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# 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 more than the annual premiums of a  
2 conventional 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 Hurricane insurance coverage is available from the excess and  
11 surplus lines market, which comprises insurers who are not  
12 licensed in the State. However, some condominium buildings are  
13 unwilling to purchase this coverage because of its high price.  
14 The legislature understands that although this Act authorizes  
15 the Hawaii hurricane relief fund to expand coverage to  
16 condominium buildings, premium rates may be high due to the rise  
17 in the global reinsurance market for hurricane insurance caused  
18 by the frequency and severity of worldwide disasters.

19 In addition, Hawaii Business Magazine has reported that the  
20 2021 collapse of the Surfside condominium building in Miami is  
21 also having a ripple effect on condominium lending. In 2023,



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

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

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



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

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



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

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

15       The legislature also recognizes that, although there has  
16 been much focus on the instability of the condominium insurance  
17 market in Hawaii, the broader property insurance industry faces  
18 uncertainty amidst changing economic and regulatory conditions,  
19 rising costs, increased reinsurance costs, and more frequent  
20 severe weather events. Given these precarious conditions, it is  
21 possible that a future disaster or other unforeseen circumstance



1 could cause the availability of insurance to shrink for classes  
2 of real property other than condominiums, including single  
3 family homes and townhouses.

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

18 The legislature believes that it is critical to begin the  
19 process to adequately capitalize the Hawaii property insurance  
20 association and Hawaii hurricane relief fund because insuring  
21 these risks could bring an enormous amount of risk exposure to





1 the funds. Therefore, funding mechanisms must be broad on an  
2 initial and ongoing basis and spread among as many parties  
3 involved in real property transactions within the State as  
4 possible to ensure that the financial impacts are apportioned as  
5 equitably as practicable, and that reserve funds are adequately  
6 capitalized if losses exceed the funds' capacities.

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

15 Therefore, this Act repeals the special mortgage recording  
16 fee and instead authorizes the Hawaii hurricane relief fund  
17 board of directors to establish a temporary recording fee, which  
18 will be imposed as a flat assessment on each document that is  
19 recorded with the bureau of conveyances or filed with the  
20 assistant registrar of the land court of the State, as  
21 appropriate. This fee, if activated by the Hawaii hurricane



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

9 This Act provides additional funding mechanisms through  
10 the:

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

18 The legislature finds that this Act is necessary to:

- 19 (1) Stabilize the property insurance market so that  
20 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 commissioner to conduct a study to develop a long-term solution. The legislature notes that a long-term solution may potentially



1 include the issuance of property insurance policies for  
2 condominium buildings that are in need of repair or replacement  
3 of components.

4 The purpose of this Act is to:

5 (1) Amend state laws governing the Hawaii property  
6 insurance association and the Hawaii hurricane relief  
7 fund to enable these entities to underwrite certain  
8 insurance risks in the State that no standard insurer  
9 is currently willing to underwrite;

10 (2) Establish a condominium loan program to fund essential  
11 repairs and deferred maintenance by condominium  
12 associations; and

13 (3) Require the insurance commissioner to conduct a study  
14 to monitor and identify the most effective methods of  
15 stabilizing the property insurance market in the  
16 State.

17 PART II

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

21 ""Condominium" means real property that:



1        (1) Has a condominium association that is registered with  
2        the real estate commission in accordance with chapter  
3        514B, part VI;

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

5        (3) Is used for residential purposes; and

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

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

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

19       SECTION 3. Section 431:21-105, Hawaii Revised Statutes, is  
20       amended by amending subsection (b) to read as follows:



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

3       (1) Add additional insurance coverages with the approval  
4       of the commissioner, including coverage for commercial  
5       risks up to the limits of coverage for residential  
6       risks as set forth in the plan of operation;

7       (2) Employ or retain persons as are necessary to perform  
8       the duties of the association;

9       (3) Contract with a member insurer that is a domestic  
10       insurer, as defined in section 431:3-104, to perform  
11       the duties of the association;

12       (4) Sue or be sued;

13       (5) Borrow funds necessary to effectuate the purposes of  
14       this article in accord with the plan of operation;

15       (6) If approved by the commissioner, assess member  
16       insurers amounts necessary to cover extraordinary  
17       losses incurred by the association. Each member  
18       insurer shall be notified of the assessment not later  
19       than thirty days before it is due. No member insurer  
20       may be assessed in any year an amount greater than two  
21       per cent of that member insurer's net direct written



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

9 (7) Devise a method to give credit to member insurers for  
10 homeowners and fire insurance policies individually  
11 underwritten on risks located in the area designated  
12 for coverage by the association;

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

16 (9) Perform all other acts as are necessary or proper to  
17 effectuate the purpose of this article."

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

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



1       "(a) The association shall submit to the commissioner a  
2 plan of operation and any amendments to the plan necessary or  
3 suitable to [~~assure~~] ensure the fair, reasonable, and equitable  
4 administration of the association. The plan of operation and  
5 any amendment shall become effective upon approval in writing by  
6 the commissioner. If the association fails to submit a suitable  
7 plan of operation or if at any time the association fails to  
8 submit suitable amendments to the plan, the commissioner shall  
9 adopt the rules necessary to carry out this article. The rules  
10 shall continue in force until modified by the commissioner or  
11 superseded by a plan submitted by the association and approved  
12 in writing by the commissioner."

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

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

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

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

20       (3) [~~Establish~~] Shall establish reasonable underwriting  
21       standards for determining insurability of a risk





1           ~~[which]~~ that are comparable to the standards used to  
2           determine insurability of a risk located outside the  
3           area designated by the commissioner as eligible for  
4           association coverage;

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

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

11          ~~[(5) Establish]~~ (6) Shall establish the ~~[commission]~~ flat  
12          fee to be paid to licensed producers;

13          ~~[(6) Establish]~~ (7) Shall establish the rates to be  
14          charged for the insurance coverages, so that the total  
15          premium income from all association policies, when  
16          combined with the investment income, shall annually  
17          fund the administration of the association. The  
18          administration of the association shall include the  
19          expenses incurred in processing applications,  
20          conducting inspections, issuing and servicing  
21          policies, paying commissions, and paying claims, but



1 shall not include assessments approved by the  
2 commissioner;

3 [~~(7)~~ Establish] (8) Shall establish the manner and scope  
4 of the inspection and the form of the inspection  
5 report. The inspection guidelines may include setting  
6 minimum conditions the property must meet before an  
7 inspection is required;

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

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

16 [~~(10)~~ Establish] (11) Shall establish procedures by which  
17 applications will be received and serviced by the  
18 association;

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



1     ~~(12) Establish]~~ (13) Shall establish procedures whereby  
2     the association may assume and cede reinsurance on  
3     risks written through the association[-];

4     (14) Shall include the following:

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

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

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

15        (D) Potential annual premium rate increases; and

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

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

21        (A) Provide the following to the association:



1           (i) The condominium association's declarations,  
2           bylaws, or other documents that describe  
3           their process for paying claims, including  
4           the portion of the claim to be paid by the  
5           condominium association and the portion to  
6           be paid by each unit owner; and

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

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

19           (C) Satisfy any relevant requirements established by  
20           the board of directors of the association and  
21           incorporated into the plan of operation; and



(16) May prohibit coverage under this article for any high-rise condominium for which the association or its servicing entities or any agents thereof have identified maintenance issues that materially affect the insurability of the high-rise condominium for the type of coverage being sought."

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

"[~~{~~§431:21-107[~~}~~—~~Designation of area.~~] Coverage

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

For the purposes of this subsection, "lava zones 1 and 2" means the two zones designated on the United States Geological Survey's lava flow hazard zone map that are the most hazardous



1 and includes volcanic vents in the summits and rift zones of the  
2 two most active volcanoes within the State.

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

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

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

17 **"§431:21-109 Insurance coverages available under plan.**

18 ~~[(a)]~~ All properties qualifying for coverage under the plan of  
19 operation shall be eligible for the standard fire policy and  
20 extended coverage endorsement. The association shall provide  
21 additional coverages when directed by the commissioner or when



1 approved by the commissioner. Nothing in this section shall be  
2 construed as authorizing the association to provide hurricane  
3 coverage.

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

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

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

17 "[~~{~~]**\$431:21-115[~~}~~—Credits for] Recoupment of assessments**  
18 **paid.** [~~A member insurer may offset against its premium tax~~  
19 ~~liability to this State an assessment made with the~~  
20 ~~commissioner's approval to the extent of twenty per cent of the~~  
21 ~~amount of the assessment for each of the five calendar years~~



~~1 following the year in which the assessment was paid. In the~~  
~~2 event a member insurer should cease doing business in this~~  
~~3 State, all uncredited assessments may be credited against its~~  
~~4 premium tax liability for the year it ceases doing business.]~~

5 (a) Each member insurer shall annually recoup assessments paid  
6 by the member insurer under section 431:21-105(b)(6). The  
7 recoupment shall be recovered by means of a surcharge on  
8 premiums charged by the member insurer for property and casualty  
9 insurance, not including motor vehicle insurance. Any excess  
10 recovery by a member insurer shall be credited pro rata to that  
11 member insurer's policyholders' premiums in the succeeding year  
12 unless there has been a subsequent assessment, in which case the  
13 excess shall be used to pay the amount of the subsequent  
14 assessment. A member insurer may continue to surcharge premiums  
15 until the full assessments are recouped.

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

20 (c) Each member insurer shall provide to the association  
21 an accounting of its recoupments. The association shall compile





1 the member insurers' accountings and submit them as part of the  
2 association's annual report to the commissioner.

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

8 SECTION 8. (a) No later than September 1, 2025, the  
9 Hawaii property insurance association shall publish a notice  
10 inviting domestic insurers, as defined in section 431:3-104,  
11 Hawaii Revised Statutes, to submit to the board of directors of  
12 the association current statements of qualifications and  
13 expressions of interest to serve as a servicing facility to  
14 perform the obligations of the association as described in  
15 sections 431:21-106(c)(2), (3), (4), (5), (6), (7), (9), (10),  
16 (11), and (12), Hawaii Revised Statutes; provided that the  
17 request for submissions of statements of qualifications and  
18 expressions of interest shall be prepared by the insurance  
19 commissioner.

20 (b) No later than October 1, 2025, the Hawaii property  
21 insurance association shall award a servicing facility contract



1 to a domestic insurer that submitted a statement of  
2 qualifications and expression of interest pursuant to subsection  
3 (a); provided that:

4 (1) The processes described in this section and the  
5 selection of the servicing facility shall not be  
6 subject to chapter 103D, Hawaii Revised Statutes; and

7 (2) The Hawaii property insurance association, with the  
8 approval of the insurance commissioner, may award or  
9 renew a contract to a servicing facility for a term  
10 not to exceed three years.

11 PART III

12 SECTION 9. Chapter 431P, Hawaii Revised Statutes, is  
13 amended by adding two new sections to be appropriately  
14 designated and to read as follows:

15 **"§431P-A Recoupment of assessments paid. (a) Each**  
16 **licensed property and casualty insurer shall annually recoup**  
17 **assessments paid by the licensed property and casualty insurer**  
18 **under section 431P-5(b)(8)(A) and (B). The recoupment shall be**  
19 **recovered by means of a surcharge on premiums charged by the**  
20 **licensed property and casualty insurer for policies on which the**  
21 **assessment was made. Any excess recovery by a licensed property**



1 and casualty insurer shall be credited pro rata to that  
2 insurer's policyholder's premiums in the succeeding year unless  
3 there has been a subsequent assessment, in which case the excess  
4 shall be used to pay the amount of the subsequent assessment. A  
5 licensed property and casualty insurer may continue to collect a  
6 surcharge on premiums until the full assessments are recouped.

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

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

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

20 **§431P-B Temporary recording fee; establishment, reduction,**  
21 **and cessation by board.** (a) The board may activate, reduce, or



1 terminate the collection of a temporary recording fee as  
2 provided in this section.

3 (b) The temporary recording fee shall be imposed on each  
4 document that is recorded with the bureau of conveyances or  
5 filed with the assistant registrar of the land court of the  
6 State.

7 (c) If the board establishes or reactivates the temporary  
8 recording fee, the board shall:

9 (1) Set the amount of the fee; provided that the amount  
10 shall not exceed \$ per document recorded  
11 with the bureau of conveyances or filed with the  
12 assistant registrar of the land court of the State;  
13 and

14 (2) Establish the period of time during which the fee  
15 shall be collected; provided that the time period  
16 shall not exceed months.

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

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



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

2       (2) Terminate the collection of the temporary recording  
3       fee.

4       (f) The temporary recording fee shall be submitted to and  
5       collected by the bureau of conveyances or the assistant  
6       registrar of the land court of the State. All proceeds realized  
7       from the collection of the fee shall be deposited into a  
8       separate account of the hurricane reserve trust fund.

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

11       SECTION 10. Section 431P-1, Hawaii Revised Statutes, is  
12      amended as follows:

13       1. By adding two new definitions to be appropriately  
14      inserted and to read:

15       "Condominium" means real property that:

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

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

19       (3) Is used for residential purposes; and

20       (4) Is in insurable condition as determined by the board.



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

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

6       ""Eligible property" means:

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

14      (2) Real property used for business, commercial, or  
15      industrial purposes [~~which~~] that is in insurable  
16      condition, and [~~which~~] that may include tangible  
17      personal property located therein or thereon, as  
18      provided in the plan of operation or any manual of  
19      rules and rates adopted under the plan of operation;

20      (3) Tangible personal property owned by an occupant of and  
21      located in or on real property of the types described



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

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

15 (5) A condominium that may include tangible personal  
16 property located therein or thereon and other  
17 structures at the insured location, as provided in the  
18 plan of operation or any manual of rules and rates  
19 adopted under the plan of operation."

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



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

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

13       4. By amending the definition of "policy of hurricane  
14       property insurance" to read:

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

19       ~~(1) \$750,000 per risk on real property of one to four~~  
20       ~~units used for residential purposes and the personal~~  
21       ~~property located therein or thereon and other~~





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

18           SECTION 11. Section 431P-2, Hawaii Revised Statutes, is  
19       amended to read as follows:

20           "~~[+]S431P-2[+]~~   **Establishment of Hawaii hurricane relief**  
21       **fund.** There shall be a Hawaii hurricane relief fund to be



1 placed within the department of commerce and consumer affairs  
2 for administrative purposes. The fund shall be a public body  
3 and a body corporate and politic. Any applicant for insurance  
4 from the fund shall provide proof, to the satisfaction of the  
5 board, of the inability to obtain hurricane property insurance  
6 from insurers licensed to transact business in the State."

7 SECTION 12. Section 431P-5, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§431P-5 Powers, duties, and functions.** (a) The Hawaii  
10 hurricane relief fund shall have the following general powers:

- 11 (1) To sue and be sued;
- 12 (2) To make and alter policies for its organization and  
13 internal administration;
- 14 (3) To adopt rules in accordance with chapter 91 to  
15 effectuate the purposes of this chapter;
- 16 (4) To borrow moneys, including but not limited to moneys  
17 from state or federal sources and to issue notes or  
18 other obligations of the fund for the purposes of  
19 providing funds for any of its purposes as authorized  
20 by the legislature from time to time;



1       (5) To pledge, assign, or grant a security interest in all  
2       or any part of the moneys, rents, charges,  
3       assessments, or other revenue and any proceeds thereof  
4       derived by the fund; provided that any pledge,  
5       assignment, or grant of security interest shall  
6       constitute a lien and security interest on ~~[such]~~ the  
7       money, rents, charges, assessments, or other revenue,  
8       and any proceeds thereof to the extent and with the  
9       priority set forth in the document establishing the  
10      pledge, assignment, or security interest, without the  
11      necessity for physical delivery, recording, or further  
12      act; and provided further that in effectuating any  
13      pledge, assignment, or grant of security interest, the  
14      fund may do either or both of the following:

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

17      (B) Execute and cause to be filed at the bureau of  
18      conveyances of the State of Hawaii, Uniform  
19      Commercial Code financing statements for the  
20      purpose of providing notice to third parties of a  
21      pledge, assignment, or grant of security



1 interest; provided that any failure to file a  
2 financing statement or the filing of a financing  
3 statement that contains incomplete or inaccurate  
4 information shall not affect the perfected lien  
5 and security interest of the pledge, assignment,  
6 or grant of security interest; and

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

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

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

16 (2) Authorize the provision of hurricane coverage by the  
17 fund for real property and tangible personal property  
18 located in or on real property and establish limits of  
19 liability for specific coverages within the range of  
20 authorized coverage;



- 1           (3) Adopt actuarially sound rates based on reasonable  
2           assumptions relative to expectations of hurricane  
3           frequency and severity for all coverage provided under  
4           policies or endorsements issued by the fund. Rates  
5           adopted shall be subject to approval by the  
6           commissioner pursuant to article 14 of chapter 431.  
7           Rates adopted shall provide for classification of  
8           risks and shall include past and prospective losses  
9           and expense experience in this State;
- 10          (4) Adopt procedures, guidelines, and surcharges  
11          applicable to policies of hurricane property insurance  
12          issued in connection with an underlying property  
13          policy issued by an unauthorized insurer;
- 14          (5) Adopt any form of insurance policy necessary for  
15          providing policies of hurricane property insurance by  
16          the fund, with the approval of the commissioner;
- 17          (6) Issue policies of hurricane property insurance and pay  
18          claims for coverage over the mandatory deductible or  
19          other deductible provided in the plan of operation or  
20          any manual of rules and rates adopted under the plan  
21          of operation;



1       (7)   ~~[Require every licensed property and casualty]~~ Select  
2           and contract with a domestic insurer transacting  
3           direct property insurance business in this State to  
4           act as a servicing facility, and by contract with that  
5           insurer authorize the insurer to inspect eligible  
6           properties, service policies and policyholders of  
7           hurricane property insurance, provide claim services,  
8           and perform any other duties as authorized by the fund  
9           for applicants to the fund and those insured by it;

10       (8)   (A)   Assess all licensed property and casualty  
11           insurers the amounts ~~[which,]~~ that, together with  
12           the other assets of the fund, are sufficient to  
13           meet all necessary obligations of the fund. The  
14           assessment shall be made on the insurer's gross  
15           direct written premiums for property and casualty  
16           insurance in this State for the preceding  
17           calendar year. The rate of assessment shall be  
18           established by the board and in a year in which a  
19           covered event has not occurred ~~[shall be]~~ may be  
20           up to a percentage not to exceed 3.75 per cent  
21           and shall not include the insurer's gross direct



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

20 (B) ~~[In the event of]~~ If a loss occurs from a covered  
21 event the fund, in addition to the assessment in



1                   subparagraph (A), ~~[shall]~~ assess those insurers  
2                   ~~[which]~~ that acted as servicing facilities during  
3                   the twelve months ending at the start of the  
4                   month preceding the month in which the covered  
5                   event occurs. The total assessment shall be a  
6                   fixed percentage of the total coverage provided  
7                   by the fund under its policies of hurricane  
8                   property insurance during the month preceding the  
9                   month in which the covered event occurs. The  
10                  percentage to be used in calculating the total  
11                  assessment shall be ~~[as follows]:~~

12               ~~[(i) For calendar year 1998, a percentage as~~  
13               ~~fixed by the board in the plan of operation,~~  
14               ~~but in no event shall the total assessment~~  
15               ~~exceed \$500,000,000,~~

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

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

18               ~~(iv)]~~ (i) For calendar year 2001, ~~[and each~~  
19               ~~calendar year thereafter,~~] 1.5 per cent ~~[.];~~

20               and





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

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



1 (C) ~~[The fund may exempt]~~ Exempt or defer, in whole  
2 or in part, the assessment of any insurer if the  
3 assessment would cause the insurer's financial  
4 statement to reflect amounts of capital or  
5 surplus less than the minimum amounts required  
6 for a certificate of authority in this State;

7 (9) Develop a program of incentives to encourage insurers  
8 to provide policies of hurricane property insurance  
9 ~~[in the event]~~ if the commissioner authorizes the  
10 provision of comparable insurance pursuant to section  
11 431P-10~~[(b) which]~~ that may include but are not  
12 limited to exemption of the insurer's gross direct  
13 written premium for property insurance from the  
14 assessment pursuant to paragraph (8) (A);

15 ~~[(10) Develop a credit based on the difference between~~  
16 ~~premiums written in 1993 and the premiums written in~~  
17 ~~1992 by each property insurer against the assessment~~  
18 ~~for gross direct written premiums written in 1993;~~

19 ~~-(11)-]~~ (10) Develop procedures regarding policies written by  
20 unauthorized insurers comparable to the assessments,



1 surcharges, and other contributions made by insurers  
2 authorized to do business in this State;

3 ~~[(+12)]~~ (11) Accumulate reserves or funds, including the  
4 investment income thereon, to be used for paying  
5 expenses, making or repaying loans or other  
6 obligations of the fund, providing loss mitigation  
7 incentives, and paying valid claims for covered events  
8 insured by the fund;

9 ~~[(+13)]~~ (12) Collect and maintain statistical and other data  
10 as may be required by the commissioner;

11 ~~[(+14)]~~ ~~Exempt mortgage transactions from payments of the~~  
12 ~~special mortgage recording fee and provide for maximum~~  
13 ~~limits on or, uniform reduction of the special~~  
14 ~~mortgage recording fee, pursuant to rules adopted by~~  
15 ~~the board;~~

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

18 ~~(+16)]~~ (13) Impose fines for each incident of nonpayment of  
19 amounts due to the fund under this chapter; provided  
20 that the fines shall not exceed twenty-five per cent  
21 of the amount then due;



1       ~~[+17+]~~ (14) Create loss mitigation incentives, including but  
2               not limited to premium credits, premium rebates,  
3               loans, or cash payments;

4       ~~[+18+]~~ (15) Enter into claims financing transactions,  
5               including but not limited to reinsurance transactions,  
6               debt transactions, and other transactions  
7               incorporating elements of reinsurance, insurance,  
8               debt, or equity;

9       ~~[+19+]~~ (16) Establish business and corporate entities or  
10              organizations pursuant to the purposes of this  
11              chapter; ~~[and]~~

12       (17) Receive for deposit into separate accounts within the  
13       hurricane reserve trust fund established pursuant to  
14       section 431P-16 revenues received from any fee revenue  
15       authorized by the legislature for deposit into the  
16       hurricane relief trust fund, and any other source of  
17       revenue available to the board; and

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

20       SECTION 13. Section 431P-5.5, Hawaii Revised Statutes, is  
21       amended as follows:



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

2 "(a) Upon written confirmation from the insurance  
3 commissioner that the director [~~of finance~~] has secured  
4 \$500,000,000, in the aggregate, in the form of:

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

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

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

12 ~~+(1) Control]~~ control or freeze rates[+] and  
13 ~~[(2) Continue]~~ continue accumulating premiums from policies  
14 of hurricane property insurance [~~and the special~~  
15 ~~mortgage recording fee~~], net of any reinsurance  
16 payments, operating expenses, and funds necessary for  
17 the development of a comprehensive loss reduction  
18 plan."

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

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



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

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

14 SECTION 14. Section 431P-7, Hawaii Revised Statutes, is  
15 amended by amending subsection (c) to read as follows:

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

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

19 (2) [~~Establish~~] Shall establish procedures for providing  
20 notice to all persons with interests insurable by the  
21 fund in the State of the type of insurance available



1 from the fund [~~in the event~~] if the fund offers  
2 insurance;

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

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

12 (5) [~~Publish~~] Shall publish manuals of rules, rates, and  
13 rating and classification plans, which shall address  
14 mandatory deductibles, limits of coverage, and the  
15 classification of risks and rate modifications based  
16 on the exposure of insureds[+], subject to the  
17 approval of the commissioner;

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

20 (7) [~~Establish~~] Shall establish procedures for processing  
21 and maintaining records of the fund relating to its



1 financial transactions, its agents, its employees, its  
2 operations, and all transactions with any servicing  
3 facility;

4 (8) [~~Establish~~] Shall establish procedures for the  
5 collection and remittance of the premiums and return  
6 of unearned premiums where applicable;

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

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

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

13 (12) [~~Establish~~] Shall establish procedures to borrow  
14 funds; [~~and~~]

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

18 (14) Shall require, prior to issuance or renewal of  
19 coverage, the applicant for condominium insurance  
20 coverage or renewal to:





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

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

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

SECTION 15. 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 and credits, shall submit to the commissioner a written request for permission to write the coverage; provided that in the absence of such authorization, no other policy of residential property insurance or endorsement to a policy of residential property insurance on eligible residential property located in this State shall be issued to provide insurance for damages or~~



~~losses caused by a covered event if such coverage is less than that offered by the fund. If multi-peril coverage on commercial property is no longer being offered by the fund, any multi-peril coverage on commercial property offered by an insurer shall qualify as a comparable coverage under section 431P-5(b)(8)(A). Multi-peril coverage on residential property which [includes] coverage for hurricane losses offered by an insurer shall qualify as a comparable coverage under section 431P-5(b)(8)(A).]~~  
be established in the plan of operation, subject to approval by the commissioner."

SECTION 16. Section 431P-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) ~~[The]~~ Except for:

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

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

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



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

3 **"§431P-16 Establishment of trust funds.** (a) The fund  
4 shall establish outside the state treasury a hurricane reserve  
5 trust fund and any accounts thereunder and any other trust fund  
6 or account necessary to carry out the purposes of this chapter.  
7 Moneys deposited in the hurricane reserve trust fund and any  
8 accounts thereunder or any other trust fund or account shall be  
9 held by the fund, as trustee, in a depository as defined in  
10 section 38-1 or according to a similar arrangement at the  
11 discretion of the board, including, but not limited to, trust or  
12 custodial accounts created for the benefit of the fund's secured  
13 parties under contractual claims financing arrangements. These  
14 moneys may be invested and reinvested in accordance with the  
15 plan of operation. Disbursements from the trust funds shall not  
16 be subject to chapter 103D and shall be made in accordance with  
17 procedures adopted by the board.

18 ~~[(b) The hurricane reserve trust fund shall receive~~  
19 ~~deposits of the special mortgage recording fee established by~~  
20 ~~this chapter. Except as determined by board order, the special~~  
21 ~~mortgage recording fee shall be imposed on 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 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 fee shall be an amount equal to one-tenth of one per cent of the 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 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 fee amount pursuant to section 431P-5(b)(14). 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 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 which the special mortgage recording fee is calculated shall be the monetary amount which the mortgagee attributes to the obligation. If the debt is stated in a foreign currency, it~~



1 ~~shall be converted to U.S. dollars using an exchange rate~~  
2 ~~published in a newspaper of general circulation in this State~~  
3 ~~within one week prior to recordation of the mortgage or~~  
4 ~~amendment of mortgage.~~

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

15 ~~(e)]~~ (b) The Hawaii hurricane relief fund ~~[shall]~~ may  
16 implement the assessments of all property and casualty insurers  
17 ~~[as]~~ authorized by section 431P-5(b)(8)(A) and (B) and the  
18 proceeds from the assessments shall be deposited into the  
19 hurricane reserve trust fund or into trust or custodial  
20 accounts, created for the benefit of the fund's secured parties,  
21 that are held inside or outside the hurricane reserve trust



1 fund[+]; provided that after December 31, 2025, all proceeds  
2 realized from the collection of the assessments shall be  
3 deposited into a separate trust account within the hurricane  
4 reserve trust fund.

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

7 ~~[(d)]~~ (c) If the Hawaii hurricane relief fund offers to  
8 issue policies of hurricane property insurance, the premiums for  
9 the policies shall be deposited into the hurricane reserve trust  
10 fund.

11 ~~[(e)]~~ (d) After each covered event, if the board  
12 determines that the moneys in the hurricane reserve trust fund,  
13 excluding moneys determined by the board to be needed to  
14 continue fund operations following the covered event, will be  
15 insufficient to pay claims and other obligations of the fund  
16 arising out of that covered event, the Hawaii hurricane relief  
17 fund shall levy a surcharge not to exceed seven and one-half per  
18 cent a year on premiums charged for all property and casualty  
19 insurance policies issued for risks insured in this State.  
20 These moneys may be deposited into the hurricane reserve trust  
21 fund or into trust or custodial accounts created for the benefit



1 of the fund's secured parties that are held inside or outside  
2 the hurricane reserve trust fund. The surcharge shall remain in  
3 effect until all claims and other obligations of the fund,  
4 including but not limited to claims under fund policies of  
5 hurricane property insurance, claims financing transactions,  
6 bonds, notes, and other obligations arising out of that covered  
7 event have been fully discharged. The amount and reason for any  
8 surcharge made pursuant to this subsection shall be separately  
9 stated on any billing sent to an insured. The surcharge shall  
10 not be considered premiums for any other purpose including the  
11 computation of gross premium tax or the determination of  
12 producers' commissions. The fund may establish procedures for  
13 insurers to collect the surcharge from customers who hold  
14 property or casualty policies.

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

18 ~~[(g)]~~ (f) Any proceeds from loans or other moneys from the  
19 federal government, any proceeds from bonds issued pursuant to  
20 this chapter loaned by the director to the Hawaii hurricane  
21 relief fund, any revenues derived from the temporary recording





1 fee pursuant to section 431P-B, and other moneys as the State  
2 may make available from time to time shall be deposited into  
3 separate accounts of the hurricane reserve trust fund.

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

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

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

19 (2) If ~~[such]~~ the moneys are paid on behalf of licensed  
20 property and casualty insurers, payment shall be made  
21 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 18. 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  
remaining balance and all fees other than the ~~[special mortgage  
recording fee established pursuant to section 431P-16]~~ temporary  
recording fee established pursuant to section 431P-B and  
conveyance tax collected pursuant to section 247-1 to the credit  
of the bureau of conveyances special fund established under  
section 502-8."



1 SECTION 19. Section 502-25, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

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

13 SECTION 20. (a) No later than September 1, 2025, the  
14 board of directors of the Hawaii hurricane relief fund shall  
15 publish a notice inviting domestic insurers, as defined in  
16 section 431:3-104, Hawaii Revised Statutes, that are transacting  
17 direct property insurance in the State to submit to the board of  
18 directors current statements of qualifications and expressions  
19 of interest to serve as a servicing facility to assist the fund  
20 in performing the responsibilities described in section 431P-4,  
21 Hawaii Revised Statutes, and in executing the powers, duties,



1 and functions of the fund as described in section 431P-5, Hawaii  
2 Revised Statutes, as deemed appropriate by the board of  
3 directors with the approval of the insurance commissioner;  
4 provided that the request for submissions of statements of  
5 qualifications and expressions of interest shall be prepared by  
6 the insurance commissioner.

7 (b) No later than October 1, 2025, the board of directors  
8 of the Hawaii hurricane relief fund shall award a servicing  
9 facility contract to a domestic insurer that submitted a  
10 statement of qualifications and expression of interest pursuant  
11 to subsection (a). The processes described in this section and  
12 the selection of the servicing facility shall not be subject to  
13 chapter 76, 78, or 103D, Hawaii Revised Statutes.

14 (c) The Hawaii hurricane relief fund, with the approval of  
15 the insurance commissioner, may award or renew a contract to a  
16 servicing facility for a term not to exceed three years.

17 PART IV

18 SECTION 21. Chapter 196, Hawaii Revised Statutes, is  
19 amended by adding two new sections to part IV to be  
20 appropriately designated and to read as follows:



1        **"§196-A Condominium loan program.**    (a) There is  
2    established within the authority a condominium loan program, to  
3    be administered by the authority on behalf of the department in  
4    a manner consistent with chapter 39, part III, for the purposes  
5    of funding essential repairs, addressing deferred maintenance  
6    and structural issues, and improving property conditions to  
7    enhance the insurability of condominiums organized under  
8    chapter 514B.

9        (b) The authority may make loans to private entities,  
10   including corporations, partnerships, limited liability  
11   companies, or other persons for the purposes of addressing  
12   deferred maintenance pursuant to section 196-B.

13        (c) The term of the loans issued under the condominium  
14   loan program shall extend for a period of twenty years from the  
15   effective date of issuance.

16        (d) Moneys received by the authority for the repayment of  
17   loans, including any interest on the loan principal, shall be  
18   deposited into the condominium loan program special fund.

19        **§196-B Condominium loan program special fund.**    (a) There  
20   is created within the state treasury a condominium loan program  
21   special fund, into which shall be deposited:



1        (1) Moneys appropriated by the legislature; and

2        (2) Moneys received as repayment of loans under the  
3        condominium loan program, including any interest.

4        (b) The special fund shall be administered by the  
5        authority on behalf of the department for purposes of carrying  
6        out the condominium loan program established under  
7        section 196-A."

8                SECTION 22. There is appropriated out of the general  
9 revenues of the State the sum of \$                                or so much thereof  
10 as may be necessary for fiscal year 2025-2026 and the same sum  
11 or so much thereof as may be necessary for the fiscal year  
12 2026-2027 to be deposited into the condominium loan program  
13 special fund established pursuant to section 196-B, Hawaii  
14 Revised Statutes.

15                SECTION 23. There is appropriated out of the condominium  
16 loan program special fund the sum of \$                                or so much  
17 thereof as may be necessary for fiscal year 2025-2026 and the  
18 same sum or so much thereof as may be necessary for the fiscal  
19 year 2026-2027 for the purposes of the condominium loan program  
20 special fund established pursuant to section 196-B, Hawaii  
21 Revised Statutes.



1       The sums appropriated shall be expended by the Hawaii green  
2 infrastructure authority on behalf of the department of  
3 business, economic development, and tourism to carry out the  
4 purposes of this part.

5                                   PART V

6       SECTION 24. There is appropriated out of the general  
7 revenues of the State of Hawaii the sum of \$                   or so  
8 much thereof as may be necessary for fiscal year 2025-2026 to  
9 provide a loan to the Hawaii property insurance association for  
10 administrative and startup costs, minimum solvency costs, and  
11 the purchase of reinsurance.

12       The sum appropriated shall be expended by the insurance  
13 commissioner for the purposes of part II of this Act until such  
14 time as the Hawaii property insurance association board of  
15 directors convenes its first meeting after the effective date of  
16 this Act. Thereafter, any remaining moneys appropriated  
17 pursuant to this section shall be expended by the Hawaii  
18 property insurance association board of directors for the  
19 purposes of part II of this Act.



## PART VI

SECTION 25. (a) The insurance commissioner shall conduct a study to identify or develop a long-term solution to stabilize the property insurance market in the State. The insurance commissioner shall invite representatives of the property and casualty insurance industry to participate in the study. The insurance commissioner shall include in the study:

- (1) Recommendations for capitalizing the Hawaii property insurance association and Hawaii hurricane relief fund;
- (2) Recommendations for monitoring the stability of the property insurance market in the State;
- (3) A determination of the efficacy of the changes implemented pursuant to this Act;
- (4) An evaluation of the feasibility of establishing a mutual or captive insurance model to address the affordability and availability of property insurance in the State, including solutions to address the needs of condominium associations and individual residential condominium property owners;





(5) Recommendations on a mechanism to ensure that condominium properties are maintained and repaired in a timely manner to ensure that the condominium properties remain in insurable condition; and

(6) An analysis of regulatory reforms that could be implemented by the insurance commissioner to assist insurers in competing in the marketplace and developing new insurance products for the benefit of consumers.

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

SECTION 26. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2025-2026 for the insurance commissioner to conduct a study pursuant to this part.



1       The sum appropriated shall be expended by the insurance  
2       division of the department of commerce and consumer affairs for  
3       the purposes of this part.

4                                   PART VII

5       SECTION 27. In codifying the new sections added by  
6       sections 9 and 21, and referenced in sections 17, 18, and 19 of  
7       this Act, the revisor of statutes shall substitute appropriate  
8       section numbers for the letters used in designating the new  
9       sections in this Act.

10      SECTION 28. Statutory material to be repealed is bracketed  
11      and stricken. New statutory material is underscored.

12      SECTION 29. This Act shall take effect on July 1, 2050;  
13      provided that:

14      (1) Sections 196-A and 196-B, Hawaii Revised Statutes,  
15      established by part IV of this Act shall be repealed  
16      on June 30, 2045;

17      (2) Any moneys in the condominium loan program special  
18      fund that are unexpended as of June 30, 2045, shall  
19      lapse to the credit of the general fund; and

20      (3) Any moneys received after June 30, 2045, for the  
21      repayment of loans under the condominium loan program,



1 including any interest on the loan principal, shall be  
2 deposited into the general fund.



**Report Title:**

HPIA; HHRF; Property Insurance; Hurricane; Condominiums; DBEDT;  
HGIA; Condominium Loan Program; Special Fund; Reports;  
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 Hawaii Property Insurance Association and the Hawaii Hurricane Relief Fund to contract with domestic private insurers to act as a servicing facility by 10/1/2025. Establishes the Condominium Loan Program and the condominium loan program special fund, to be administered by the Hawaii Green Infrastructure Authority on behalf of the Department of Business, Economic Development, and Tourism, for the purpose of providing funding for essential repairs and deferred maintenance to condominium associations organized under chapter 514B, HRS. Requires the Insurance Commissioner to conduct a study to develop long-term solutions to stabilize the property insurance market in the State. Requires reports to the Legislature. Appropriates funds. Effective 7/1/2050. (SD2)

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