

JAN 17 2025

S.B. NO. 1044

A BILL FOR AN ACT

RELATING TO THE STABILIZATION OF PROPERTY INSURANCE.

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

PART I

SECTION 1. The legislature finds that before the wildfire event in Lahaina, Maui, on August 8, 2023, the availability of condominium building master property insurance policy options within the condominium insurance marketplace was already shrinking. Due in part to the shrinking condominium insurance marketplace, condominium building master insurance policies have increased exponentially, with insurers increasing deductible amounts from what used to be between \$10,000 to \$25,000 per unit, per occurrence, to as much as \$250,000. These increased deductibles are also due to consistent and high-cost losses.

The legislature also finds that while the State has avoided a direct, major impact from a major hurricane since Hurricane Iniki devastated Kauai and damaged homes along Oahu's leeward coast more than thirty years ago, mortgage lenders continue to require Hawaii homeowners to carry hurricane insurance that can



1 cost two to three times the annual premiums of a conventional
2 homeowner policy.

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

17 Furthermore, some condominium associations for older
18 buildings are forced to obtain property insurance through the
19 secondary insurance market if they are dropped by the standard
20 insurers for, among other things, having too many claims. The
21 president of Insurance Associates reported that more than seven



1 hundred condominium buildings on Oahu alone were built before
2 1990. These secondary market insurers are not bound by the
3 State's laws or administrative rules governing rates, so their
4 prices may be more expensive than those of standard insurance
5 carriers.

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

17 The legislature finds that the consequences of
18 under-insured condominium buildings, including condominium
19 buildings that lack full hurricane coverage, also impact
20 individual owners. Today, there are only three insurers writing
21 hurricane coverage for condominium buildings, one of which is



1 only willing to underwrite \$10,000,000 to \$25,000,000 in
2 hurricane coverage while underwriting all other coverage up to
3 the building's value. If a condominium building's insurance
4 coverage, including hurricane coverage, is below its full value,
5 the mortgages on individual units within that building would not
6 meet the underwriting criteria to qualify for purchase through
7 the federal government's secondary mortgage market, meaning that
8 these mortgages cannot be sold by financial institutions to
9 mortgage investor entities such as Fannie Mae and Freddie Mac.
10 Coverage to address this lack of hurricane insurance coverage
11 options is available from the excess and surplus lines market,
12 which comprises insurers who are not licensed in the State;
13 however, some condominium buildings are unwilling to purchase
14 this coverage because of its high price. The legislature
15 understands that although this Act authorizes the Hawaii
16 hurricane relief fund to expand coverage to condominium
17 buildings, premium rates may be high due to the rise in the
18 global reinsurance market for hurricane insurance caused by the
19 frequency and severity of worldwide disasters.

20 In addition, Hawaii Business Magazine has reported that the
21 2021 collapse of the Surfside condominium building in Miami is



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

10 This inability to sell condominium mortgages would require
11 financial institutions that originated mortgages to retain those
12 mortgages, thereby lessening their overall financial capacity to
13 originate more mortgages. Further, the risk of loss if a
14 hurricane occurs may impair a financial institution's financial
15 safety and soundness, which would in turn hamper consumers'
16 abilities to obtain financing to purchase dwellings of their
17 own.

18 The legislature notes that the wildfire in Lahaina, Maui,
19 on August 8, 2023, has also impacted the way reinsurers and
20 standard insurers view Hawaii's wildfire risk. The president of
21 Insurance Associates estimates that while Hawaii has always been



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

16 The legislature also understands that the market for
17 reinsurance, the insurance that property and casualty insurance
18 companies pay to share their risk, is global. Therefore, storms
19 and other catastrophic losses occurring anywhere in the world
20 may potentially impact the amounts that homeowners and



1 condominium associations in Hawaii pay for their insurance
2 coverage.

3 The legislature also acknowledges that although insurance
4 coverage, excluding hurricane coverage, for condominium
5 buildings is available in the standard insurance market, the
6 availability of this coverage is not guaranteed. If this
7 coverage became unavailable to condominium buildings, then under
8 this Act, the Hawaii property insurance association would be
9 authorized to provide this coverage.

10 This Act expands the authority of these State-established
11 insurance entities to assist in the stabilization of the
12 property insurance market until risks can be depopulated back to
13 the standard insurance market when market conditions improve and
14 risks become more insurable because of building component
15 replacement or maintenance, or mitigation equipment or protocols
16 have been implemented for fire, wildfire, or hurricane events.

17 The legislature also recognizes that, although there has
18 been much focus on the instability of the condominium insurance
19 market in Hawaii, the broader property insurance industry faces
20 uncertainty amidst changing economic and regulatory conditions,
21 rising costs, increased reinsurance costs, and more frequent



1 severe weather events. Given these precarious conditions, it is
2 possible that a future disaster or other unforeseen circumstance
3 could cause the availability of insurance to shrink for classes
4 of real property other than condominiums, including single
5 family homes and townhouses.

6 Accordingly, this Act authorizes the Hawaii property
7 insurance association to provide additional insurance coverage
8 within the State for certain categories of properties if the
9 Hawaii property insurance association and insurance commissioner
10 determine that those categories of properties are experiencing a
11 casualty and property insurance market failure. This authority
12 will provide the Hawaii property insurance association with the
13 flexibility to quickly address potential future disruptions in
14 the insurance market. This flexibility is critical to ensure
15 that Hawaii residents living in non-condominium properties such
16 as single-family homes and townhouses are protected following
17 unexpected disasters that could otherwise increase the cost of
18 insurance to the point where residents cannot afford to continue
19 living in their homes or in the State.

20 The legislature believes that it is critical to begin the
21 process to adequately capitalize the Hawaii property insurance



1 association and Hawaii hurricane relief fund because insuring
2 these risks could bring an enormous amount of risk exposure to
3 the funds. Therefore, funding mechanisms must be broad on an
4 initial and ongoing basis and spread among as many parties
5 involved in real property transactions within the State as
6 possible to ensure that the financial impacts are apportioned as
7 equitably as practicable, and that reserve funds are adequately
8 capitalized if losses exceed the funds' capacities.

9 In the past, the Hawaii hurricane relief fund was funded in
10 part through the special mortgage recording fee, which was
11 imposed on each mortgage recorded with the bureau of
12 conveyances. The legislature recognizes concerns that the
13 special mortgage recording fee is regressive because homebuyers
14 who need to finance more of their purchase price are assessed
15 proportionally more than buyers who need to finance less or who
16 can afford to complete their purchase using cash.

17 Therefore, this Act repeals the special mortgage recording
18 fee and instead authorizes the Hawaii hurricane relief fund
19 board of directors to establish a temporary recording fee, which
20 will be imposed as a flat assessment on each document that is
21 recorded with the bureau of conveyances or filed with the



1 assistant registrar of the land court of the State, as
2 appropriate. This fee, if activated by the Hawaii hurricane
3 relief fund, is intended to be a temporary funding mechanism
4 that will spread costs out in a way that will reduce the
5 regressive financial impact imposed on individuals and families
6 who can only afford to purchase a residential dwelling by
7 financing the purchase. If the Hawaii hurricane relief fund
8 board of directors determines that the fee revenue is no longer
9 required, this Act allows the board to terminate collection of
10 the fee without seeking legislative action.

11 This Act provides additional funding mechanisms through
12 the:

- 13 (1) Appropriation of general funds for the Hawaii property
14 insurance association; and
- 15 (2) Option for the Hawaii hurricane relief fund to
16 reactivate the assessment of insurers at an assessment
17 rate determined by the Hawaii hurricane relief fund's
18 board of directors to augment the capitalization of
19 the Hawaii hurricane relief fund.

20 The legislature finds that this Act is necessary to:



- (1) Stabilize the property insurance market so that insurers continue to insure properties in the State;
- (2) Ensure access to adequate property insurance for certain properties located within the State to allow lenders to finance mortgages that meet the requirements of the secondary mortgage market; and
- (3) Serve an important public purpose.

This Act is a stop-gap measure to provide insurance availability for condominium associations that are unable to purchase adequate property insurance for their respective condominium buildings that are in insurable condition. Condominium associations that apply for coverage through the Hawaii property insurance association will need to pay premiums that are sufficient to cover the condominium association's exposure to losses. This measure is not designed to be a long-term solution, and therefore the legislature has imposed a one-time five-year coverage period and commissioned a study to recommend long-term solutions to stabilize the property insurance market in the State. To that end, in addition to providing for the issuance of short-term property insurance coverage, this Act also effectively requires the insurance



1 commissioner to conduct a study to develop a long-term solution.
2 The legislature notes that a long-term solution may potentially
3 include the issuance of property insurance policies for
4 condominium buildings that are in need of repair or replacement
5 of components.

6 The purpose of this Act is to:

- 7 (1) Amend state laws governing the Hawaii property
8 insurance association and the Hawaii hurricane relief
9 fund to enable these entities to underwrite certain
10 insurance risks in the State that no standard insurer
11 is currently willing to underwrite; and
12 (2) Require the insurance commissioner to conduct a study
13 to monitor and identify the most effective methods of
14 stabilizing the property insurance market in the
15 State.

16 PART II

17 SECTION 2. Section 431:21-102, Hawaii Revised Statutes, is
18 amended by adding three new definitions to be appropriately
19 inserted and to read as follows:

20 "Condominium" means real property that:



(1) Has a condominium association that is registered with the real estate commission in accordance with chapter 514B, part VI;

(2) Consists of units, as defined in chapter 514B;

(3) Is used for residential purposes; and

(4) Is in insurable condition as determined by the association's board of directors.

"High-rise condominium" means a condominium that has four or more stories that contain units that are or can be occupied by a person.

"Property insurance" means policies, riders, or endorsements of insurance that provide indemnity, in whole or in part, for the loss, destruction, or damage of property and against legal liability for the death, injury, or disability of any human being, or from damage to property. "Property insurance" does not include any indemnity for loss, destruction, damage of property, or death, injury, or disability of any human being, or from damage to property, caused by a hurricane."

SECTION 3. Section 431:21-105, Hawaii Revised Statutes, is amended to read as follows:



1 "**§431:21-105 Powers and duties of the association.** (a)

2 In addition to any other requirements imposed by law, the
3 association shall:

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

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

12 ~~[(2)]~~ (3) Reimburse each servicing facility for obligations
13 of the association paid by the facility and for
14 expenses incurred by the facility while processing
15 applications and servicing policies on behalf of the
16 association; and

17 ~~[(3)]~~ (4) Collect and maintain statistical information and
18 other information required by the commissioner.

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



- 1 (1) Add additional insurance coverages with the approval
2 of the commissioner, including coverage for commercial
3 risks up to the limits of coverage [~~for residential~~
4 ~~risks~~] as set forth in the plan of operation;
- 5 (2) Employ or retain persons as are necessary to perform
6 the duties of the association;
- 7 (3) Contract with a member insurer to perform the duties
8 of the association;
- 9 (4) Sue or be sued;
- 10 (5) Borrow funds necessary to effectuate the purposes of
11 this article in accord with the plan of operation;
- 12 (6) If approved by the commissioner, [~~assess~~] activate,
13 reduce, or terminate the collection of an assessment
14 on member insurers in amounts necessary to cover
15 extraordinary losses incurred by the association[~~-~~];
16 provided that:
17 (A) Each member insurer shall be notified of the
18 assessment not later than thirty days before it
19 is due[~~-~~];



1 (B) The association, subject to the approval of the
2 commissioner, may set the amount of the
3 assessment; provided further that:

4 (i) No member insurer may be assessed in any
5 year an amount greater than two per cent of
6 that member insurer's net direct written
7 premiums for the preceding calendar year[-];
8 and

9 (ii) The association may at any time reduce the
10 amount of the assessment;

11 (C) The association, subject to the approval of the
12 commissioner, may establish the period of time
13 during which the assessment shall be collected;
14 provided that the time period shall not
15 exceed months; provided further that the
16 association at any time may terminate the
17 collection of the assessment; and

18 (D) The association may exempt or defer, in whole or
19 in part, the assessment of any member insurer if
20 the assessment would cause the member insurer's
21 financial statement to reflect amounts of capital



1 or surplus less than the minimum amounts required
2 for a certificate of authority by any
3 jurisdiction in which the member insurer is
4 authorized to transact business;

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

10 (8) Negotiate and become a party to contracts as are
11 necessary to carry out the purposes of this article;
12 [and]

13 (9) Establish outside the state treasury a reserve trust
14 fund and any accounts thereunder and any other trust
15 fund or account necessary to carry out the purposes of
16 this article. Moneys deposited in the reserve trust
17 fund and any accounts thereunder or any other trust
18 fund or account established by the association shall
19 be held by the association, as trustee, in a
20 depository as defined in section 38-1 or according to
21 a similar arrangement at the discretion of the board,



1 including but not limited to trust or custodial
2 accounts created for the benefit of the fund's secured
3 parties under contractual claims financing
4 arrangements. These moneys may be invested and
5 reinvested in accordance with the plan of operation.
6 Disbursements from the trust funds shall not be
7 subject to chapter 103D and shall be made in
8 accordance with procedures adopted by the board;

9 (10) Receive moneys for deposit into a trust fund or
10 account from the revenues received from sources of
11 revenue available to the board; and

12 [(+9)] (11) Perform all other acts as are necessary or
13 proper to effectuate the purpose of this article."

14 SECTION 4. Section 431:21-106, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending subsection (a) to read:

17 "(a) The association shall submit to the commissioner a
18 plan of operation and any amendments to the plan necessary or
19 suitable to ~~[assure]~~ ensure the fair, reasonable, and equitable
20 administration of the association. The plan of operation and
21 any amendment shall become effective upon approval in writing by



1 the commissioner. If the association fails to submit a suitable
2 plan of operation or if at any time the association fails to
3 submit suitable amendments to the plan, the commissioner shall
4 adopt the rules necessary to carry out this article. The rules
5 shall continue in force until modified by the commissioner or
6 superseded by a plan submitted by the association and approved
7 in writing by the commissioner."

8 2. By amending subsection (c) to read:

9 "(c) The plan of operation [~~shall~~]:

10 (1) [~~Establish~~] Shall establish procedures for performance
11 of all the powers and duties of the association under
12 section 431:21-105;

13 (2) [~~Establish~~] Shall establish maximum limits of
14 liability to be placed through the association;

15 (3) [~~Establish~~] Shall establish reasonable underwriting
16 standards for determining insurability of a risk
17 [~~which~~] that are comparable to the standards used to
18 determine insurability of a risk located outside the
19 area designated by the commissioner as eligible for
20 association coverage;



1 (4) ~~[Establish]~~ Shall establish a schedule of deductibles,
2 if appropriate;

3 (5) Shall establish a maximum period of time during which
4 a high-rise condominium may be eligible to be insured
5 by the association, which shall not exceed sixty
6 months;

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

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

20 ~~[(7) Establish]~~ (8) Shall establish the manner and scope
21 of the inspection and the form of the inspection



1 report. The inspection guidelines may include setting
2 minimum conditions the property must meet before an
3 inspection is required;

4 [~~(8)~~ ~~Establish~~] (9) Shall establish procedures whereby
5 selections for the board of directors will be
6 submitted to the commissioner for the commissioner's
7 information;

8 [~~(9)~~ ~~Establish~~] (10) Shall establish procedures for
9 records to be kept of all financial transactions of
10 the association, its producers, and its board of
11 directors;

12 [~~(10)~~ ~~Establish~~] (11) Shall establish procedures by which
13 applications will be received and serviced by the
14 association;

15 [~~(11)~~ ~~Establish~~] (12) Shall establish guidelines for the
16 investigation and payment of claims; [~~and~~

17 ~~(12)~~ ~~Establish~~] (13) Shall establish procedures whereby
18 the association may assume and cede reinsurance on
19 risks written through the association~~(-)~~;

20 (14) Shall include the following:



(A) Coverage forms, endorsements, limits, and deductibles for the covered condominium; provided that the association may categorize these forms, endorsements, limits, and deductibles by the type of peril being covered;

(B) Rate tiers, including potential high deductible options and surcharges for condominiums that remain in the plan of operation;

(C) Provisions authorizing the association to decline providing coverage;

(D) Potential annual premium rate increases; and

(E) Establishment of adequate rates to avoid assessment of the voluntary market;

(15) Shall require, prior to issuance or renewal of coverage, the applicant for condominium insurance coverage or renewal to:

(A) Provide the following to the association:

(i) The condominium association's declarations, bylaws, or other documents that describe their process for paying claims, including the portion of the claim to be paid by the



1 condominium association and the portion to
2 be paid by each unit owner; and

3 (ii) The condominium association's declarations,
4 bylaws, or other documents that describe
5 their process for handling losses both
6 pursuant to the applicable master policy and
7 by the applicable condominium association;

8 (B) Cause to be completed an inspection of the
9 applicable condominium; provided that the
10 inspection shall be consistent with any
11 inspection and reporting standards established by
12 the board of directors of the association and
13 incorporated into the plan of operation pursuant
14 to paragraph (8); and

15 (C) Satisfy any relevant requirements established by
16 the board of directors of the association and
17 incorporated into the plan of operation;

18 (16) May prohibit coverage under this article for any
19 high-rise condominium for which the association or its
20 servicing entities or any agents thereof have
21 identified maintenance issues that materially affect



1 the insurability of the high-rise condominium for the
2 type of coverage being sought; and

3 (17) Shall adopt procedures, guidelines, installment
4 amounts, and a timetable for the repayment of any
5 general fund moneys that are loaned to sufficiently
6 capitalize the fund and deposited into the separate
7 account within the Hawaii property insurance
8 association reserve trust fund established pursuant to
9 section 431:21-105(b) (9); provided that the repayment
10 shall not commence until the fund is sufficiently
11 capitalized as determined by the board of directors."

12 SECTION 5. Section 431:21-107, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "~~[§]§431:21-107[§]—Designation of area.]~~ Coverage
15 eligibility. (a) After consultation with representatives of
16 the United States Geological Survey, the state department of
17 defense, and the county in which the area is located, the
18 commissioner shall designate the geographical area eligible for
19 coverage in lava zones 1 and 2 through the association. Those
20 properties in the designated area that meet the standards set



1 forth in the plan of operation shall be provided insurance
2 through the association.

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

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

14 (c) Additional insurance coverages may be provided
15 statewide, including but not limited to single family
16 residences, townhouses, or any other categories of property for
17 which the insurance market is experiencing a failure of the
18 casualty and property insurance market, as determined by the
19 association and approved by the insurance commissioner."

20 SECTION 6. Section 431:21-109, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§431:21-109 Insurance coverages available under plan.**

2 ~~[(a)]~~ All properties qualifying for coverage under the plan of
3 operation shall be eligible for the standard fire policy and
4 extended coverage endorsement. The association shall provide
5 additional coverages when directed by the commissioner or when
6 approved by the commissioner. Nothing in this section shall be
7 construed as authorizing the association to provide hurricane
8 coverage.

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

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

20 SECTION 7. Section 431:21-115, Hawaii Revised Statutes, is
21 amended as follows:



1 "~~[§]431:21-115[§] Credits for~~ Recoupment of assessments

2 ~~paid. [A member insurer may offset against its premium tax~~

3 ~~liability to this State an assessment made with the~~

4 ~~commissioner's approval to the extent of twenty per cent of the~~

5 ~~amount of the assessment for each of the five calendar years~~

6 ~~following the year in which the assessment was paid. In the~~

7 ~~event a member insurer should cease doing business in this~~

8 ~~State, all uncredited assessments may be credited against its~~

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

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

11 by the member insurer under section 431:21-105(b)(6). The

12 recoupment shall be recovered by means of a surcharge on

13 premiums charged by the member insurer for property and casualty

14 insurance, not including motor vehicle insurance. Any excess

15 recovery by a member insurer shall be credited pro rata to that

16 member insurer's policyholders' premiums in the succeeding year

17 unless there has been a subsequent assessment, in which case the

18 excess shall be used to pay the amount of the subsequent

19 assessment. A member insurer may continue to surcharge premiums

20 until the full assessments are recouped.



(b) The surcharge required under subsection (a) shall be established by the association and shall not exceed two per cent of the total premiums charged for each policy by the member insurer.

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

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

PART III

SECTION 8. Chapter 431P, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§431P-A Recoupment of assessments paid. (a) Each licensed property and casualty insurer shall annually recoup assessments paid by the licensed property and casualty insurer under sections 431P-5(b)(8)(A) and (B), and 431P-16(e). The



1 recoupment shall be recovered by means of a surcharge on
2 premiums charged by the licensed property and casualty insurer
3 for policies on which the assessment was made. Any excess
4 recovery by a licensed property and casualty insurer shall be
5 credited pro rata to that insurer's policyholder's premiums in
6 the succeeding year unless there has been a subsequent
7 assessment, in which case the excess shall be used to pay the
8 amount of the subsequent assessment. A licensed property and
9 casualty insurer may continue to collect a surcharge on premiums
10 until the full assessments are recouped.

11 (b) The surcharge required under subsection (a) shall be
12 the same percentage of the total premiums charged for each
13 policy assessed under sections 431P-5(b)(8)(A) and (B), and
14 431P-16(e).

15 (c) Each licensed property and casualty insurer shall
16 provide to the fund an accounting of its recoupments. The fund
17 shall compile the licensed property and casualty insurers'
18 accountings and submit them as part of the fund's annual report
19 to the commissioner.

20 (d) The amount of and reason for any surcharge shall be
21 separately stated on any billing sent to an insured. The



1 surcharge shall not be considered a premium for any other
2 purpose, including the computation of gross premium tax or the
3 determination of producer commissions.

4 **§431P-B Temporary recording fee; establishment, reduction,**
5 **and cessation by board.** (a) The board may activate, reduce, or
6 terminate the collection of a temporary recording fee as
7 provided in this section.

8 (b) The temporary recording fee shall be imposed on each
9 document that is recorded with the bureau of conveyances or
10 filed with the assistant registrar of the land court of the
11 State.

12 (c) If the board establishes or reactivates the temporary
13 recording fee, the board shall:

14 (1) Set the amount of the fee; provided that the amount
15 shall not exceed \$ per document recorded with the
16 bureau of conveyances or filed with the assistant
17 registrar of the land court of the State; and

18 (2) Establish the period of time during which the fee
19 shall be collected; provided that the time period
20 shall not exceed months.



1 (d) The temporary recording fee shall not apply to
2 documents recorded or filed for parcels in the agricultural land
3 use district pursuant to section 205-2.

4 (e) Notwithstanding the amount or time period established
5 under subsection (c)(1) or (2), the board at any time may:

6 (1) Reduce the amount of the temporary recording fee; or

7 (2) Terminate the collection of the temporary recording
8 fee.

9 (f) The temporary recording fee shall be submitted to and
10 collected by the bureau of conveyances or the assistant
11 registrar of the land court of the State. All proceeds realized
12 from the collection of the fee shall be deposited into a
13 separate account of the hurricane reserve trust fund.

14 (g) The temporary recording fee shall be in addition to
15 any applicable fees under chapter 501 or 502."

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

18 1. By adding two new definitions to be appropriately
19 inserted and to read:

20 "Condominium" means real property that:



- (1) Has an association registered with the real estate commission in accordance with chapter 514B, part VI;
- (2) Consists of units, as defined in chapter 514B;
- (3) Is used for residential purposes; and
- (4) Is in insurable condition as determined by the board.

"High-rise condominium" means a condominium that has four or more stories that contain units that are or can be occupied by a person."

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

"Eligible property" means:

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



1 personal property located therein or thereon, as
2 provided in the plan of operation or any manual of
3 rules and rates adopted under the plan of operation;

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

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

20 (5) A condominium that is used for residential purposes
21 and that may include tangible personal property



1 located therein or thereon and other structures at the
2 insured location, as provided in the plan of operation
3 or any manual of rules and rates adopted under the
4 plan of operation."

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

7 ""Licensed property and casualty insurer" means[+]

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

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

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



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

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

12 ~~(2) \$500,000 per risk on real and personal property used
13 for business, commercial, or industrial purposes,
14 subject to the limits defined by the plan of operation
15 or any manual of rules and rates adopted under the
16 plan of operation; provided that the board may
17 designate an association of property owners or
18 cooperative housing corporation to be a commercial
19 risk; provided that this policy or endorsement shall
20 not include coverage for business interruption and
21 other similar coverages.] subject to the limits and~~



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

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

6 "~~[§]~~**431P-2**~~[§]~~ **Establishment of Hawaii hurricane relief**
7 **fund.** There shall be a Hawaii hurricane relief fund to be
8 placed within the department of commerce and consumer affairs
9 for administrative purposes. The fund shall be a public body
10 and a body corporate and politic. Any applicant for insurance
11 from the fund shall provide proof, to the satisfaction of the
12 board, of the inability to obtain hurricane property insurance
13 from insurers licensed to transact business in the State."

14 SECTION 11. Section 431P-5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§431P-5 Powers, duties, and functions.** (a) The Hawaii
17 hurricane relief fund shall have the following general powers:

18 (1) To sue and be sued;

19 (2) To make and alter policies for its organization and
20 internal administration;



- 1 (3) To adopt rules in accordance with chapter 91 to
2 effectuate the purposes of this chapter;
- 3 (4) To borrow moneys, including but not limited to moneys
4 from state or federal sources and to issue notes or
5 other obligations of the fund for the purposes of
6 providing funds for any of its purposes as authorized
7 by the legislature from time to time;
- 8 (5) To pledge, assign, or grant a security interest in all
9 or any part of the moneys, rents, charges,
10 assessments, or other revenue and any proceeds thereof
11 derived by the fund; provided that any pledge,
12 assignment, or grant of security interest shall
13 constitute a lien and security interest on ~~such~~ the
14 money, rents, charges, assessments, or other revenue,
15 and any proceeds thereof to the extent and with the
16 priority set forth in the document establishing the
17 pledge, assignment, or security interest, without the
18 necessity for physical delivery, recording, or further
19 act; and provided further that in effectuating any
20 pledge, assignment, or grant of security interest, the
21 fund may do either or both of the following:



(A) Transfer possession of collateral to its secured parties; or

(B) Execute and cause to be filed at the bureau of conveyances of the State of Hawaii, Uniform Commercial Code financing statements for the purpose of providing notice to third parties of a pledge, assignment, or grant of security interest; provided that any failure to file a financing statement or the filing of a financing statement that contains incomplete or inaccurate information shall not affect the perfected lien and security interest of the pledge, assignment, or grant of security interest; and

(6) Enter into contracts as necessary to effectuate the purposes of this chapter.

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

(1) Adopt and administer a plan of operation in accordance with section 431P-7, and a manual of rules and rates to provide persons having an insurable interest in



1 eligible property with insurance coverage provided by
2 the fund;

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

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

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



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



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



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

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

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



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

3 ~~(ii) For calendar year 1999, 1.125 per cent;~~
4 ~~(iii) For calendar year 2000, 1.25 per cent; and~~
5 ~~(iv)]~~ (i) For calendar year 2001, [and each
6 ~~calendar year thereafter,~~] 1.5 per cent[-];
7 and

8 (ii) Beginning January 1, 2026, a percentage not
9 to exceed 1.5 per cent as determined by the
10 board.

11 A separate total assessment shall be made for
12 each covered event. The total assessment shall
13 be allocated to each servicing facility based on
14 the proportion of the total amount of the fund's
15 gross direct written premiums for policies of
16 hurricane property insurance serviced by each
17 servicing facility to the total amount of the
18 fund's gross direct written premiums for policies
19 of hurricane property insurance, in each case,
20 during the twelve months ending at the start of
21 the month preceding the month in which the



1 covered event occurs. Assessments made under
2 this subparagraph and those under subparagraph
3 (A) in a year in which a covered event has
4 occurred are due from each insurer based on
5 assessment procedures established by the fund to
6 meet its obligations to policyholders in a timely
7 manner; and

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

14 (9) Develop a program of incentives to encourage insurers
15 to provide policies of hurricane property insurance
16 ~~[in the event]~~ if the commissioner authorizes the
17 provision of comparable insurance pursuant to section
18 431P-10(b) ~~[which]~~ that may include but are not
19 limited to exemption of the insurer's gross direct
20 written premium for property insurance from the
21 assessment pursuant to paragraph (8) (A);



1 ~~[(10)] Develop a credit based on the difference between~~
2 ~~premiums written in 1993 and the premiums written in~~
3 ~~1992 by each property insurer against the assessment~~
4 ~~for gross direct written premiums written in 1993;~~

5 ~~[(11)]~~ (10) Develop procedures regarding policies written by
6 unauthorized insurers comparable to the assessments,
7 surcharges, and other contributions made by insurers
8 authorized to do business in this State;

9 ~~[(12)]~~ (11) Accumulate reserves or funds, including the
10 investment income thereon, to be used for paying
11 expenses, making or repaying loans or other
12 obligations of the fund, providing loss mitigation
13 incentives, and paying valid claims for covered events
14 insured by the fund;

15 ~~[(13)]~~ (12) Collect and maintain statistical and other data
16 as may be required by the commissioner;

17 ~~[(14)] Exempt mortgage transactions from payments of the~~
18 ~~special mortgage recording fee and provide for maximum~~
19 ~~limits on or, uniform reduction of the special~~
20 ~~mortgage recording fee, pursuant to rules adopted by~~
21 ~~the board;~~



~~(15) Suspend or reactivate the special mortgage recording fee pursuant to resolution of the board;~~

~~(16)]~~ (13) Impose fines for each incident of nonpayment of amounts due to the fund under this chapter; provided that the fines shall not exceed twenty-five per cent of the amount then due;

~~(17)]~~ (14) Create loss mitigation incentives, including but not limited to premium credits, premium rebates, loans, or cash payments;

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

~~(19)]~~ (16) Establish business and corporate entities or organizations pursuant to the purposes of this chapter; ~~and~~

(17) Receive for deposit into separate accounts within the hurricane reserve trust fund established pursuant to section 431P-16 revenues received from any fee revenue authorized by the legislature for deposit into the



hurricane relief trust fund, and any other source of
revenue available to the board; and

~~[(20)]~~ (18) Perform any and all acts reasonably necessary to
carry out the purposes of this chapter."

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

1. By amending subsection (a) to read:

"(a) Upon written confirmation from the insurance
commissioner that the director ~~[of finance]~~ has secured
\$500,000,000, in the aggregate, in the form of:

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

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

(3) A combination of the commitments or bonds~~[+]~~,
the Hawaii hurricane relief fund shall~~[+]~~

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

~~[(2) Continue]~~ continue accumulating premiums from policies
of hurricane property insurance ~~[and the special
mortgage recording fee]~~, net of any reinsurance



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

4 2. By amending subsections (c) and (d) to read:

5 "(c) ~~[In the event of]~~ If a loss from a covered event~~[7]~~
6 occurs, the net moneys accumulated shall be used to settle
7 claims and pay current and ongoing expenses of the Hawaii
8 hurricane relief fund. The net accumulated moneys, commitments,
9 and bonds described in subsection (a) ~~[-2-]~~ shall be used only
10 ~~[in the event]~~ if losses from a covered event exceed the
11 assessment pursuant to section 431P-5(b)(8)(B).

12 (d) ~~[In the event]~~ If the balance of the net accumulated
13 moneys falls below \$400,000,000, the Hawaii hurricane relief
14 fund shall establish rates, subject to the approval of the
15 ~~[insurance]~~ commissioner, necessary to replenish the account
16 balance to \$500,000,000, as promptly as reasonably practicable.
17 The director of finance shall seek to arrange additional
18 commitments whenever the account balance falls below
19 \$400,000,000."

20 SECTION 13. Section 431P-7, Hawaii Revised Statutes, is
21 amended by amending subsection (c) to read as follows:



1 "(c) The plan of operation [~~shall~~]:

2 (1) [~~Establish~~] Shall establish procedures for performance
3 of all powers and duties of the fund;

4 (2) [~~Establish~~] Shall establish procedures for providing
5 notice to all persons with interests insurable by the
6 fund in the State of the type of insurance available
7 from the fund [~~in the event~~] if the fund offers
8 insurance;

9 (3) [~~Provide~~] Shall provide for and adopt all necessary
10 forms, including insurance policies to be used by and
11 on behalf of the fund, for use by the fund and
12 servicing facilities;

13 (4) [~~Adopt~~] Shall adopt actuarially sound rates, based on
14 reasonable assumptions relative to expectations of
15 hurricane frequency and severity, to be charged for
16 insurance provided by the fund, in accordance with
17 article 14 of chapter 431;

18 (5) [~~Publish~~] Shall publish manuals of rules, rates, and
19 rating and classification plans, which shall address
20 mandatory deductibles, limits of coverage, and the
21 classification of risks and rate modifications based



1 on the exposure of insureds~~[+]~~, subject to the
2 approval of the commissioner;

3 (6) ~~[Establish]~~ Shall establish procedures for receiving
4 and servicing applications to the fund;

5 (7) ~~[Establish]~~ Shall establish procedures for processing
6 and maintaining records of the fund relating to its
7 financial transactions, its agents, its employees, its
8 operations, and all transactions with any servicing
9 facility;

10 (8) ~~[Establish]~~ Shall establish procedures for the
11 collection and remittance of the premiums and return
12 of unearned premiums where applicable;

13 (9) ~~[Establish]~~ Shall establish procedures for the payment
14 of valid claims;

15 (10) ~~[Establish]~~ Shall establish procedures for prorating
16 available funds pursuant to section 431P-15;

17 (11) ~~[Establish]~~ Shall establish procedures for obtaining
18 reinsurance;

19 (12) ~~[Establish]~~ Shall establish procedures to borrow
20 funds; ~~[and]~~



1 (13) ~~[Develop]~~ Shall develop a plan for the investment of
2 moneys held by the fund ~~[subject to the limitations in~~
3 ~~article 6 of chapter 431.]~~;

4 (14) Shall require, prior to issuance or renewal of
5 coverage, the applicant for condominium insurance
6 coverage or renewal to:

7 (A) Cause to be completed an inspection of the
8 applicable condominium; provided that the
9 inspection shall be consistent with any
10 inspection and reporting standards established by
11 the board and incorporated into the plan of
12 operation; and

13 (B) Satisfy any relevant requirements established by
14 the board and incorporated into the plan of
15 operation; and

16 (15) May prohibit coverage under this chapter for any
17 high-rise condominium for which the fund or its
18 servicing entities or any agents thereof have
19 identified maintenance issues materially affecting the
20 insurability of the high-rise condominium for
21 hurricane property insurance."



SECTION 14. Section 431P-10, Hawaii Revised Statutes, is amended to read as follows:

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

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

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



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

17 SECTION 15. Section 431P-11, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) [The] Except for:



1 (1) Applicants who are otherwise able to procure hurricane
2 property insurance from insurers authorized to
3 transact business in the State; and

4 (2) Properties that are deemed ineligible pursuant to the
5 plan of operation,

6 the fund shall not deny any application for hurricane property
7 insurance on any property eligible under subsection (a)."

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

10 **"§431P-16 Establishment of trust funds.** (a) The fund
11 shall establish outside the state treasury a hurricane reserve
12 trust fund and any accounts thereunder and any other trust fund
13 or account necessary to carry out the purposes of this chapter.
14 Moneys deposited in the hurricane reserve trust fund and any
15 accounts thereunder or any other trust fund or account shall be
16 held by the fund, as trustee, in a depository as defined in
17 section 38-1 or according to a similar arrangement at the
18 discretion of the board, including, but not limited to, trust or
19 custodial accounts created for the benefit of the fund's secured
20 parties under contractual claims financing arrangements. These
21 moneys may be invested and reinvested in accordance with the



1 plan of operation. Disbursements from the trust funds shall not
2 be subject to chapter 103D and shall be made in accordance with
3 procedures adopted by the board.

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

13 ~~The special mortgage recording fee shall be an amount equal~~
14 ~~to one-tenth of one per cent of the stated principal amount of~~
15 ~~the debt secured by the mortgage or, in the case of an amendment~~
16 ~~or refinancing of a mortgage, an amount equal to one-tenth of~~
17 ~~one per cent of the amount of the increase of the stated~~
18 ~~principal amount of the secured debt; provided that the board~~
19 ~~may establish a lower special mortgage recording fee amount~~
20 ~~pursuant to section 431P-5(b)(14). With respect to an open end~~
21 ~~revolving loan, the principal amount of the debt on which the~~



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

~~12 The special mortgage recording fee shall be in addition to~~
~~13 any applicable fees under chapter 501 or 502. The special~~
~~14 mortgage recording fee shall be submitted to and collected by~~
~~15 the bureau of conveyances or the assistant registrar of the land~~
~~16 court of the State and shall be deposited into the hurricane~~
~~17 reserve trust fund. The special mortgage recording fee shall be~~
~~18 submitted at the time the mortgage or amendment of mortgage is~~
~~19 recorded together with any related forms or certifications~~
~~20 required by the bureau of conveyances or the assistant registrar~~
~~21 of the land court of the State.~~



1 ~~(e)~~ (b) The Hawaii hurricane relief fund ~~[shall]~~ may
2 implement the assessments of all property and casualty insurers
3 ~~[as]~~ authorized by section 431P-5(b)(8)(A) and (B) and the
4 proceeds from the assessments shall be deposited into the
5 hurricane reserve trust fund or into trust or custodial
6 accounts, created for the benefit of the fund's secured parties,
7 that are held inside or outside the hurricane reserve trust
8 fund~~[-]~~; provided that after December 31, 2025, all proceeds
9 realized from the collection of the assessments shall be
10 deposited into a separate trust account within the hurricane
11 reserve trust fund.

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

14 ~~(d)~~ (c) If the Hawaii hurricane relief fund offers to
15 issue policies of hurricane property insurance, the premiums for
16 the policies shall be deposited into the hurricane reserve trust
17 fund.

18 ~~(e)~~ (d) After each covered event, if the board
19 determines that the moneys in the hurricane reserve trust fund,
20 excluding moneys determined by the board to be needed to
21 continue fund operations following the covered event, will be



1 insufficient to pay claims and other obligations of the fund
2 arising out of that covered event, the Hawaii hurricane relief
3 fund shall levy a surcharge not to exceed seven and one-half per
4 cent a year on premiums charged for all property and casualty
5 insurance policies issued for risks insured in this State.
6 These moneys may be deposited into the hurricane reserve trust
7 fund or into trust or custodial accounts created for the benefit
8 of the fund's secured parties that are held inside or outside
9 the hurricane reserve trust fund. The surcharge shall remain in
10 effect until all claims and other obligations of the fund,
11 including but not limited to claims under fund policies of
12 hurricane property insurance, claims financing transactions,
13 bonds, notes, and other obligations arising out of that covered
14 event have been fully discharged. The amount and reason for any
15 surcharge made pursuant to this subsection shall be separately
16 stated on any billing sent to an insured. The surcharge shall
17 not be considered premiums for any other purpose including the
18 computation of gross premium tax or the determination of
19 producers' commissions. The fund may establish procedures for
20 insurers to collect the surcharge from customers who hold
21 property or casualty policies.



1 [~~(f)~~] (e) Any proceeds, experience refunds, or other
2 return funds under reinsurance shall be deposited into the
3 hurricane reserve trust fund.

4 [~~(g)~~] (f) Any proceeds from loans or other moneys from the
5 federal government, any proceeds from bonds issued pursuant to
6 this chapter loaned by the director to the Hawaii hurricane
7 relief fund, any revenues derived from the temporary recording
8 fee pursuant to section 431P-B, and other moneys as the State
9 may make available from time to time shall be deposited into
10 separate accounts of the hurricane reserve trust fund.

11 [~~(h)~~] (g) Moneys in the hurricane reserve trust fund or in
12 trust or custodial accounts, created for the benefit of the
13 fund's secured parties, shall be expended by the Hawaii
14 hurricane relief fund or its authorized designee and used solely
15 for the purposes of this chapter.

16 [~~(i)~~] (h) Moneys in the hurricane reserve trust fund may
17 be disbursed upon dissolution of the Hawaii hurricane relief
18 fund; provided that:

- 19 (1) The net moneys in the hurricane reserve trust fund
20 shall revert to the state general fund after payments
21 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

(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 dissolution of the fund[+]

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

SECTION 17. Section 501-23.5, Hawaii Revised Statutes, is amended to read as follows:

"§501-23.5 Disposition of fees received at the bureau of conveyances. Notwithstanding any other law to the contrary, of the fees received at the bureau of conveyances, the registrar of conveyances shall deposit to the credit of the state general fund \$18 for each document recorded and shall deposit the



1 remaining balance and all fees other than the [~~special mortgage~~
2 ~~recording fee established pursuant to section 431P-16~~] temporary
3 recording fee established pursuant to section 431P-B and
4 conveyance tax collected pursuant to section 247-1 to the credit
5 of the bureau of conveyances special fund established under
6 section 502-8."

7 SECTION 18. Section 502-25, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) Notwithstanding any other law to the contrary, of the
10 fees received at the bureau of conveyances, the registrar of
11 conveyances shall deposit to the credit of the state general
12 fund \$18 for each document recorded and shall deposit the
13 remaining balance and all fees other than the [~~special mortgage~~
14 ~~recording fee established pursuant to section 431P-16~~] temporary
15 recording fee established pursuant to section 431P-B and
16 conveyance tax collected pursuant to section 247-1 to the credit
17 of the bureau of conveyances special fund established under
18 section 502-8."

19 PART IV

20 SECTION 19. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$ or so much



1 thereof as may be necessary for fiscal year 2025-2026 to provide
2 a loan to the Hawaii property insurance association for
3 administrative and startup costs, minimum solvency costs, and
4 the purchase of reinsurance. The moneys shall be deposited into
5 the Hawaii property insurance association's reserve trust fund
6 established pursuant to section 431:21-105(b)(9), Hawaii Revised
7 Statutes.

8 The sum appropriated shall be expended by the insurance
9 commissioner for the purposes of part II of this Act until such
10 time as the Hawaii property insurance association board of
11 directors convenes its first meeting after the effective date of
12 this Act. Thereafter, any remaining moneys appropriated
13 pursuant to this section shall be expended by the Hawaii
14 property insurance association board of directors for the
15 purposes of part II of this Act. Any moneys appropriated to the
16 Hawaii property insurance association shall be repaid to the
17 general fund in accordance with the procedures, guidelines,
18 installment amounts, and timetable established for the repayment
19 of any general fund moneys pursuant to section
20 431:21-106(c)(17), Hawaii Revised Statutes.



1 PART V

2 SECTION 20. (a) The insurance commissioner shall conduct
3 a study to identify or develop a long-term solution to stabilize
4 the property insurance market in the State. The insurance
5 commissioner shall include in the study:

6 (1) Recommendations for capitalizing the Hawaii property
7 insurance association and Hawaii hurricane relief
8 fund;

9 (2) Recommendations for monitoring the stability of the
10 property insurance market in the State;

11 (3) A determination of the efficacy of the changes
12 implemented pursuant to this Act;

13 (4) An evaluation of the feasibility of establishing a
14 mutual or captive insurance model to address the
15 affordability and availability of property insurance
16 in the State, including solutions to address the needs
17 of condominium associations and individual residential
18 condominium property owners; and

19 (5) Recommendations on a mechanism to ensure that
20 condominium properties are maintained and repaired in



1 a timely manner to ensure that the condominium
2 properties remain in insurable condition.

3 (b) The insurance commissioner shall submit reports of the
4 insurance commissioner's findings and recommendations, including
5 any proposed legislation, to the legislature no later than
6 twenty days prior to the convening of the regular sessions of
7 2026 and 2027.

8 SECTION 21. There is appropriated out of the general
9 revenues of the State of Hawaii the sum of \$100,000 or so much
10 thereof as may be necessary for fiscal year 2025-2026 for the
11 insurance commissioner to conduct a study pursuant to this part.

12 The sum appropriated shall be expended by the insurance
13 division of the department of commerce and consumer affairs for
14 the purposes of this part.

15 PART VI

16 SECTION 22. In codifying the new sections added by section
17 8, and referenced in sections 16, 17, and 18 of this Act, the
18 revisor of statutes shall substitute appropriate section numbers
19 for the letters used in designating the new sections in this
20 Act.



1 SECTION 23. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 24. This Act shall take effect on July 1, 2025.

4
INTRODUCED BY: _____

A large, stylized handwritten signature in black ink, written over a horizontal line.

S.B. NO. 1044

Report Title:

Property; Hurricane; Insurance; HPIA; HHRF; Condominiums;
Appropriations

Description:

Expands the powers of the Hawaii Property Insurance Association and reactivates the Hawaii Hurricane Relief Fund to help to stabilize the property insurance market in the State. Requires the Insurance Commissioner to conduct a study. Appropriates moneys.

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

