JOSH GREEN, M.D.
GOVERNOR | KE KIAʻĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIAʻĀINA

STATE OF HAWAIʻI | KA MOKUʻĀINA ʻO HAWAIʻI
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA ʻOIHANA KUMUWAIWAI ʻĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RYAN K.P. KANAKAʻOLE
FIRST DEPUTY

DEAN D. UYENO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N.S. CHANG
Chairperson

Before the Senate Committees on
WAYS AND MEANS
and
JUDICIARY

Friday, April 5, 2024
10:15 AM
State Capitol, Conference Room 211

In consideration of
HOUSE BILL 2686, HOUSE DRAFT 1, SENATE DRAFT 1
RELATING TO THE STABILIZATION OF PROPERTY INSURANCE

House Bill 2686, House Draft 1, Senate Draft 1 amends the laws relating to the Hawaii Hurricane Relief Fund and Hawaii Property Insurance Association (HPIA) and expands the HPIA's authority to include the issuance of property insurance other than fire insurance for certain real properties organized as a condominium. The bill also reinstates the special mortgage recording fee and explicitly authorizes the HPIA to issue property insurance policies to certain condominiums outside of area designated for coverage by the HPIA. This bill mandates that the HPIA member insurers recoup assessment costs. The measure also amends specific coverage limits, fund capitalization amounts, and assessment percentages by deleting specified dollar amounts percentages and authorizes the Hawaii Hurricane Relief Fun and the HPIA boards to recommend appropriate amounts and percentages to the Insurance Commissioner. **The Department of Land and Natural Resources (Department) appreciates the need to address skyrocketing property insurance costs and offers the following comments and concerns.**

It has been over 20 years since Act 153, Session Law of Hawaii 2001 mandated the original Hurricane Relief Fund that was funded by a special mortgage recording fee that was collected by the Bureau of Conveyance (BOC). The Department is concerned about having the required funding and personnel to support the collection and processing of this fee. At a minimum, the Department respectfully requests enough time, currently estimated at seven months to make the necessary operational and system changes and the coordination with the Department of Taxation to support the re-establishment of this special mortgage recording fee.

Mahalo for the opportunity to testify with comments on this measure.

JOSH GREEN, M.D.
GOVERNOR | KE KIAʻĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIAʻĀINA

STATE OF HAWAII | KA MOKUʻĀINA ʻO HAWAIʻI
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NADINE Y. ANDO
DIRECTOR | KA LUNA HOʻOKELE

DEAN I HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HOʻOKELE

Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committees on Ways and Means
and
Judiciary
Friday, April 5, 2024
10:15 a.m.
State Capitol, Rm. 211 & via Videoconference

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

WRITTEN TESTIMONY ONLY

Chair Dela Cruz, Chair Rhoads, 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.

Thank you for the opportunity to testify.

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
SENATE COMMITTEE ON WAYS AND MEANS
and
SENATE COMMITTEE ON JUDICIARY
Friday, April 5, 2024, 10:15 AM
State Capitol, Conference Room 211
in consideration of
House Bill No. 2686, HD1, SD1
RELATING TO THE STABILIZATION OF PROPERTY INSURANCE

Chairs Dela Cruz and Rhoads, Vice Chairs Moriwaki and Gabbard, and Members of the Committees:

Thank you for the opportunity to testify on HB 2686, HD1, SD1 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.

We support the measure so long as it does not adversely impact priorities identified in Exec. Suppl. Budget Request for FY2025. Thank you for this opportunity to provide comments and testify in support of HB 2686, HD1, SD1.

[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

STATE OF HAWAIʻI
DEPARTMENT OF TAXATION
Ka ʻOihana ʻAuhau
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HONOLULU, HAWAIʻI 96809
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TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION

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

BEFORE THE:
Senate Committees on Ways and Means and Judiciary

DATE:	Friday, April 5, 2024
TIME:	10:15 a.m.
LOCATION:	State Capitol, Room 211

Chairs Dela Cruz and Rhoads, Vice-Chairs Moriwaki and Gabbard, and Members of the Committees:

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

Parts II and IV of H.B. 2686, H.D. 1, S.D. 1, make several changes to the transient accommodation tax (TAT) under chapter 237D, Hawaii Revised Statutes (HRS), and the conveyance tax under chapter 247, HRS.

With respect to TAT, Part II of the bill amends sections 237D-1, 237D-2, and 237D-6.5(b), HRS, to create a new taxable category of "transient vacation rental" alongside the existing category of "transient accommodations." The tax will be imposed on transient vacation rentals at an unspecified rate beginning on January 1, 2026. "Transient vacation rental" is defined as a "'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" under this section.

An unspecified amount of the TAT collected will be allocated to a property insurance trust account established pursuant to section 431:21-105, HRS, and a hurricane insurance trust account established pursuant to section 431P-16, HRS.

With respect to conveyance tax, Part IV of the bill, creates a new section to be inserted in chapter 247, HRS, creating an additional surcharge on conveyance tax modeled from existing conveyance tax rates and bases. The surcharge percentages are mostly unspecified, except that for a purchaser 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.

Unspecified portions of the conveyance tax surcharge revenues will be deposited into the property insurance trust account under section 431:21-105, HRS, and into the hurricane insurance trust account under section 431P-16, HRS. 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.

This bill has a placeholder effective date of July 1, 3000.

The Department appreciates the Committees on Commerce and Consumer Protection (CPN), and Energy, Economic Development, and Tourism (EET) adopting its recommendations in Part II of the bill to address the Department's concerns regarding revenue allocations.

The Department reiterates concerns that the bill's new definition of “transient vacation rentals” may cause confusion, as transient accommodations are already broadly defined for TAT purposes as units furnished for less than 180 consecutive days (HRS § 237D-1). The new term creates a sub-class of rental units taxed differently based on different county definitions. For example, the City and County of Honolulu generally defines a “transient vacation unit” as one “advertised, solicited, offered or provided,” for periods of less than 90 consecutive days, although a federal court injunction has maintained that that the classification only applies to units rented for periods of 30-days or less. Revised Ordinances of Honolulu § 21-10.1; *see also* Allison Schaefers, *Rentals ruled exempt from 90 – day change*, HONOLULU STAR-ADVERTISER, Jan. 1, 2024, at A1.

Under the current bill, the new “transient vacation rental” tax rate would apply when a Honolulu transient vacation unit is rented for less than 180 days but not for more than 30 days (or 90 days if the federal injunction is lifted). Yet for counties that define transient vacation rentals as units rented for periods of less than 180 days (e.g., Maui County Code § 19.04.040, Kauaʻi County Code § 8-1.5), the definition is indistinguishable from a “transient accommodation” under HRS § 237D-1, and the surcharge would apply to all units rented.

In lieu of imposing a higher tax on four different categories of "transient vacation rentals," the Department again respectfully requests increasing the TAT on all transient accommodations to fund the proposed trust accounts. In the alternative, the Department suggests a single definition of "transient vacation rental" be adopted, without reference to county ordinance, which would apply uniformly to all short-term rentals in the State.

Further, if this measure passes, the Department requests the effective date of the tax law changes in sections 2, 3, 4, and 6 take effect January 1, 2026, to allow sufficient time for the Department to make the necessary form, instruction, computer system, and administrative changes, while educating taxpayers on the increased taxes and requirements.

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

HB-2686-SD-1
Submitted on: 4/3/2024 11:52:58 AM
Testimony for WAM on 4/5/2024 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Richard Emery	Testifying for Hawaii First Realty LLC	Support	Written Testimony Only

Comments:

SUPPORT.

HB-2686-SD-1
Submitted on: 4/3/2024 3:47:20 PM
Testimony for WAM on 4/5/2024 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Idor Harris	Testifying for Honolulu Tower AOAO	Support	Written Testimony Only

Comments:

Honolulu Tower is a 396 unit condominium built in 1982, located at Beretania and Maunakea Streets. At its meeting on February 5, 2024, the Honolulu Tower Association of Apartment Owners Board of Directors voted unanimously to support HB2686.

The Board urges you tomove this bill forward. This will provide a temporary insurance safety net for condominiums unable to access insurance and increase their ability to obtain insurance in the condominium insurance marketplace. Stabilization of the insurance market for condominiums, where one third of Hawaii's residentslive, is essential.

Idor Harris
Resident Manager

American Property Casualty Insurance Association℠
INSURING AMERICA apci.org

To: The Honorable Donovan M. Dela Cruz, Chair
The Honorable Sharon Y. Moriwaki, Vice Chair
Senate Committee on Ways and Means

The Honorable Karl Rhoads, Chair
The Honorable Mike Gabbard, Vice Chair
Senate Committee on Judiciary

From: Mark Sektnan, Vice President

Re: **HB 2686 HD1 SD1 – Relating to the Stabilization of Property Insurance**
APCIA Position: Oppose

Date: Friday, April 5, 2024; 10:15 a.m.
Conference Room 211 & Videoconference

Dear Chairs Dela Cruz and Rhoads, Vice Chairs Moriwaki and Gabbard and Members of the Committees:

The American Property Casualty Insurance Association (APCIA) is **opposed** to the recent amendments which would increase the insurance premium tax. The American Property Casualty Insurance Association (APCIA) is the primary national trade association for home, auto, and business insurers. APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe.

APCIA is generally supportive of the provisions in HB 2686 HD1 SD1 but most oppose the recent amendments that increase the insurance premium tax. Hawaii already has one of the highest premium tax rates in the nation. Increasing the premium tax rate will increase the cost for consumers and make insurance products sold in other states by Hawaii domiciled companies less competitive because other states will impose a retaliatory tax on the Hawaii domiciled company.

Hawaii's property insurance market is at a critical juncture and the fragility of the market will affect everyone who lives here. Even before the tragic Lahaina fire, the property insurance market was suffering in many areas including underpriced insurance in some cases, huge year-over-year global catastrophe losses, large increases in the cost of reinsurance, and greater severity and frequency of water losses in condominiums. After the fire, every issue is exacerbated, and the risk of wildfire is now an added peril.

This bill is a potential solution for the availability of some insurance coverage until such time as the voluntary market returns and certain risks are mitigated, becoming more insurable. This bill asks for no general funding, however, does require contributions from those directly affected by this impending crisis including property and casualty insurers, mortgage lenders, and real estate transactions. Without the contributions from all affected parties, short- and long-term solutions cannot succeed.

To that end, we are very concerned about the lack of detail in the bill for other funders besides the property and casualty insurance industry. There are blanks in the bill for all other tax amounts except for the mortgage recordation fee which is very small at 2/10 of 1%. In stark contrast, there are now **three** assessments against property and casualty insurers which will be recouped against all who purchase insurance. In addition, SD1 of HB 2686 adds a new premium tax increase of .01% which goes to the general fund and is forever.

Some of these assessments are on lines of business totally unrelated to the current real estate and lending crisis and will be paid by:

- Business owners through higher workers' compensation, general liability, commercial motor vehicle, commercial umbrella and other non-property insurance premiums.
- Consumers through higher personal motor vehicle, motorcycle, personal umbrella, watercraft and other non-property insurance premiums.

Premiums such as workers' compensation, general liability, and motor vehicle insurance do not have a direct nexus to properties that are unable to obtain insurance because their risk is uninsurable or because of Fannie Mae/Freddie Mac requirements. The premium tax increase goes to the general fund and does nothing to directly benefit the problems at issue. The total amount assessable and taxable to insurers based on $3.1 billion of premiums in 2022 is $371,833,000 every year if there is a hurricane.

If the Legislature decides to move forward in this manner, we believe unaffected lines of insurance should be eliminated from assessment and that mortgage transactions and real estate transactions be assessed at the same dollar amount as the property and casualty insurance industry.

It is clear that this crisis is broad and can affect the very financial fiber of Hawaii. One of the tools used to cede risk is insurance and we are now at a crossroads. We believe preserving the property and casualty insurance market is vital and added taxes and assessments against insurers may have the opposite effect and cause an even more pronounced market disruption. Those entities concerned about added costs to the purchase transactions from which they benefit should be more concerned about what will happen if there are no or fewer such transactions due to the unavailability of property insurance coverage.

Hawaii must act to stabilize the property insurance market before it is untenable. Some insurers are restricting new business, non-renewing certain policies, and some are considering leaving Hawaii altogether. In our very small market, a lack of insurance companies could financially cripple the state's economy and risk its collapse.

For these reasons, APCIA asks the committee to remove the amendment increasing the premium tax.

TAX FOUNDATION OF HAWAII

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

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

BILL NUMBER: HB 2686 HD 1 SD 1

INTRODUCED BY: Senate Committees on Commerce and Consumer Protection and Energy, Economic Development, and Tourism

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 subsection setting the TAT rate at ___% on transient vacation rentals beginning on July 1, 2026. Provides that __% of the TAT shall be deposited quarterly into the mass transit special fund (HRS sec. 248-2.7); the remaining monies shall be used to satisfy the other earmarks in HRS sec. 237D-6.5 and then any balance goes to the general fund.

Amends section 237D-6.5, HRS, to add two new earmarks, both unspecified amounts, directed to trust accounts, one for providing property insurance outside of a lava zone and the other for providing hurricane insurance.

Amends section 431:7-202, HRS, to increase the premium tax rate on property and casualty insurance from 4.265% to 4.275% of gross premiums written less reinsurance accepted.

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.

Insurance Premiums Tax Hike

Currently, insurance companies in the state are subject to the insurance premium tax in lieu of all other taxes. The rate for property and casualty insurance companies is 4.265%.

The bill proposes to raise this tax rate to 4.275%, or 1 basis point. The increase appears to be negligible, but further details need to be fleshed out. A tax on the insurers appears to run counter to the objectives sought to be achieved by the bill.

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: 4/3/2024

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Committee:	**Senate Committee on Ways and Means** **Senate Committee on Judiciary**
Bill Number:	**HB 2686, HD1, SD1, Relating to the Stabilization of Property Insurance**
Hearing Date and Time:	**April 5, 2024 at 10:15am (Room 211)**
Re:	**Testimony of Holomua Collaborative in support**

Aloha Chair Dela Cruz, Chair Rhoads, Vice Chair Moriwaki, Vice Chair Gabbard, and members of the Committees:

We write in support of HB 2686, HD1, SD1, Relating to the Stabilization of Property Insurance, as it expands the Hawai'i Property Insurance Association's authority to include providing property insurance for condominiums. Hawaii's property insurance market is at a critical juncture. Its precarious nature has the capacity to affect all local working families in Hawai'i. We should act now to stabilize our local insurance market.

Approximately 55% of all condominium units in Hawai'i were constructed before 1980. As a result, many of our condominium projects are almost half a century old and in need of replacements, upgrades, and retrofits, such as re-piping, spalling, windows, railings, and alarms. All these types of fixes are costly, complex, and time-consuming.

Offering a temporary insurance safety net for condominium projects that are otherwise unable to secure insurance will give association leadership up to five years to plan, coordinate, and implement necessary upgrades. This will enhance their ability to obtain insurance in the condominium insurance marketplace. In other words, this bill provides a safety bridge of insurance coverage until the voluntary market returns more fully.

We note that in its current format this bill 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 will add to the transaction cost for homebuyers and could affect housing affordability. For that reason, we recommend that a preferred funding mechanism for this measure would be the imposition of a higher transient accommodation tax on short-term rentals. This mechanism would export more of the cost, rather than having it be borne by local families.

As an organization that is dedicated to keeping all local working families in Hawaii by making sure that they can afford to stay, we support this measure. As is the case with HB 2801, which would provide access to C-PACER financing to condominiums for similar reasons (and which we are also supporting), this bill will likely provide the greatest benefit to people of modest incomes who live in these older condominiums. We are happy to support it.

Sincerely,

Josh Wisch
President & Executive Director

LAND USE RESEARCH
FOUNDATION OF HAWAII

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Honolulu, Hawaii 96813
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April 3, 2024

Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair
Senate Committee on Ways and Means

Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Senate Committee on Judiciary

Comments and Concerns Regarding HB 2686, H.D. 1, S.D. 1, Relating to the Stabilization of Property Insurance (Amends the laws relating to the Hawaii Hurricane Relief Fund and Hawaii Property Insurance Association. Amongst other things, proposes to amend Hawaii Revised Statutes [HRS] Chapter 247 to provide for a property insurance surcharge on the Hawaii conveyance tax. Effective 7/1/3000.)

Friday, April 5, 2024, at 10:15 a.m.; State Capitol, Conference Room 211 & Videoconference.

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers, and utility companies. One of LURF's missions is to advocate for reasonable, rational, and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide **clarification of comments and concerns previously submitted on Friday, March 15, 2024, regarding** this bill, specifically **<u>opposition</u> to the proposed increase of the Hawaii conveyance tax by a conveyance tax surcharge**, the revenues from which are to be used as a funding source for designated special/revolving funds. **LURF supports other sections of the bill.**

<u>HB 2686, H.D. 1, S.D. 1</u>. LURF most certainly understands the intent of this bill and the efforts of the Legislature to address the significant insurance cost issues being faced by the State's aging condominiums, condominium associations, and unit owners, and has no objection to actions being taken to address those challenges. However, to effectuate its intent, this bill proposes, amongst other actions, to increase the Hawaii conveyance tax via a conveyance tax surcharge in unspecified amounts/percentages, revenues from which will be split between two trust funds to be established pursuant to HRS Section 237D-2, namely 1) a trust account established pursuant to HRS Section 431:21-105 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 HRS Section 431P-16 for the purpose of providing hurricane insurance under that chapter.

LURF's Position. LURF's concerns regarding this bill focus **on the proposed establishment of such a conveyance tax surcharge** and the application of the revenues therefrom to the trusts to be used as a funding source to address the specified insurance challenges, which is arguably inappropriate, improper, and illegal for the following reasons:

1. **The Hawaii conveyance tax was never intended to be and should not operate as a revenue-generating tax**.

Chapter 247 (Conveyance Tax) of the HRS was purposefully enacted in 1966 to provide the State Department of Taxation ("DoTax") with informational data for the determination of market value of properties transferred, and to assist the DoTax in establishing real property assessed values. In short, the sole intent of the conveyance tax was originally to cover the administrative costs of collecting and assessing said informational data, which necessarily entails the recording of real estate transactions, as performed by the Bureau of Conveyances.

Since the enactment of HRS Chapter 247, however, the State Legislature has proposed, and has managed to implement changes to the law 1) to allow application of conveyance tax revenue to a number of non-conveyance type uses (land conservation fund; rental housing trust fund; and natural area reserve fund) to the point where there is no longer any clear nexus between the benefits sought by the original Act and the charges now proposed to be levied upon property-holding entities transferring ownership; and 2) also to increase the tax rates to the point where said revenues now far exceed the initially stated purpose of the Act. Moreover, supplemental funding for some of those expanded uses for which conveyance tax revenues were subsequently authorized has since been determined to be unnecessary, and recommended by the State Auditor to be discontinued, creating an even stronger basis for legal objection and challenge.

Such expansions and deviations, including the allocation of conveyance tax surcharge revenues to special funds established specifically for the purpose of addressing current insurance challenges, go far beyond the scope of the original intent of the conveyance tax law, and are concerning to LURF since the proposed bill, particularly if proposed to unlawfully target specific types of transactions or groups of property owners, could be characterized as imposing an improper penalty which may be subject to legal challenge.

2. HB 2686, H.D. 1, S.D. 1 is arguably illegal and in violation of Sections 37-52.3 and 37-52.4, HRS, because it attempts to use the conveyance tax to subsidize special funds which do not have a clear link between the program and the sources of revenue.

Special funds are subject to HRS Sections 37-52.3 and 37-52.4. Criteria for the establishment and continuance of special and revolving funds was enacted by the 2002 Legislature through Act 178, SLH 2002, Sections 37-52.3 and 37-52.4, HRS. To be approved for continuance, a special fund must:

a. serve the purpose for which it was originally established;
b. reflect a <u>clear nexus</u> between the benefits sought and charges made upon the users or beneficiaries of the program *or a clear link between the program and the sources of revenue*, as opposed to serving primarily as a means to provide the program or users with an automatic means of support that is removed from the normal budget and appropriation process;
c. provide an appropriate means of financing for the program or activity; and
d. demonstrate the capacity to be financially self-sustaining.

The first and second criteria are nearly identical to those in Act 240, SLH 1990, codified in Section 23-11, HRS, requiring the Auditor to review all legislative bills in each session to establish new special or revolving funds. It appears that the intent of HB 2686, H.D. 1, S.D. 1 is to find an additional source of funding to address issues relating to the stabilization of the insurance market for certain properties in Hawaii. However, the State Auditor has in the past concluded that an arrangement where there is no *clear link* with the funding source (i.e., individuals and companies buying and selling real property) should be repealed.

3. Other legal and voluntary alternatives may be available to fund or incentivize support for the identified insurance challenges.

In lieu of improperly imposing increases of conveyance taxes to increase the State's general fund, and subsidizing or increasing revenue for certain unrelated special funds with no clear link to the conveyance tax purposes or beneficiaries, proponents of this bill are urged to look to other possible legitimate means to do so, including funding support through other "related" or "linked" state and county charges, federal funding, fees, or taxes. By way of example, why aren't the same or similar funding sources relied upon for original establishment of the Hurricane Reserve Trust Fund being used, or at the very least being investigated as a funding option in this case instead of once again improperly resorting to the conveyance tax as a means of funding which would inequitably place the cost burden only upon buyers and sellers of real property? As far as LURF is aware, no information or facts regarding the exploration of such funding alternatives have been presented by proponents in support of this bill, nor has any discussion regarding alternative funding sources been initiated to explain the use of conveyance tax revenues for the purposes of subsidizing the funds identified in the bill.

There also appears to be no informational facts or data regarding the dollar amount of revenues anticipated to be collected from the surcharge, and whether said amount (if known) will even be sufficient to satisfy the reported purpose(s) for the special funds which are to be established.

While the surcharge percentage amount on the conveyance tax has not yet been specified in this measure, LURF understands that even a nominal surcharge rate could substantially increase the total conveyance tax payable upon the sale/purchase of a property. Would that **substantial increase** which would be suffered only by those engaged in real property transactions (as opposed to the general public) in Hawaii warrant the imposition of the increase of conveyance tax proposed by this bill?

Given the *"clear nexus"* requirement for special and revolving funds, and also given that general funding and alternative methods to secure revenues for these funds may exist, expansions and deviations of HRS Chapter 247 which go beyond the scope of the original intent of the conveyance tax law are again concerning since this proposed bill, particularly if it unlawfully targets transactions involving a particular group of individuals or entities which own real property in the State, could be characterized as imposing an improper penalty which may be subject to legal challenge.

4. **Attempts to utilize the State conveyance tax as a revenue generating tax without meeting the "*clear nexus*" requirement and without rightful justification based on necessary fact-finding, research, and expert consultation will likely cause serious unintended negative consequences.**

   a. **Hawaii's working-class residents, long-time property owners, and large *kama`aina* landowners will likely be negatively affected**.

The fact that the Hawaii conveyance tax was never intended to be and should not operate as a revenue-generating tax aside, given the recent increase in property values in Hawaii which have escalated over the past years, it is not at all inconceivable for Hawaii's middle-income, working-class homeowners and senior citizens on fixed incomes who own what are now high-valued properties, to be negatively impacted by this measure upon sale of their long-time residences. These types of proposed bills would also affect kama`aina landowners who may be transferring large properties for agricultural farms, housing developments, environmental programs, or other developments that would serve the community and create needed employment.

It is LURF's understanding that while **the conveyance tax surcharge is yet unspecified and has not been made available to the public**, the imposition of **any** additional percentage surcharge on the conveyance tax can **dramatically increase** the total conveyance tax which must be paid, and that **even a very minimal percentage surcharge could result in a substantial increase** in the total conveyance taxes payable upon the transfer of a property.

Again, as far as LURF has been able to ascertain, proponents of this bill have never consulted with housing, commercial, and agricultural developers (e.g., NAIOP, Land Use Foundation of Hawaii), or experts in the real estate industry (e.g., Hawaii Association of Realtors), as to the impact of this bill. Neither have proponents likely consulted with or addressed the comments and concerns of tax and economic experts (e.g., DoTax, the Tax Foundation, the University of Hawaii, and other independent experts) relating to the underlying intent and legal purpose of the conveyance tax and what legal and economic effects and consequences may result from the proposed improper and inappropriate use of conveyance tax revenues.

As a result, it appears that proponents of this bill have not offered any information or provided any factual data regarding the specific amounts necessary to stabilize property insurance, the number and types of property owners and transactions which would be impacted by, as well as the expected dollar amounts which will actually be generated by this measure, which is necessary to support this bill. Also unknown at this time is whether said amounts would even be close to sufficient for the funds identified and for the purposes specified, and whether those amounts would weigh against and warrant the consequences which may be suffered by property owners and other stakeholders. The proponents of this bill and the text of this bill have not provided any financial justification to support this bill, inform the public, and allow meaningful public input or challenges.

b. Such measures would create significant disincentives for business in Hawaii.

At a time when the State continues to reel from the effects of the Covid pandemic, and is still attempting to encourage business expansion in, and attract business operations to Hawaii, measures implemented to utilize the State conveyance tax as a revenue generating tax would create a disincentive and will have a substantial - negative impact on persuading new and existing businesses to open or expand in Hawaii, or to relocate their operations to this State. The proposed additional cost of doing business in Hawaii would certainly appear to negatively outweigh any positive revenue impact resulting from the imposition of increased conveyance taxes and/or surcharges pursuant to these types of measures.

c. This type of legislation would drive up the cost of land for agricultural production, affordable and market homes, and commercial development.

Your Committees should be aware that this proposed measure may **impact many industries** and **harm broad segments of Hawaii's economy**. The imposition of the proposed conveyance tax surcharge on transfers which affect **agricultural lands** will be passed on to farmers and other agricultural operators, making it even harder for agriculture to survive in Hawaii; the proposed imposition of the surcharge on transfers which affect **land intended for non-government assisted housing developments** will be passed on to home buyers and will thus increase the price of homes and exacerbate the affordable housing problem in Hawaii; the proposed imposition of the conveyance tax surcharge onto transfers which affect **commercial properties** will also be passed on to small businesses, creating yet another substantial financial burden on them. In addition, the proposed imposition of the surcharge on transfers of **properties for health care-related facilities** may increase the cost of health care, and properties needed to be transferred for other facilities such as **renewable energy** and **sustainable tourism** may impact those industries and raise related costs for the public as well.

Conclusion.

Given the incontrovertibly clear and express intent of Hawaii's conveyance tax law (HRS Chapter 247), which is to use State conveyance tax revenue to specifically cover administrative costs incurred by DoTax to collect and assess informational data, any use of State conveyance tax revenue must be strictly limited to that purpose as set out in the original Act. Use of conveyance tax revenue for any other purpose is subject to scrutiny and legal challenge.

LURF clearly understands the efforts of the Legislature and the intent of HB 2686, H.D. 1, S.D. 1 to address significant property insurance stabilization issues which deserve and command review and consideration by these Committees. However, there is also significant concern that proposed measures which attempt to utilize the conveyance tax as a revenue generating tax will likely cause unintended negative consequences which would be detrimental to the State.

In view of these issues, legislators are respectfully advised to act with caution, and to proceed judiciously when considering measures which propose to utilize or apply the conveyance tax as a revenue generating tax, especially to support the establishment or continuance of special, revolving and trust funds – some of which have not even adequately justified the need for or amount of such funding.

Request is therefore made for this Legislature to continue to **explore, consider, and utilize other appropriate and legal means of funding for said special/revolving funds, or to otherwise use or supplement the general fund to fulfill the intent of this measure without improperly increasing the Hawaii conveyance tax**.

Thank you for the opportunity to provide comments and concerns regarding this important measure.

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Removing barriers to Hawaii's prosperity

April 5, 2024, 10:15 a.m.
Hawaii State Capitol
Conference Room 211 and Videoconference

To: Senate Committee on Ways and Means
Sen. Donovan M. Dela Cruz, Chair
Sen. Sharon Y. Moriwaki, Vice-Chair

Senate Committee on Judiciary
Sen. Karl Rhoads, Chair
Sen. Mike Gabbard, Vice-Chair

From: Grassroot Institute of Hawaii
Ted Kefalas, Director of Strategic Campaigns

COMMENTS ON HB2686 HD1 SD1 — RELATING TO THE STABILIZATION OF PROPERTY INSURANCE

Aloha Chairs, Vice-Chairs and other members of the committees,

The Grassroot Institute of Hawaii would like to offer **comments on** HB2686 HD1 SD1, which would create a new transient accommodations tax rate for transient vacation rentals and a conveyance tax surcharge.

Both new taxes are intended to help fund the stabilization of property insurance for certain categories, especially in which premiums have gone up sharply in response to increased risk and the need to mitigate that risk through building maintenance or new equipment and protocols.

We are deeply concerned that this measure, despite its good intentions, would further distort Hawaii's insurance market. Rather than incentivizing property owners to mitigate risk themselves, it promises that the government would help delay the cost of that risk and places the burden of that cost onto others.

The bill envisions a five-year limit for condominium insurance under the plan, but there would be no similar limit placed upon the tax increases. This suggests that we are looking at a permanent tax increase and insurance subsidy.

Under such circumstances, there would be little incentive for covered buildings to ensure that their problems are resolved in that time period when they could more easily lobby for an extension of the time limit. Having come to the rescue of these vulnerable groups once, the Legislature would doubtless have difficulty not doing so again.

In fact, this creates a moral hazard, wherein more and more building owners might opt to avoid maintenance and upgrade costs that would help mitigate their high insurance rates because it would be reasonable to believe that the Legislature and taxpayers would come to the rescue.

An additional problem is that there would be no clear nexus between the benefit of insurance stabilization and the source of the funding for that benefit — tourism and conveyance taxes — which would violate state law governing special funds.

Moreover, given the blank amounts and the unknown costs of this program, one cannot properly estimate the budgetary impact of this proposed program or the tax increase.

It is fundamentally unfair to the public to consider and pass "blank" tax increases. The people have a right to know the size of the tax increase or cut under consideration.

However, we will assume that these blanks, however inadvisable, represent a moderate to sizable tax increase. In that case, we must caution that the tax hikes in this bill will be harmful to Hawaii homebuyers and businesses.

For example, regarding the conveyance tax surcharge, a report by the Sage Policy Group on transfer taxes noted that such laws can "lead to decreases in population, real incomes, real estate transactions, investment in structures and quality of the built environment."[1]

When applied to higher-value properties, transfer taxes reduce investment in both commercial and residential properties, leading to lost jobs and reduced economic activity.

Further, a conveyance tax surcharge might discourage adaptive reuse — the conversion of old buildings to new purposes. Hawaii's counties can leverage adaptive reuse to add to their housing stock, as they are doing now,[2] but higher conveyance taxes could chill the sale of old buildings, which may not necessarily qualify as "multifamily residential property" at the time of sale.

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[1] "The Unintended Consequences of Excessive Transfer Taxes," Sage Policy Group, Inc. on behalf of the Community Coalition for Jobs and Housing, June 2022, p. 3.
[2] Lana Teramae, "Local Architects Talk About Repurposing Existing Buildings in Post-Pandemic Hawai'i," Hawaii Business Magazine, Sept. 6, 2021.

The Sage report stated: “Many properties will need to be upgraded and/or adaptively reused to remain viable. Excessive transfer tax rates can frustrate the exchange of property that is often required to return to commercial viability.”[3]

Meanwhile, a hike in the TAT would fall not only on tourists, but also Hawaii residents who travel interisland, for whatever reason, or even just want to stay at a local hotel for a “staycation.”

More to the point, a large body of research demonstrates that increasing taxes on tourists can affect both the competitiveness of Hawaii’s tourism industry and the health of local businesses that depend upon tourism dollars — which means the tax affects most, if not all, Hawaii residents, albeit in some cases indirectly.

A 2017 European Union study on the impact of taxation on tourism in Europe found that high tourism taxes, passed on to tourists through higher prices, affected the competitiveness of particular destinations.[4] Coastal and leisure destinations in particular were most adversely affected by increases in tourism taxes, especially compared to locations that were more focused on business travelers.

In addition, occupancy taxes such as Hawaii’s TAT were singled out as inequitable and especially frustrating to tourists. The EU study recommended that countries that depend heavily on tourism should reduce their tourism taxes in order to increase competitiveness.

Looking at the even broader picture, one must consider that tax increases in general are not a good idea for Hawaii’s economy, especially not now when it already has one of the highest tax burdens in the nation.[5] Consider these points:

>> Hawaii’s population has been declining for the past six years,[6] with tens of thousands of Hawaii residents moving to the mainland over the past six years — mainly to states without income taxes, such as Washington, Nevada, Texas and Florida.[7] Their departure from the islands is not only emotionally distressing, but economically depressing as well.

>> Fewer people remaining means fewer people to work at our private businesses, or even staff our government agencies. It also means fewer people to help pay for Hawaii’s ever-increasing tax burden.

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[3] “The Unintended Consequences of Excessive Transfer Taxes,” p. 3.
[4] PricewaterhouseCoopers LLP, “The Impact of Taxes on the Competitiveness of European Tourism,” European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, October 2017.
[5] Jared Walczak and Erica York, “State and Local Tax Burdens, Calendar Year 2022,” Tax Foundation, April 7, 2022.
[6] Maria Wood, “Where People from Hawaii Are Moving to the Most,” 24/7 Wall Street, Jan. 23, 2022.
[7] Katherine Loughead, “How Do Taxes Affect Interstate Migration?” Tax Foundation, Oct. 11, 2022.

>> Higher taxes for the residents who still live here is more fuel for the exodus of talent and capital — our friends, neighbors and family — to places that are more affordable. It's a downward spiral economically fostered by the relentless upward spiral of more and more taxes.

>> Hawaii taxes high-income earners at 11%, second only to California at 13.3%.[8] Hawaii's top 1.5% of taxpayers already pay 34.9% of all income taxes in the state.[9]

>> Finally, Hawaii is suffering from a stagnant economy, and both the Economic Research Organization at the University of Hawaiʻi[10] and the state Department of Business, Economic Development and Tourism[11] have predicted continued slow economic growth in 2024. Tax hikes could exacerbate this slowdown, since entrepreneurs will be less likely to want to invest their capital — or "wealth assets," as the case may be[12] — in Hawaii's economy.

In short, Hawaii's residents and businesses need a break from new taxes, tax increase, fees and surcharges. This is not the time to make Hawaii a more expensive place to live and do business.

If the Legislature wishes to help address problems in the insurance market, they should not rely on special funds and taxes as the mechanism to do so.

Thank you for the opportunity to testify.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

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[8] Timothy Vermeer, "State Individual Income Tax Rates and Brackets for 2023," Tax Foundation, Feb. 21, 2023.
[9] "Hawaii Individual Income Tax Statistics," Hawaii Department of Taxation report for Tax Year 2021, August 2023, Table 12A.
[10] Carl Bonham, Byron Gagnes, Steven Bond-Smith, et al., "State Facing Headwinds as Maui Recovery Begins," Economic Research Organization at the University of Hawaiʻi, Dec. 15, 2023.
[11] Hawaii Department of Business, Economic Development, and Tourism, "Hawaii Economic Growth Remains Low for 2024 as Recovery Continues," Dec. 11, 2023.
[12] Aaron Hedlund, "How Do Taxes Affect Entrepreneurship, Innovation, and Productivity?" Center for Growth and Opportunity at Utah State University, Dec. 23, 2019; Ergete Ferede, "The Effects on Entrepreneurship of Increasing Provincial Top Personal Income Tax Rates in Canada," Fraser Institute, July 10, 2018; Robert Carroll, Douglas Holtz-Eakin, Mark Rider and Harvey S. Rosen, "Personal Income Taxes and the Growth of Small Firms," National Bureau of Economic Research, October 2000.

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April 5, 2024

The Honorable Donovan M. Dela Cruz, Chair
Senate Committee on Ways and Means

The Honorable Karl Rhoads, Chair
Senate Committee on Judiciary
State Capitol, Conference Room 211 & Videoconference

RE: House Bill 2686, HD1, SD1, Relating to the Stabilization of Property Insurance

HEARING: Tuesday, April 5, 2024, at 10:15 a.m.

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

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 **supports and provides comments** on House Bill 2686, HD1, SD1, 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.

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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 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. This is double the original fee when the HHRF was first established. We would also note that the special mortgage recording fee would not apply to all-cash buyers who would not have a mortgage. The following are examples of the rates buyers are responsible for 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 would also echo many of the concerns that the Department of Taxation raises with the surcharge on short-term rentals (STRs). It should be noted that the legislature is considering other measures this session that intend to give counties the power to phase out/amortize legal short-term rentals, which are the properties that would help to fund this bill (Part II of this measure). If the state would like to utilize tax revenue from legal STRs for this and other programs, giving counties the power to do away with legal STRs that pay their taxes and cut off that funding source would not be ideal.

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

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

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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.

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%

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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.

While our strong preference is not to burden future home buyers and sellers with extra taxes and fees, we understand that in order to continue the conversation around a different source of funding for this program, a compromise must be made. As such, we are suggesting the following proposed amendments for consideration as we hope they strike the appropriate balance. The new "Temporary Property Insurance Stabilization Fee" that we are suggesting is solely intended to help fund the HHRF, has a sunset (we suggest five years), and includes the intent of having sellers as well as buyers contribute into the program while not causing too much undue burden on either. Therefore, we are asking that Temporary Property Insurance Stabilization Fee replace both the Conveyance Tax and the Special Mortgage Recording Fee. The fee is set at one-tenth of one percent of the property value and buyers and sellers would share in paying the fee unless otherwise negotiated between both parties. Notably, the Temporary Property Insurance Stabilization Fee ensures inclusion of cash buyers, instead of relying solely on buyers with mortgages as would be the case with the Special Mortgage Recording Fee.

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.

Note: Additional conforming amendments would need to be made throughout the bill.

PART IV

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(C) 40 cents per $100 for properties having a value of at least $1,000,000, but less than $2,000,000;~~

~~(D) 60 cents per $100 for properties having a value of at least $2,000,000, but less than $4,000,000;~~

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

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

~~(G) per cent for properties having a value of $10,000,000 or greater,~~

~~of actual and full consideration; provided that in the case of a lease or sublease, this chapter shall apply only to a lease or sublease the full unexpired term of which is for a period of five years or more, and in those cases, including (where appropriate) those cases in which the lease has been extended or amended, the surcharge shall be based on the cash value of the lease rentals discounted to present day value and capitalized at the rate of per cent, plus the actual and full consideration paid or to be paid for any and all improvements,~~

~~that shall include on-site as well as off-site improvements, applicable to the leased premises; provided further that the surcharge imposed for each transaction shall be no less than $1.~~

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

~~(1) An amount equaling   per cent shall be deposited quarterly into a trust account established pursuant to section 431:21-105 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) An amount equaling   per cent shall be deposited quarterly into a trust account established pursuant to section 431P-16 for the purpose of providing hurricane insurance under that chapter.~~

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

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

PART VI

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

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

"(b) The hurricane reserve trust fund shall receive deposits of the ~~special mortgage recording~~ temporary property insurance stabilization fee established by this chapter. Except as determined by board order, the ~~special mortgage recording~~ temporary property insurance stabilization fee shall be imposed on or after _______, on all transfers or conveyances of realty or any interest therein, by way of deeds, leases, subleases, assignments of lease, agreements of sale, assignments of agreement of sale, instruments, writings, and any other document, whereby any lands, interests in land, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, lessee or lessees, sublessee or sublessees, assignee or assignees, or any other person or persons, by the person's or their direction; provided that:

(1) The temporary property insurance stabilization fee established by this section shall not apply to any document, transaction, deed, lease, sublease, assignment of lease, agreement of sale, assignment of agreement of sale, or writing under section 247-3; and

(2) In no event shall the temporary property insurance stabilization fee be imposed after __________. ~~each mortgage and each amendment to a mortgage which, in each case, increases the principal amount of the secured debt and [which] is recorded in the bureau of~~

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~~conveyances of the State under chapter 502 or filed with the assistant registrar of the land court of the State under chapter 501~~.

The ~~special mortgage recording~~ temporary property insurance stabilization fee shall be an amount equal to ~~[one-tenth]~~ ~~two-tenths~~ of one per cent of the actual and full consideration (whether cash or otherwise, including any promise, act, forbearance, property interest, value, gain, advantage, benefit, or profit), paid or to be paid for all transfers or conveyance of realty or any interest therein, that shall include any liens or encumbrances thereon at the time of sale, lease, sublease, assignment, transfer, or conveyance ~~stated principal amount of the debt secured by the mortgage or, in the case of an amendment or refinancing of a mortgage, an amount equal to [one-tenth of one per cent] an adequate percentage recommended by the board and approved by the commissioner of the amount of the increase of the stated principal amount of the secured debt~~; provided that the board may establish a lower ~~special mortgage recording~~ temporary property insurance stabilization fee amount pursuant to section [~~431P-5(b)(14).~~] 431P-5(b)(13). ~~With respect to an open end revolving loan, the principal amount of the debt on which the special mortgage recording fee is calculated shall be the maximum amount [which] that may be outstanding under the loan at any one time. With respect to a mortgage securing a nonmonetary or inchoate obligation, the principal amount of the debt [on] upon which the special mortgage recording fee is~~

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~~calculated shall be the monetary amount [which] that the mortgagee attributes to the obligation. If the debt is stated in a foreign currency, it shall be converted to U.S. dollars using an exchange rate published in a newspaper of general circulation in this State within one week [prior to] before recordation of the mortgage or amendment of mortgage.~~

The ~~special mortgage recording~~ temporary property insurance stabilization fee shall be in addition to any applicable fees under chapter 501 or 502. The ~~special mortgage recording~~ temporary property insurance stabilization fee shall be submitted to and collected by the bureau of conveyances or the assistant registrar of the land court of the State ~~and shall be deposited into the hurricane reserve trust fund~~. The ~~special mortgage recording~~ temporary property insurance stabilization fee shall be shared, unless otherwise agreed to, by the grantor, lessor, sublessor, assignor, transferor, seller, conveyor, or any other person conveying realty and the grantee, lessee, sublessee, assignee, transferee, purchaser, or conveyee or any other person purchasing, leasing, subleasing, assigning, transferring or conveying any realty that is subject to this section; and shall be submitted at the time the transaction is recorded ~~submitted at the time the mortgage or amendment of mortgage is recorded together with any related forms or certifications required~~ by the bureau of conveyances or the assistant registrar of the land court of the State. All revenues

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realized from the temporary property insurance stabilization fee shall be deposited as follows:

(1) An amount equaling   per cent shall be deposited quarterly into a trust account established pursuant to section 431:21-105 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) An amount equaling   per cent shall be deposited quarterly into a trust account established pursuant to this section.

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

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

2. By amending subsection (g) to read:

"(g) Any proceeds from loans or other moneys from the federal government, any proceeds from bonds issued pursuant to

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this chapter loaned by the director to the Hawaii hurricane relief fund, all revenues realized from the transient accommodations tax pursuant to section 237D-6.5 and the temporary property insurance stabilization fee~~ property insurance surcharge on conveyance tax established~~ pursuant to this section ~~247-____~~, and other moneys as the State may make available from time to time shall be deposited into the hurricane reserve trust fund[~~.~~]; provided that commencing on July 1, 2026, all revenues realized from the transient accommodations tax pursuant to section 237D-6.5~~, the property insurance surcharge on conveyance tax established pursuant to section 247-____,~~ and any ~~special mortgage recording~~ temporary property insurance stabilization fee that is ~~reinstated~~ collected after July 1, 2024, shall be deposited into the hurricane reserve trust fund."

3. By amending subsection (i) to read:

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

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

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

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

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

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

PART VII

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

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

MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

HEARING BEFORE THE SENATE COMMITTEES ON JUDICIARY and WAYS AND MEANS
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 211
Friday, April 5, 2024 AT 10:15 A.M.

To The Honorable Senator Karl Rhoads, Chair
The Honorable Senator Mike Gabbard, Vice Chair
Members of the committee on Judiciary
To The Honorable Senator Donovan M. Dela Cruz, Chair
The Honorable Senator Sharon Y. Moriwaki, Vice Chair
Members of the committee on Ways and Means

COMMENTS ON HB2686 HD1 SD1 RELATING TO THE STABILIZATION OF PROPERTY INSURANCE

The Maui Chamber of Commerce would like to offer **COMMENTS on HB2686 HD1 SD1**.

The Chamber understands the intent of this bill by addressing the availability of master condominium insurance policies. Hawaiʻi is experiencing a difficult 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. However, we have concerns with the additional taxes imposed.

This proposed increase in TAT will be borne largely by visitors. Hawaii already has the highest accommodation tax in the country. Although the bill's proponents may think that this is simply taxing our tourists to fix our property insurance market, there may be ripple effects from further assessing our tourists; the more we extract from the economy in taxes and fees, the more economic performance declines. 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.

Regarding the proposed increase in the conveyance tax, a large dollar value transaction doesn't necessarily mean that a rich person is on one or the other end. A multi-unit condominium housing development, for example, could easily sell for an eight-digit number thus, increasing the cost of subsequent housing.

We would like to stress that a tax increase of any magnitude in Hawaii's fragile economy will have a negative impact as costs increase due to higher taxes. As costs and overhead rise, 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.

Mahalo for the opportunity to offer **COMMENTS on HB2686 HD1 SD1**.

Sincerely,

Pamela Tumpap

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

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SanHi
GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: April 3, 2024

TO: Senator Donovan M. Dela Cruz
Chair, Committee on Ways and Means

Senator Karl Rhoads
Chair, Committee on Judiciary

FROM: Matt Tsujimura

RE: **H.B. 2686 H.D. 1 S.D. 1 – Relating to the Stabilization of Property Insurance**
Hearing Date: Friday, April 5, 2024, at 10:15AM
Conference Room: 211

Dear Chair Dela Cruz, Chair Rhoads, and Members of the joint Committee:

I am Matt Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm **offers comments** to H.B. 2686 H.D. 1 S.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 appreciates the effort spent crafting the proposals in H.B. 2686 H.D. 1 S.D. 1, and the willingness of the Legislature to look for solutions to one of the biggest issues facing the people of Hawaii. We also are thankful the prior joint committee's inclusion of our proposed amendments into the S.D. 1.

We support the Legislatures efforts to improve the insurance marketplace as it relates to Hawaii's condominium buildings and individual units. We understand the goal is to create a stable market for insurers that will draw more insurance companies back to Hawaii. More insurers in the market means greater accessibility and affordability for consumers.

The issues are complex. State Farm encourages the Legislature to continue the open dialog with insurers and other stakeholders to ensure all parties involved understand the issues and challenges. We hope the Legislature will continue to engage in discussions that will ensure the Hawaii Property Insurance Association (HPIA) and

Hawaii Hurricane Relief Fund (HHRF) (1) provide products which are actuarially sound; (2) service consumers who cannot obtain insurance on the voluntary market; (3) encourages consumers to repair, renovate, and remediate properties in an insurable condition; and (4) incentives the depopulation of HPIA and HHRF. Further discussion and information gathering are crucial as the Legislature continues to mold H.B. 2686 H.D. 1 S.D. 1 into a proposal that will help to resolve the issues of condominium building and condominium unit insurability, accessibility, and affordability.

State Farm has major concerns regarding the proposed increase to the insurance premium tax, with Hawaii having one of the highest premium taxes in the nation. As such an increase to the premium tax, no matter how small, can have a negative impact on insurers who pay significant taxes even in years when there are large losses. Furthermore, while the intent of the legislation is to enable HPIA and HHRF to "underwrite risks in the State that no standard insurer is currently willing to underwrite," the current draft doesn't specify that the funding generated from this increase will go directly towards these purposes.

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

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

Pauahi Tower, Suite 2010
1003 Bishop Street
Honolulu, Hawaii 96813
Telephone (808) 525-5877

Alison H. Ueoka
President

TESTIMONY OF MICHAEL ONOFRIETTI

COMMITTEE ON WAYS AND MEANS
Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair

COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Friday, April 5, 2024
10:15 a.m.

HB 2686, HD1, SD1

Chair Dela Cruz, Vice Chair Moriwaki, and members of the Committee on Ways and Means, and Chair Rhoads, Vice Chair Gabbard and members of the Committee on Judiciary, my name is Michael Onofrietti, ACAS, MAAA, CPCU, Senior Vice President, Chief Actuary & Chief Risk Officer for Island Insurance and Chairman of the Auto Policy Committee for Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **supports** intent of this bill but we have serious reservations about its funding. Hawaii's property insurance market is at a critical juncture and the fragility of the market will affect everyone who lives here. Even before the tragic Lahaina fire, the property insurance market was suffering in many areas including underpriced insurance in some cases, huge year-over-year global catastrophe losses, large increases in the cost of reinsurance, and greater severity and frequency of water losses in condominiums. After the fire, every issue is exacerbated, and the risk of wildfire is now an added peril.

There is an immediate need for condo unit insurance and some single-family home insurance statewide. In addition, condominium buildings are having difficulty obtaining hurricane insurance up to their building value while some condos are experiencing ongoing water losses simultaneously. We ask that the following amendments be made to clarify that condominium buildings may apply for coverage to the Hawaii Hurricane Relief Fund: (1) add a comma and the phrase “including a condominium” on page 39, line 7 after “residential purposes”; and (2) the same changes to page 39, line 14 after “industrial purposes”.

This bill is a potential solution for the availability of some insurance coverage until such time the voluntary market returns and certain risks are mitigated, becoming more insurable. This bill asks for no general funding, however, does require contributions from those directly affected by this impending crisis including property and casualty insurers, mortgage lenders, and real estate transactions. Without the contributions from all affected parties, short- and long-term solutions cannot succeed.

To that end, we are very concerned about the lack of detail in the bill for other funders besides the property and casualty insurance industry. There are blanks in the bill for all other tax amounts except for the mortgage recordation fee which is very small at 2/10 of 1%. In stark contrast, there are now **three** assessments against property and casualty insurers which will be recouped against all who purchase insurance. In addition, SD1 of HB 2686 adds a new premium tax increase of .01% which goes to the general fund and is forever.

Some of these assessments are on lines of business totally unrelated to the current real estate and lending crisis and will be paid by:

- Business owners through higher workers’ compensation, general liability, commercial motor vehicle, commercial umbrella and other non-property insurance premiums.
- Consumers through higher personal motor vehicle, motorcycle, personal umbrella, watercraft and other non-property insurance premiums.

Premiums such as workers’ compensation, general liability, and motor vehicle insurance do not have a direct nexus to properties that are unable to obtain insurance because their risk is uninsurable or because of Fannie Mae/Freddie Mac requirements. The premium tax increase goes to the general fund and does nothing to directly benefit the problems at issue. The total amount assessable and taxable to insurers based on $3.1 billion of premiums in 2022 is $371,833,000 every year if there is a hurricane.

If the Legislature decides to move forward in this manner, we believe unaffected lines of insurance should be eliminated from assessment and that mortgage transactions and real estate transactions be assessed at the same dollar amount as the property and casualty insurance industry.

It is clear that this crisis is broad and can affect the very financial fiber of Hawaii. One of the tools used to cede risk is insurance and we are now at a crossroads. We believe preserving our property and casualty insurance market is vital and added taxes and assessments against insurers may have the opposite effect and cause an even more pronounced market disruption. Those entities concerned about added costs to the purchase transactions from which they benefit should be more concerned about what will happen if there are no or many fewer such transactions due to the unavailability of property insurance coverage.

Hawaii must act to stabilize the property insurance market before it is untenable. Some insurers are restricting new business, non-renewing certain policies, and some are considering leaving Hawaii altogether. In our very small market, a lack of insurance companies could financially cripple our economy and risk its collapse.

Hawaii Insurers Council learned from this type of pull-back of homeowners insurance after Hurricane Iniki and therefore has been proactively working to find solutions for all of Hawaii. Property insurance is a vital piece of home ownership and housing stability. We urge the Legislature to act in 2024 in an expedient and equitable manner as we expect this difficult insurance market to get worse before it gets better.

Thank you for the opportunity to testify.

SanHi
GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: April 5, 2024

TO: Senator Donovan M. Dela Cruz
Chair, Committee on Ways and Means

Senator Karl Rhoads
Chair, Committee on Judiciary

FROM: Tiffany Yajima / Mihoko Ito

RE: **H.B. 2686, H.D.1, S.D.1 – Relating to the Stabilization of Property Insurance**
Hearing Date: Friday, April 5, 2024, at 10:15 a.m.
Conference Room: 211

Dear Chair Dela Cruz, Chair Rhoads and Members of the Joint Committees:

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** 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 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 could negatively affect housing affordability.

Thank you for the opportunity to submit this testimony.

MORTGAGE BANKERS ASSOCIATION OF HAWAII

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

LATE

April 4, 2024

Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair
Members of the Senate Ways and Means Committee

Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Members of the Senate Judiciary Committee

Hearing Date: April 5, 2024
Hearing Time: 10:15 am

Re: HB 2686-HD1, SD1 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 22:**

> 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

Hawaii Credit Union League
Your Partner For Success
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Unite for Good
Web site: www.hcul.org
Email: info@hcul.org

LATE

Testimony to the Senate Committee on Ways & Means and Judiciary
April 5, 2024, 10:30 am
Conference Room 211

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

To: The Honorable Donovan Dela Cruz, Chair
The Honorable Sharon Moriwaki, Chair
The Honorable Karl Rhoads, Vice-Chair
The Honorable Mike Gabbard, Vice-Chair
Members of the Committees

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.

HB-2686-SD-1
Submitted on: 4/3/2024 3:40:25 PM
Testimony for WAM on 4/5/2024 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

I am an owner and board member of a Downtown Honolulu condo. Circumstances beyond our control make this measure necessary. Insurance companies are leaving the state, dropping customers because the companies say there is too much deferred maintenance, buildings need to be repiped, hurricane insurance premiums must be raised because of repeated hurricanes in communities on the mainland, etc. It is estimated that 400 buildings are underinsured.

The higher premiums are hard for many associations to pay, and will, if paid, result in continued deferred maintenance because there are just so may dollars owners can spend. Many are on a fixed income. This bill will also allow lenders to meet the requirements of the secondary mortgage market.

You should know that 1/3 of the population ives in condos.That is a lot of people.

Please support this bill.

LATE

HB-2686-SD-1
Submitted on: 4/4/2024 2:32:19 PM
Testimony for WAM on 4/5/2024 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Mike	Individual	Oppose	Written Testimony Only

Comments:

I OPPOSE. Fill in the blanks with tax cuts.