older
12 condominium buildings that are in need of repair or replacement
13 of components a path to have the work completed within a certain
14 timeframe. While this Act addresses the availability of
15 insurance coverage and not affordability, fixing failing
16 components will make these older condominium buildings more
17 insurable in the long run. The Hawaii property insurance
18 association, in its plan of operations, is encouraged to ensure
19 that those applying for coverage have plans in place for the
20 repair and subsequent maintenance of the insured buildings.
21 This is the only way that buildings will become insurable within



1 five years. Some of those items include but are not limited to
2 a plan to replace building pipes, approval of the plan by the
3 owners, loan approval or a timeline for loan approval, a project
4 manager, and potential contractors. Similar items could be
5 required for other aging components that would affect the
6 building's insurability.

7 This Act is a stop-gap measure to provide insurance
8 availability for buildings that have become uninsurable due to a
9 lack of needed repair and maintenance. Condominium associations
10 that apply for coverage through the Hawaii property insurance
11 association will need to pay premiums that will cover the
12 condominium association's exposure to losses, not to offer a
13 subsidy for these poor insurance risks. This measure is not
14 designed to be a long-term solution and therefore the
15 legislature has imposed a one-time five-year coverage period.
16 It is expected that condominium buildings will complete or have
17 almost completed their major component repairs and replacements
18 that are causing ongoing insurance losses within this period and
19 their ability to procure future building insurance is more
20 likely.



1 The purpose of this Act is to amend state laws governing
2 the Hawaii property insurance association and the Hawaii
3 hurricane relief fund to enable these entities to underwrite
4 certain insurance risks in the State that no standard insurer is
5 currently willing to underwrite.

6 PART II

7 SECTION 2. Section 237D-1, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By adding four new definitions to be appropriately
10 inserted and to read:

11 ""Booking service" means any reservation or payment service
12 provided by a person that facilitates a transient vacation
13 rental transaction between an operator and a prospective renter,
14 and for which the person collects or receives, directly or
15 indirectly through an agent or intermediary, a fee in connection
16 with the reservation or payment services provided for the
17 transient vacation rental transaction.

18 "County" means the city and county of Honolulu and the
19 counties of Hawaii, Kauai, and Maui; provided that the county of
20 Kalawao shall be considered a part of the county of Maui for the
21 purposes of this definition.



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

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

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

16 "Operator" means any person operating a transient
17 accommodation[7] or transient vacation rental, whether as owner
18 or proprietor or as lessee, sublessee, mortgagee in possession,
19 licensee, or otherwise, or engaging or continuing in any service
20 business which involves the actual furnishing of transient
21 accommodation[-] or transient vacation rental."



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

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

5 (1) Five per cent for the period beginning on January 1,
6 1987, to June 30, 1994;

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

9 (3) 7.25 per cent for the period beginning on January 1,
10 1999, to June 30, 2009;

11 (4) 8.25 per cent for the period beginning on July 1,
12 2009, to June 30, 2010; and

13 (5) 9.25 per cent for the period beginning on July 1,
14 2010, and thereafter;

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

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



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

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

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

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

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

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

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



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

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

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

20 The remaining tax revenues levied, assessed, and collected
21 at the 9.25 per cent tax rate pursuant to subsections (a) and



1 (c) shall be deposited into the general fund in accordance with
2 section 237D-6.5(b).

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

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

20 (2) Fifty per cent of the tax revenues levied, assessed,
21 and collected pursuant to this subsection that are in



1 excess of the revenues realized from the levy,
2 assessment, and collection of tax at the percentage
3 rates authorized pursuant to subsections (a) (5),
4 (c) (3), and (e) shall be deposited quarterly into a
5 trust account established pursuant to section 431P-16
6 for the purpose of providing hurricane insurance under
7 that chapter."

PART III

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

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

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



1 (A) per cent for properties having a value of
2 less than \$600,000;

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

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

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

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

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

13 and

14 (G) per cent for properties having a value of
15 \$10,000,000 or greater; and

16 (2) For the sale of a condominium unit or single-family
17 residence for which the purchaser is ineligible for a
18 county homeowner's exemption on property tax:

19 (A) per cent for properties having a value of
20 less than \$600,000;

1 (B) _____ per cent for properties having a value of
2 at least \$600,000, but less than \$1,000,000;
3 (C) 40 cents per \$100 for properties having a value
4 of at least \$1,000,000, but less than \$2,000,000;
5 (D) 60 cents per \$100 for properties having a value
6 of at least \$2,000,000, but less than \$4,000,000;
7 (E) _____ per cent for properties having a value of
8 at least \$4,000,000, but less than \$6,000,000;
9 (F) _____ per cent for properties having a value of
10 at least \$6,000,000, but less than \$10,000,000;
11 and
12 (G) _____ per cent for properties having a value of
13 \$10,000,000 or greater,
14 of actual and full consideration; provided that in the case of a
15 lease or sublease, this chapter shall apply only to a lease or
16 sublease the full unexpired term of which is for a period of
17 five years or more, and in those cases, including (where
18 appropriate) those cases in which the lease has been extended or
19 amended, the surcharge shall be based on the cash value of the
20 lease rentals discounted to present day value and capitalized at
21 the rate of _____ per cent, plus the actual and full



1 consideration paid or to be paid for any and all improvements,
2 that shall include on-site as well as off-site improvements,
3 applicable to the leased premises; provided further that the
4 surcharge imposed for each transaction shall be no less than \$1.

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

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

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

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



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

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

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

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



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

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

8 PART IV

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

12 ""Condominium" means real property that:

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

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

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



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

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

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

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

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

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

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



- 1 ~~[-(2)]~~ (3) Reimburse each servicing facility for obligations
2 of the association paid by the facility and for
3 expenses incurred by the facility while processing
4 applications and servicing policies on behalf of the
5 association; and
- 6 ~~[-(3)]~~ (4) Collect and maintain statistical information and
7 other information required by the commissioner.
- 8 (b) In addition to any other powers allowed by law, the
9 association may:
- 10 (1) Add additional insurance coverages with the approval
11 of the commissioner, including coverage for commercial
12 risks up to the limits of coverage [~~for residential~~
13 ~~risks~~] as set forth in the plan of operation;
- 14 (2) Employ or retain persons as are necessary to perform
15 the duties of the association;
- 16 (3) Contract with a member insurer to perform the duties
17 of the association;
- 18 (4) Sue or be sued;
- 19 (5) Borrow funds necessary to effectuate the purposes of
20 this article in accord with the plan of operation;



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



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



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

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

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

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



1 insurability of a risk located outside the area
2 designated by the commissioner as eligible for
3 association coverage;

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

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

8 [~~5~~] (6) Establish the commission to be paid to licensed
9 producers;

10 [~~6~~] (7) Establish the rates to be charged for the
11 insurance coverages, so that the total premium income
12 from all association policies, when combined with the
13 investment income, shall annually fund the
14 administration of the association. The administration
15 of the association shall include the expenses incurred
16 in processing applications, conducting inspections,
17 issuing and servicing policies, paying commissions,
18 and paying claims, but shall not include assessments
19 approved by the commissioner;

20 [~~7~~] (8) Establish the manner and scope of the inspection
21 and the form of the inspection report. The inspection



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

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

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



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

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

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

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

20 "~~[+]§431:21-115[+] Credits for~~ Recoupment of assessments
 21 paid. [~~A member insurer may offset against its premium tax~~]



~~1 liability to this State an assessment made with the
2 commissioner's approval to the extent of twenty per cent of the
3 amount of the assessment for each of the five calendar years
4 following the year in which the assessment was paid. In the
5 event a member insurer should cease doing business in this
6 State, all uncredited assessments may be credited against its
7 premium tax liability for the year it ceases doing business.]~~

8 (a) Each member insurer shall annually recoup assessments paid
9 by the member insurer under section 431:21-105(b)(6). The
10 recoupment shall be recovered by means of a surcharge on
11 premiums charged by the member insurer for policies of all
12 kinds. Any excess recovery by a member insurer shall be
13 credited pro rata to that member insurer's policyholders'
14 premiums in the succeeding year unless there has been a
15 subsequent assessment, in which case the excess shall be used to
16 pay the amount of the subsequent assessment. A member insurer
17 may continue to surcharge premiums until the full assessments
18 are recouped.

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



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

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

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

12 ~~["§431:21-109 Insurance coverages available under plan.~~

13 ~~(a) All properties qualifying for coverage under the plan of~~
14 ~~operation shall be eligible for the standard fire policy and~~
15 ~~extended coverage endorsement. The association shall provide~~
16 ~~additional coverages when directed by the commissioner or when~~
17 ~~approved by the commissioner.~~

18 ~~(b) At the written request of any person who is, or is~~
19 ~~attempting to become, a mortgagor on real property that~~
20 ~~qualifies for coverage under the plan of operation, the~~
21 ~~association shall provide coverage for an amount not less than~~



1 ~~the amount of the mortgage obligation, but no greater than the~~
2 ~~value of the property being insured; provided that it does not~~
3 ~~exceed the limits of the plan. The policy shall name the~~
4 ~~intended mortgagee as the beneficiary for the amount equal to~~
5 ~~the outstanding balance on the mortgage.~~

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

8 PART V

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

12 "§431P- Recoupment of assessments paid. (a) Each
13 licensed property and casualty insurer shall annually recoup
14 assessments paid by the licensed property and casualty insurer
15 under sections 431P-5(b)(8)(A) and (B) and 431P-16(e). The
16 recoupment shall be recovered by means of a surcharge on
17 premiums charged by the licensed property and casualty insurer
18 for policies on which the assessment was made. Any excess
19 recovery by a licensed property and casualty insurer shall be
20 credited pro rata to that insurer's policyholder's premiums in
21 the succeeding year unless there has been a subsequent



1 assessment, in which case the excess shall be used to pay the
2 amount of the subsequent assessment. A licensed property and
3 casualty insurer may continue to collect a surcharge on premiums
4 until the full assessments are recouped.

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

9 (c) Each licensed property and casualty insurer shall
10 provide to the fund an accounting of its recoupments. The fund
11 shall compile the licensed property and casualty insurers'
12 accountings and submit them as part of the fund's annual report
13 to the commissioner.

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

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



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

3 ""Condominium" means real property that:

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

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

8 (3) Is in insurable condition, or may be repaired,
9 renovated, or remediated into insurable condition
10 within a reasonable period under a repair, renovation,
11 or remediation plan and timetable established and
12 provided in the plan of operation or any manual of
13 rules and rates adopted under the plan of operation."

14 2. By amending the definition of "eligible property" to
15 read:

16 ""Eligible property" means:

17 (1) Real property [~~of one to four units~~] used for
18 residential purposes and [~~which~~] that is in insurable
19 condition, and [~~which~~] that may include tangible
20 personal property located therein or thereon and other
21 structures at the insured location, as provided in the



1 plan of operation or any manual of rules and rates
2 adopted under the plan of operation;

3 (2) Real property used for business, commercial, or
4 industrial purposes [~~which~~] that is in insurable
5 condition, and [~~which~~] that may include tangible
6 personal property located therein or thereon, as
7 provided in the plan of operation or any manual of
8 rules and rates adopted under the plan of operation;

9 (3) Tangible personal property owned by an occupant of and
10 located in or on real property of the types described
11 in paragraph (1), 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; and

17 (4) Tangible personal property owned by an occupant of and
18 located in or on real property of the types described
19 in paragraph (2) as provided in the plan of operation
20 or any manual of rules and rates adopted under the
21 plan of operation; provided that the owner of the



1 tangible personal property does not own the real
2 property in or [~~on~~] upon which the tangible personal
3 property is located."

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

6 ""Licensed property and casualty insurer" means[+
7 ~~(1)~~ ~~Any~~] any insurer licensed to transact any one or more
8 classes of insurance authorized in section 431:3-204
9 where premiums written within [~~such~~] the authority are
10 required to be reported in the "Exhibit of Premiums
11 and Losses" for this State in the National Association
12 of Insurance Commissioners fire and casualty annual
13 statement convention blank that is required to be
14 filed with the commissioner under section 431:3-302[+
15 and

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

18 4. By amending the definition of "policy of hurricane
19 property insurance" to read:

20 ""Policy of hurricane property insurance" means a policy or
21 endorsement of insurance issued by the fund insuring only



1 against damage or loss to eligible property caused by a covered
2 event [~~in excess of the deductible and up to:~~

3 ~~(1) \$750,000 per risk on real property of one to four
4 units used for residential purposes and the personal
5 property located therein or thereon and other
6 structures at the insured location, subject to the
7 limits defined by the plan of operation or any manual
8 of rules and rates adopted under the plan of
9 operation; and~~

10 ~~(2) \$500,000 per risk on real and personal property used
11 for business, commercial, or industrial purposes,
12 subject to the limits defined by the plan of operation
13 or any manual of rules and rates adopted under the
14 plan of operation; provided that the board may
15 designate an association of property owners or
16 cooperative housing corporation to be a commercial
17 risk;~~

18 ~~provided that this policy or endorsement shall not include
19 coverage for business interruption and other similar coverages.]~~

20 subject to the limits and deductibles allowed by the plan of



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

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

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

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

12 (2) Authorize the provision of hurricane coverage by the
13 fund for real property and tangible personal property
14 located in or on real property and establish limits of
15 liability for specific coverages within the range of
16 authorized coverage;

17 (3) Adopt actuarially sound rates based on reasonable
18 assumptions relative to expectations of hurricane
19 frequency and severity for all coverage provided under
20 policies or endorsements issued by the fund. Rates
21 adopted shall be subject to approval by the



1 commissioner pursuant to article 14 of chapter 431.

2 Rates adopted shall provide for classification of

3 risks and shall include past and prospective losses

4 and expense experience in this State;

5 (4) Adopt procedures, guidelines, and surcharges

6 applicable to policies of hurricane property insurance

7 issued in connection with an underlying property

8 policy issued by an unauthorized insurer;

9 (5) Adopt any form of insurance policy necessary for

10 providing policies of hurricane property insurance by

11 the fund, with the approval of the commissioner;

12 (6) Issue policies of hurricane property insurance and pay

13 claims for coverage over the mandatory deductible or

14 other deductible provided in the plan of operation or

15 any manual of rules and rates adopted under the plan

16 of operation;

17 (7) [~~Require every~~] Contract with one or more licensed

18 property and casualty [~~insurer~~] insurers transacting

19 direct property insurance business in this State to

20 act as a servicing facility, and by contract with that

21 insurer authorize the insurer to inspect eligible



1 properties, service policies and policyholders of
2 hurricane property insurance, provide claim services,
3 and perform any other duties as authorized by the fund
4 for applicants to the fund and those insured by it;

5 (8) (A) Assess all licensed property and casualty
6 insurers the amounts [~~which,~~] that, together with
7 the other assets of the fund, are sufficient to
8 meet all necessary obligations of the fund. The
9 assessment shall be made on the insurer's gross
10 direct written premiums for property and casualty
11 insurance in this State for the preceding
12 calendar year. The rate of assessment in a year
13 in which a covered event has not occurred shall
14 be 3.75 per cent and shall not include the
15 insurer's gross direct written premiums for motor
16 vehicle insurance in this State; provided that
17 following a covered event, the rate of assessment
18 may be increased to an amount not to exceed five
19 per cent and may include the insurer's gross
20 direct written premiums for motor vehicle
21 insurance in this State. This increase shall



1 remain in effect until [~~such~~] the time [~~as~~] all
2 claims and other obligations, including but not
3 limited to bonds and notes, arising out of a
4 covered event [~~shall~~] have been fully discharged.
5 [~~An insurer authorized to provide comparable~~
6 ~~coverage under section 431P-10(b) and which is~~
7 ~~providing hurricane property insurance in the~~
8 ~~State shall be assessed an amount that excludes~~
9 ~~gross direct written premiums for property~~
10 ~~insurance in this State.] The assessment for a
11 year in which a covered event has not occurred
12 shall be collected quarterly during each calendar
13 year;~~

14 (B) In the event of a loss from a covered event the
15 fund, in addition to the assessment in
16 subparagraph (A), shall assess those insurers
17 which acted as servicing facilities during the
18 twelve months ending at the start of the month
19 preceding the month in which the covered event
20 occurs. The total assessment shall be a fixed
21 percentage of the total coverage provided by the



1 fund under its policies of hurricane property
2 insurance during the month preceding the month in
3 which the covered event occurs. The percentage
4 to be used in calculating the total assessment
5 shall be ~~[as follows:~~

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

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

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

12 ~~(iv) For calendar year 2001, and each calendar~~
13 ~~year thereafter,] 1.5 per cent.~~

14 A separate total assessment shall be made for
15 each covered event. The total assessment shall
16 be allocated to each servicing facility based on
17 the proportion of the total amount of the fund's
18 gross direct written premiums for policies of
19 hurricane property insurance serviced by each
20 servicing facility to the total amount of the
21 fund's gross direct written premiums for policies



1 of hurricane property insurance, in each case,
2 during the twelve months ending at the start of
3 the month preceding the month in which the
4 covered event occurs. Assessments made under
5 this subparagraph and those under subparagraph
6 (A) in a year in which a covered event has
7 occurred are due from each insurer based on
8 assessment procedures established by the fund to
9 meet its obligations to policyholders in a timely
10 manner; and

11 (C) [~~The fund may exempt~~] Exempt or defer, in whole
12 or in part, the assessment of any insurer if the
13 assessment would cause the insurer's financial
14 statement to reflect amounts of capital or
15 surplus less than the minimum amounts required
16 for a certificate of authority in this State;

17 (9) Develop a program of incentives to encourage insurers
18 to provide policies of hurricane property insurance in
19 the event the commissioner authorizes the provision of
20 comparable insurance pursuant to section 431P-10(b)
21 [~~which~~] that may include but are not limited to



1 exemption of the insurer's gross direct written
2 premium for property insurance from the assessment
3 pursuant to paragraph (8) (A);
4 ~~[(10)]~~ ~~Develop a credit based on the difference between~~
5 ~~premiums written in 1993 and the premiums written in~~
6 ~~1992 by each property insurer against the assessment~~
7 ~~for gross direct written premiums written in 1993;~~
8 ~~[(11)]~~ (10) Develop procedures regarding policies written by
9 unauthorized insurers comparable to the assessments,
10 surcharges, and other contributions made by insurers
11 authorized to do business in this State;
12 ~~[(12)]~~ (11) Accumulate reserves or funds, including the
13 investment income thereon, to be used for paying
14 expenses, making or repaying loans or other
15 obligations of the fund, providing loss mitigation
16 incentives, and paying valid claims for covered events
17 insured by the fund;
18 ~~[(13)]~~ (12) Collect and maintain statistical and other data
19 as may be required by the commissioner;
20 ~~[(14)]~~ (13) Exempt mortgage transactions from payments of
21 the special mortgage recording fee and provide for



1 maximum limits on or, uniform reduction of the special
2 mortgage recording fee, pursuant to rules adopted by
3 the board;

4 ~~[(15)]~~ (14) Suspend or reactivate the special mortgage
5 recording fee pursuant to resolution of the board;

6 ~~[(16)]~~ (15) Impose fines for each incident of nonpayment of
7 amounts due to the fund under this chapter; provided
8 that the fines shall not exceed twenty-five per cent
9 of the amount then due;

10 ~~[(17)]~~ (16) Create loss mitigation incentives, including but
11 not limited to premium credits, premium rebates,
12 loans, or cash payments;

13 ~~[(18)]~~ (17) Enter into claims financing transactions,
14 including but not limited to reinsurance transactions,
15 debt transactions, and other transactions
16 incorporating elements of reinsurance, insurance,
17 debt, or equity;

18 ~~[(19)]~~ (18) Establish business and corporate entities or
19 organizations pursuant to the purposes of this
20 chapter; ~~[and]~~



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

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

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

13 "**§431P-5.5 Accumulation of [~~\$500,000,000 in~~] funds and**
 14 **commitments.** (a) Upon written confirmation from the
 15 [~~insurance~~] commissioner that the director [~~of finance~~] has
 16 secured [~~\$500,000,000~~], in the aggregate, a target amount
 17 established by the plan of operation in the form of:

18 (1) Commitments from either the federal government or an
 19 agency of the federal government or a financial
 20 institution;



- 1 (2) Revenue bonds other than those issued or to be issued
2 in response to the occurrence of a covered event; or
3 (3) A combination of the commitments or bonds;

4 the Hawaii hurricane relief fund shall[+]
5 ~~(1) Control~~ control or freeze rates[+] and
6 ~~(2) Continue~~ continue accumulating premiums from policies
7 of hurricane property insurance ~~and~~, the special
8 mortgage recording fee, conveyance tax surcharge, and
9 transient accommodations tax revenue, net of any
10 reinsurance payments, operating expenses, and funds
11 necessary for the development of a comprehensive loss
12 reduction plan.

13 (b) When the balance of the net moneys accumulated totals
14 ~~[\$500,000,000,]~~ the target amount established by the plan of
15 operation, the Hawaii hurricane relief fund may notify the
16 ~~[insurance]~~ commissioner of that fact. The ~~[insurance]~~
17 commissioner, in turn, may order, following the receipt of the
18 notice, a reduction in the rates for policies of hurricane
19 property insurance.

20 (c) ~~[In the event of]~~ If a loss from a covered event[+] ~~[7]~~
21 occurs, the net moneys accumulated shall be used to settle



1 claims and pay current and ongoing expenses of the Hawaii
2 hurricane relief fund. The net accumulated moneys, commitments,
3 and bonds described in subsection (a) (2) shall be used only [~~in~~
4 ~~the event~~] if losses from a covered event exceed the assessment
5 pursuant to section 431P-5(b) (8) (B).

6 (d) [~~In the event~~] If the balance of the net accumulated
7 moneys falls below [~~\$400,000,000,~~] the minimum amount
8 established by the plan of operation, the Hawaii hurricane
9 relief fund shall establish rates, subject to the approval of
10 the [~~insurance~~] commissioner, necessary to replenish the account
11 balance to [~~\$500,000,000,~~] the target amount established by the
12 plan of operation as promptly as reasonably practicable. The
13 director [~~of finance~~] shall seek to arrange additional
14 commitments whenever the account balance falls below
15 [~~\$400,000,000.~~] the target amount established by the plan of
16 operation.

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

20 SECTION 16. Section 431P-7, Hawaii Revised Statutes, is
21 amended by amending subsection (c) to read as follows:



- 1 "(c) The plan of operation shall:
- 2 (1) Establish procedures for performance of all powers and
- 3 duties of the fund;
- 4 (2) Establish procedures for providing notice to all
- 5 persons with interests insurable by the fund in the
- 6 State of the type of insurance available from the fund
- 7 ~~[in the event]~~ if the fund offers insurance;
- 8 (3) Provide for and adopt all necessary forms, including
- 9 insurance policies to be used by and on behalf of the
- 10 fund, for use by the fund and servicing facilities;
- 11 (4) Adopt actuarially sound rates, based on reasonable
- 12 assumptions relative to expectations of hurricane
- 13 frequency and severity, to be charged for insurance
- 14 provided by the fund, in accordance with article 14 of
- 15 chapter 431;
- 16 (5) Publish manuals of rules, rates, and rating and
- 17 classification plans, which shall address mandatory
- 18 deductibles, limits of coverage, and the
- 19 classification of risks and rate modifications based
- 20 on the exposure of insureds~~[+]~~, subject to the
- 21 approval of the commissioner;



- 1 (6) Establish procedures for receiving and servicing
2 applications to the fund;
- 3 (7) Establish procedures for processing and maintaining
4 records of the fund relating to its financial
5 transactions, its agents, its employees, its
6 operations, and all transactions with any servicing
7 facility;
- 8 (8) Establish procedures for the collection and remittance
9 of the premiums and return of unearned premiums where
10 applicable;
- 11 (9) Establish procedures for the payment of valid claims;
- 12 (10) Establish the target amount under section 431P-5.5(b)
13 and minimum amount under 431P-5.5(d), subject to the
14 approval of both the commissioner and the director;
- 15 ~~[-(10)]~~ (11) Establish procedures for prorating available
16 funds pursuant to section 431P-15;
- 17 ~~[-(11)]~~ (12) Establish procedures for obtaining reinsurance;
- 18 ~~[-(12)]~~ (13) Establish procedures to borrow funds; and
- 19 ~~[-(13)]~~ (14) Develop a plan for the investment of moneys held
20 by the fund [~~subject to the limitations in article 6~~
21 ~~of chapter 431~~]."



1 SECTION 17. Section 431P-10, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§431P-10 Coverage available from the fund; deductible.**

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

19 ~~(b) Insurers seeking to provide multi-peril coverage for~~
20 ~~residential property, including multi-peril coverage of the~~
21 ~~hurricane peril, subject to the fund's program for incentives~~



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

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

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

20 "(b) The hurricane reserve trust fund shall receive
21 deposits of the special mortgage recording fee established by



1 this chapter. Except as determined by board order, the special
2 mortgage recording fee shall be imposed on each mortgage and
3 each amendment to a mortgage which, in each case, increases the
4 principal amount of the secured debt and ~~[which]~~ is recorded in
5 the bureau of conveyances of the State under chapter 502 or
6 filed with the assistant registrar of the land court of the
7 State under chapter 501.

8 The special mortgage recording fee shall be an amount equal
9 to ~~[one-tenth]~~ two-tenths of one per cent of the stated
10 principal amount of the debt secured by the mortgage or; in the
11 case of an amendment or refinancing of a mortgage, an amount
12 equal to ~~[one-tenth of one per cent]~~ an adequate percentage
13 recommended by the board and approved by the commissioner of the
14 amount of the increase of the stated principal amount of the
15 secured debt; provided that the board may establish a lower
16 special mortgage recording fee amount pursuant to section
17 ~~[431P-5(b)-(14)-.]~~ 431P-5(b)(13). With respect to an open end
18 revolving loan, the principal amount of the debt on which the
19 special mortgage recording fee is calculated shall be the
20 maximum amount ~~[which]~~ that may be outstanding under the loan at
21 any one time. With respect to a mortgage securing a nonmonetary



1 or inchoate obligation, the principal amount of the debt ~~[on]~~
2 upon which the special mortgage recording fee is calculated
3 shall be the monetary amount ~~[which]~~ that the mortgagee
4 attributes to the obligation. If the debt is stated in a
5 foreign currency, it shall be converted to U.S. dollars using an
6 exchange rate published in a newspaper of general circulation in
7 this State within one week ~~[prior to]~~ before recordation of the
8 mortgage or amendment of mortgage.

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

19 (c) The Hawaii hurricane relief fund shall implement the
20 assessments of all property and casualty insurers as authorized
21 by section 431P-5(b) (8) (A) and (B) and the proceeds from the



1 assessments shall be deposited into the hurricane reserve trust
2 fund or into trust or custodial accounts, created for the
3 benefit of the fund's secured parties, that are held inside or
4 outside the hurricane reserve trust fund[-]; provided that after
5 June 30, 2024, all proceeds realized from the collection of the
6 assessments shall be deposited into a separate trust account
7 within the hurricane reserve trust fund.

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

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

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



1 237D-2(f) on transient vacation rentals, the surcharge on
2 conveyance tax established pursuant to section 247- , and any
3 special mortgage recording fee that is reinstated after July 1,
4 2024, shall be deposited into the hurricane reserve trust fund."

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

6 "(i) Moneys in the hurricane reserve trust fund may be
7 disbursed upon dissolution of the Hawaii hurricane relief fund;
8 provided that:

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

16 (2) If [~~such~~] the moneys are paid on behalf of licensed
17 property and casualty insurers, payment shall be made
18 in proportion to the premiums from policies of
19 hurricane property insurance serviced by the insurers
20 in the twelve months prior to dissolution of the
21 fund[~~;~~



1 ~~provided that all interest earned from the principal in the~~
2 ~~hurricane reserve trust fund shall be transferred and deposited~~
3 ~~into the general fund each year that the hurricane reserve trust~~
4 ~~fund remains in existence]."~~

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

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

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

20 PART VI



1 SECTION 20. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 21. This Act shall take effect on July 1, 3000.



Report Title:

Property Insurance; Hawaii Hurricane Relief Fund; Hawaii
Property Insurance Association; Condominiums

Description:

Amends the laws relating to the Hawaii Hurricane Relief Fund and Hawaii Property Insurance Association by: imposing a different transient accommodation tax rate for transient vacation rentals and a property insurance surcharge on conveyance tax to capitalize the Association and Fund; expanding the statutory authorization for the Association to issue property insurance for certain condominiums and amending the designated geographic area eligible for coverage to specifically include lava zones 1 and 2; requiring Association member insurers and licensed property and casualty insurers to recoup assessment costs paid into the Association and Fund through a surcharge on premiums; requiring coverage limits and deductibles and fund capitalization amounts for licensed property and casualty insurers to be established in a plan of operation for the Fund, subject to approval by the Insurance Commissioner; and reinstating the special mortgage recording fee to capitalize the Fund. Effective 7/1/3000. (HD1)

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

