

S.B. NO. 1376

JAN 23 2025

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

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

15 Furthermore, some condominium associations for older
16 buildings are forced to obtain property insurance through the
17 secondary insurance market if they are dropped by the standard
18 insurers for, among other things, having too many claims. The
19 president of Insurance Associates reported that more than seven
20 hundred condominium buildings on Oahu alone were built before
21 1990. These secondary market insurers are not bound by the
22 State's laws or administrative rules governing rates, so their

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1 prices may be more expensive than those of standard insurance
2 carriers.

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

14 The legislature finds that the consequences of
15 under-insured condominium buildings, including condominium
16 buildings that lack full hurricane coverage, also impact
17 individual owners. Today, there are only three insurers writing
18 hurricane coverage for condominium buildings, one of which is
19 only willing to underwrite \$10,000,000 to \$25,000,000 in
20 hurricane coverage while underwriting all other coverage up to
21 the building's value. If a condominium building's insurance
22 coverage, including hurricane coverage, is below its full value,

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

16 In addition, Hawaii Business Magazine has reported that the
17 2021 collapse of the Surfside condominium building in Miami is
18 also having a ripple effect on condominium lending. In 2023,
19 Fannie Mae and Freddie Mac made permanent the rules for
20 condominium lending that were created in the wake of that
21 disaster and ceased buying loans for buildings or projects that
22 have put off major repairs--such as replacing old water pipes.

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1 These new lending rules also prohibit the sale of a loan on a
2 condominium building to Fannie Mae and Freddie Mac if that
3 building has unfunded repairs totaling more than \$10,000 per
4 unit.

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

13 The legislature notes that the wildfire in Lahaina, Maui,
14 on August 8, 2023, has also impacted the way reinsurers and
15 standard insurers view Hawaii's wildfire risk. The president of
16 Insurance Associates estimates that, while Hawaii has always
17 been rated for hurricanes for property insurance purposes, it
18 has never been rated for wildfires. Now that the State has
19 experienced wildfires, not only in Lahaina, but also in Kula,
20 West Oahu, and Mililani, parts of all islands will be rated for
21 wildfires. Moreover, it is surmised that some insurers will not
22 maintain their current policy-count in the State because of

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1 their increased costs for reinsurance, geographical
2 concentration of risk, and inadequate rates both pre- and
3 post-wildfire. Insurers have the financial responsibility to
4 pay losses and, if reinsurance and premiums are not sufficient
5 to cover these losses, an insurer needs to reduce its exposure
6 by restricting new policies, reducing the policy-count, or both.
7 The legislature recognizes that the price impact on reinsurance
8 from recent wildfires is not fully known and price increases may
9 continue into the foreseeable future.

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

17 The legislature also acknowledges that although insurance
18 coverage, excluding hurricane coverage, for condominium
19 buildings is available in the standard insurance market, the
20 availability of this coverage is not guaranteed. If this
21 coverage became unavailable to condominium buildings, then under

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1 this Act, the Hawaii property insurance association would be
2 authorized to provide this coverage.

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

10 The legislature also recognizes that, although there has
11 been much focus on the instability of the condominium insurance
12 market in Hawaii, the broader property insurance industry faces
13 uncertainty amidst changing economic and regulatory conditions,
14 rising costs, increased reinsurance costs, and more frequent
15 severe weather events. Given these precarious conditions, it is
16 possible that a future disaster or other unforeseen circumstance
17 could cause the availability of insurance to shrink for classes
18 of real property other than condominiums, including single
19 family homes and townhouses.

20 Accordingly, this Act authorizes the Hawaii property
21 insurance association to provide additional insurance coverage
22 within the State for certain categories of properties if the

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1 Hawaii property insurance association and insurance commissioner
2 determine that those categories of properties are experiencing a
3 casualty and property insurance market failure. This authority
4 will provide the Hawaii property insurance association with the
5 flexibility to quickly address potential future disruptions in
6 the insurance market. This flexibility is critical to ensure
7 that Hawaii residents living in non-condominium properties such
8 as single-family homes and townhouses are protected following
9 unexpected disasters that could otherwise increase the cost of
10 insurance to the point where residents cannot afford to continue
11 living in their homes or in the State.

12 The legislature believes that it is critical to begin the
13 process to adequately capitalize the Hawaii property insurance
14 association and Hawaii hurricane relief fund because insuring
15 these risks could bring an enormous amount of risk exposure to
16 the funds. Therefore, funding mechanisms must be broad on an
17 initial and ongoing basis and spread among as many parties
18 involved in real property transactions within the State as
19 possible to ensure that the financial impacts are apportioned as
20 equitably as practicable, and that reserve funds are adequately
21 capitalized if losses exceed the funds' capacities.

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

9 Therefore, this Act repeals the special mortgage recording
10 fee and instead authorizes the Hawaii hurricane relief fund
11 board of directors to establish a temporary recording fee, which
12 will be imposed as a flat assessment on each document that is
13 recorded with the bureau of conveyances or filed with the
14 assistant registrar of the land court of the State, as
15 appropriate. This fee, if activated by the Hawaii hurricane
16 relief fund, is intended to be a temporary funding mechanism
17 that will spread costs out in a way that will reduce the
18 regressive financial impact imposed on individuals and families
19 who can only afford to purchase a residential dwelling by
20 financing the purchase. If the Hawaii hurricane relief fund
21 board of directors determines that the fee revenue is no longer

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1 required, this Act allows the board to terminate collection of
2 the fee without seeking legislative action.

3 This Act provides additional funding mechanisms through
4 the:

- 5 (1) Appropriation of general funds for the Hawaii property
6 insurance association; and
- 7 (2) Option for the Hawaii hurricane relief fund to
8 reactivate the assessment of insurers at an assessment
9 rate determined by the Hawaii hurricane relief fund's
10 board of directors to augment the capitalization of
11 the Hawaii hurricane relief fund.

12 The legislature finds that this Act is necessary to:

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

20 This Act is a stop-gap measure to provide insurance
21 availability for condominium associations that are unable to
22 purchase adequate property insurance for their respective

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1 condominium buildings that are in insurable condition.
2 Condominium associations that apply for coverage through the
3 Hawaii property insurance association will need to pay premiums
4 that are sufficient to cover the condominium association's
5 exposure to losses. This measure is not designed to be a
6 long-term solution and, therefore, the legislature has imposed a
7 one-time five-year coverage period and commissioned a study to
8 recommend long-term solutions to stabilize the property
9 insurance market in the State. To that end, in addition to
10 providing for the issuance of short-term property insurance
11 coverage, this Act also requires the insurance commissioner to
12 conduct a study to develop a long-term solution. The
13 legislature notes that a long-term solution may potentially
14 include the issuance of property insurance policies for
15 condominium buildings that are in need of repair or replacement
16 of components.

17 The purposes of this Act are to:

- 18 (1) Amend state laws governing the Hawaii property
19 insurance association and the Hawaii hurricane relief
20 fund to enable these entities to underwrite certain
21 insurance risks in the State that no standard insurer
22 is currently willing to underwrite; and

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(2) Require the insurance commissioner to conduct a study to monitor and identify the most effective methods of stabilizing the property insurance market in the State.

PART II

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

"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

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1 against legal liability for the death, injury, or disability of
2 any human being, or from damage to property. "Property
3 insurance" does not include any indemnity for loss, destruction,
4 damage of property, or death, injury, or disability of any human
5 being, or from damage to property, caused by a hurricane."

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

8 "**§431:21-105 Powers and duties of the association.** (a)

9 In addition to any other requirements imposed by law, the
10 association shall:

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

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

19 ~~[(2)]~~ (3) Reimburse each servicing facility for obligations
20 of the association paid by the facility and for
21 expenses incurred by the facility while processing

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1 applications and servicing policies on behalf of the
2 association; and

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

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

7 (1) Add additional insurance coverages with the approval
8 of the commissioner, including coverage for commercial
9 risks up to the limits of coverage ~~[for residential~~
10 ~~risks]~~ as set forth in the plan of operation;

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

13 (3) Contract with a member insurer to perform the duties
14 of the association;

15 (4) Sue or be sued;

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

18 (6) If approved by the commissioner, ~~[assess]~~ activate,
19 reduce, or terminate the collection of an assessment
20 on member insurers in amounts necessary to cover
21 extraordinary losses incurred by the association~~[-]~~;
22 provided that:

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(A) Each member insurer shall be notified of the assessment not later than thirty days before it is due [];

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

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

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

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

(D) The association may exempt or defer, in whole or in part, the assessment of any member insurer if

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1 the assessment would cause the member insurer's
2 financial statement to reflect amounts of capital
3 or surplus less than the minimum amounts required
4 for a certificate of authority by any
5 jurisdiction in which the member insurer is
6 authorized to transact business;

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

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

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

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1 a similar arrangement at the discretion of the board,
2 including but not limited to trust or custodial
3 accounts created for the benefit of the fund's secured
4 parties under contractual claims financing
5 arrangements. These moneys may be invested and
6 reinvested in accordance with the plan of operation.

7 Disbursements from the trust funds shall not be
8 subject to chapter 103D and shall be made in
9 accordance with procedures adopted by the board;

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

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

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

17 (1) By amending subsection (a) to read as follows:

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

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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 as follows:

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;

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

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

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

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

18 [~~(7) Establish~~] (8) Shall establish the manner and scope
19 of the inspection and the form of the inspection
20 report. The inspection guidelines may include setting
21 minimum conditions the property must meet before an
22 inspection is required;

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

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

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

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

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

17 (14) Shall include the following:

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

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

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

6 (D) Potential annual premium rate increases; and

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

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

12 (A) Provide the following to the association:

13 (i) The condominium association's declarations,
14 bylaws, or other documents that describe
15 their process for paying claims, including
16 the portion of the claim to be paid by the
17 condominium association and the portion to
18 be paid by each unit owner; and

19 (ii) The condominium association's declarations,
20 bylaws, or other documents that describe
21 their process for handling losses both

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1 pursuant to the applicable master policy and

2 by the applicable condominium association;

3 (B) Cause to be completed an inspection of the

4 applicable condominium; provided that the

5 inspection shall be consistent with any

6 inspection and reporting standards established by

7 the board of directors of the association and

8 incorporated into the plan of operation pursuant

9 to paragraph (8); and

10 (C) Satisfy any relevant requirements established by

11 the board of directors of the association and

12 incorporated into the plan of operation;

13 (16) May prohibit coverage under this article for any

14 high-rise condominium for which the association or its

15 servicing entities or any agents thereof have

16 identified maintenance issues that materially affect

17 the insurability of the high-rise condominium for the

18 type of coverage being sought; and

19 (17) Shall adopt procedures, guidelines, installment

20 amounts, and a timetable for the repayment of any

21 general fund moneys that are loaned to sufficiently

22 capitalize the fund and deposited into the separate

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1 account within the Hawaii property insurance
2 association reserve trust fund established pursuant to
3 section 431:21-105(b)(9); provided that the repayment
4 shall not commence until the fund is sufficiently
5 capitalized as determined by the board of directors."

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

8 "[~~+~~] §431:21-107 [~~-~~] ~~Designation of area.~~ Coverage
9 eligibility. (a) After consultation with representatives of
10 the United States Geological Survey, the state department of
11 defense, and the county in which the area is located, the
12 commissioner shall designate the geographical area eligible for
13 coverage in lava zones 1 and 2 through the association. Those
14 properties in the designated area that meet the standards set
15 forth in the plan of operation shall be provided insurance
16 through the association.

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

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

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

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

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

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

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

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

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

14 " ~~[{ } §431:21-115 { } — Credits for]~~ Recoupment of assessments
15 ~~paid. [A member insurer may offset against its premium tax~~
16 ~~liability to this State an assessment made with the~~
17 ~~commissioner's approval to the extent of twenty per cent of the~~
18 ~~amount of the assessment for each of the five calendar years~~
19 ~~following the year in which the assessment was paid. In the~~
20 ~~event a member insurer should cease doing business in this~~
21 ~~State, all uncredited assessments may be credited against its~~
22 ~~premium tax liability for the year it ceases doing business.]~~

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

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

16 (c) Each member insurer shall provide to the association
17 an accounting of its recoupments. The association shall compile
18 the member insurers' accountings and submit them as part of the
19 association's annual report 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
22 surcharge shall not be considered premiums for any other

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1 purpose, including the computation of gross premium tax or the
2 determination of producer commissions."

PART III

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

7 "§431P-A Recoupment of assessments paid. (a) Each
8 licensed property and casualty insurer shall annually recoup
9 assessments paid by the licensed property and casualty insurer
10 under section 431P-5(b)(8)(A) and (B). The recoupment shall be
11 recovered by means of a surcharge on premiums charged by the
12 licensed property and casualty insurer for policies on which the
13 assessment was made. Any excess recovery by a licensed property
14 and casualty insurer shall be credited pro rata to that
15 insurer's policyholder's premiums in the succeeding year unless
16 there has been a subsequent assessment, in which case the excess
17 shall be used to pay the amount of the subsequent assessment. A
18 licensed property and casualty insurer may continue to collect a
19 surcharge on premiums until the full assessments are recouped.

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

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

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

11 §431P-B Temporary recording fee; establishment, reduction,
12 and cessation by board. (a) The board may activate, reduce, or
13 terminate the collection of a temporary recording fee as
14 provided in this section.

15 (b) The temporary recording fee shall be imposed on each
16 document that is recorded with the bureau of conveyances or
17 filed with the assistant registrar of the land court of the
18 State.

19 (c) If the board establishes or reactivates the temporary
20 recording fee, the board shall:

21 (1) Set the amount of the fee; provided that the amount
22 shall not exceed \$ per document recorded with the

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1 bureau of conveyances or filed with the assistant
2 registrar of the land court of the State; and
3 (2) Establish the period of time during which the fee
4 shall be collected; provided that the time period
5 shall not exceed months.

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

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

11 (1) Reduce the amount of the temporary recording fee; or
12 (2) Terminate the collection of the temporary recording
13 fee.

14 (f) The temporary recording fee shall be submitted to and
15 collected by the bureau of conveyances or the assistant
16 registrar of the land court of the State. All proceeds realized
17 from the collection of the fee shall be deposited into a
18 separate account of the hurricane reserve trust fund.

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

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

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(1) By adding two new definitions to be appropriately inserted and to read as follows:

"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 as follows:

"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;

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

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

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

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(5) A condominium that is used for residential purposes
and 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."

(3) By amending the definition of "licensed property and
casualty insurer" to read as follows:

"Licensed property and casualty insurer" means [:-

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

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

(4) By amending the definition of "policy of hurricane
property insurance" to read as follows:

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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;~~

20 ~~provided that this policy or endorsement shall not include~~
21 ~~coverage for business interruption and other similar coverages.]~~
22 subject to the limits and deductibles allowed by the plan of

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

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

5 " ~~[+]~~ §431P-2 ~~[+]~~ **Establishment of Hawaii hurricane relief**
6 **fund.** There shall be a Hawaii hurricane relief fund to be
7 placed within the department of commerce and consumer affairs
8 for administrative purposes. The fund shall be a public body
9 and a body corporate and politic. Any applicant for insurance
10 from the fund shall provide proof, to the satisfaction of the
11 board, of the inability to obtain hurricane property insurance
12 from insurers licensed to transact business in the State."

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

15 "**§431P-5 Powers, duties, and functions.** (a) The Hawaii
16 hurricane relief fund shall have the following general powers:

- 17 (1) To sue and be sued;
18 (2) To make and alter policies for its organization and
19 internal administration;
20 (3) To adopt rules in accordance with chapter 91 to
21 effectuate the purposes of this chapter;

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

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(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 eligible property with insurance coverage provided by the fund;

(2) Authorize the provision of hurricane coverage by the fund for real property and tangible personal property

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located in or on real property and establish limits of liability for specific coverages within the range of authorized coverage;

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

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

(5) Adopt any form of insurance policy necessary for providing policies of hurricane property insurance by the fund, with the approval of the commissioner;

(6) Issue policies of hurricane property insurance and pay claims for coverage over the mandatory deductible or other deductible provided in the plan of operation or

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

(7) ~~[Require every]~~ Contract with one or more licensed property and casualty ~~[insurer]~~ insurers transacting direct property insurance business in this State to act as a servicing facility, and by contract with that insurer authorize the insurer to inspect eligible properties, service policies and policyholders of hurricane property insurance, provide claim services, and perform any other duties as authorized by the fund for applicants to the fund and those insured by it;

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

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

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

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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

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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

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- 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,
21 surcharges, and other contributions made by insurers
22 authorized to do business in this State;

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1 ~~[(12)]~~ (11) Accumulate reserves or funds, including the
2 investment income thereon, to be used for paying
3 expenses, making or repaying loans or other
4 obligations of the fund, providing loss mitigation
5 incentives, and paying valid claims for covered events
6 insured by the fund;

7 ~~[(13)]~~ (12) Collect and maintain statistical and other data
8 as may be required by the commissioner;

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

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

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

20 ~~[(17)]~~ (14) Create loss mitigation incentives, including but
21 not limited to premium credits, premium rebates,
22 loans, or cash payments;

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1 ~~[(18)]~~ (15) Enter into claims financing transactions,
2 including but not limited to reinsurance transactions,
3 debt transactions, and other transactions
4 incorporating elements of reinsurance, insurance,
5 debt, or equity;

6 ~~[(19)]~~ (16) Establish business and corporate entities or
7 organizations pursuant to the purposes of this
8 chapter; ~~[and]~~

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

15 ~~[(20)]~~ (18) Perform any and all acts reasonably necessary to
16 carry out the purposes of this chapter."

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

19 (1) By amending subsection (a) to read as follows:

20 "(a) Upon written confirmation from the insurance
21 commissioner that the director ~~[of finance]~~ has secured
22 \$500,000,000, in the aggregate, in the form of:

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(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[+]

~~[-]~~ ~~Control~~ control or freeze rates[+] and

~~[-]~~ ~~Continue~~ continue accumulating premiums from policies of hurricane property insurance ~~[and the special mortgage recording fee]~~, net of any reinsurance payments, operating expenses, and funds necessary for the development of a comprehensive loss reduction plan."

(2) By amending subsections (c) and (d) to read as follows:

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

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

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

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

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

14 (2) ~~[Establish]~~ Shall establish procedures for providing
15 notice to all persons with interests insurable by the
16 fund in the State of the type of insurance available
17 from the fund ~~[in the event]~~ if the fund offers
18 insurance;

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

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- 1 (4) ~~[Adopt]~~ Shall adopt actuarially sound rates, based on
2 reasonable assumptions relative to expectations of
3 hurricane frequency and severity, to be charged for
4 insurance provided by the fund, in accordance with
5 article 14 of chapter 431;
- 6 (5) ~~[Publish]~~ Shall publish manuals of rules, rates, and
7 rating and classification plans, which shall address
8 mandatory deductibles, limits of coverage, and the
9 classification of risks and rate modifications based
10 on the exposure of insureds~~[+]~~, subject to the
11 approval of the commissioner;
- 12 (6) ~~[Establish]~~ Shall establish procedures for receiving
13 and servicing applications to the fund;
- 14 (7) ~~[Establish]~~ Shall establish procedures for processing
15 and maintaining records of the fund relating to its
16 financial transactions, its agents, its employees, its
17 operations, and all transactions with any servicing
18 facility;
- 19 (8) ~~[Establish]~~ Shall establish procedures for the
20 collection and remittance of the premiums and return
21 of unearned premiums where applicable;

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- 1 (9) ~~[Establish]~~ Shall establish procedures for the payment
2 of valid claims;
- 3 (10) ~~[Establish]~~ Shall establish procedures for prorating
4 available funds pursuant to section 431P-15;
- 5 (11) ~~[Establish]~~ Shall establish procedures for obtaining
6 reinsurance;
- 7 (12) ~~[Establish]~~ Shall establish procedures to borrow
8 funds; ~~[and]~~
- 9 (13) ~~[Develop]~~ Shall develop a plan for the investment of
10 moneys held by the fund ~~[subject to the limitations in~~
11 ~~article 6 of chapter 431.];~~
- 12 (14) Shall require, prior to issuance or renewal of
13 coverage, the applicant for condominium insurance
14 coverage or renewal to:
- 15 (A) Cause to be completed an inspection of the
16 applicable condominium; provided that the
17 inspection shall be consistent with any
18 inspection and reporting standards established by
19 the board and incorporated into the plan of
20 operation; and

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

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

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

12 **"§431P-10 Coverage available from the fund; deductible.**

13 ~~[(a) Policies]~~ Coverage limits and deductibles for policies
14 issued by the fund covering eligible property shall ~~[provide a~~
15 ~~maximum aggregate coverage of up to \$750,000 per risk on real~~
16 ~~property of one to four units used for residential purposes and~~
17 ~~\$500,000 per risk for real property used for business,~~
18 ~~commercial, or industrial purposes and shall provide for a~~
19 ~~mandatory deductible. The deductible amount for residential~~
20 ~~property policies shall be the greater of \$1,000 or one per cent~~
21 ~~of the insured value or the greater of \$2,000 or two per cent of~~
22 ~~the insured value; provided that the board may establish higher~~

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~~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).]~~

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1 be established in the plan of operation, subject to approval by
2 the commissioner."

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

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

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

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

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

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

15 "**§431P-16 Establishment of trust funds.** (a) The fund
16 shall establish outside the state treasury a hurricane reserve
17 trust fund and any accounts thereunder and any other trust fund
18 or account necessary to carry out the purposes of this chapter.
19 Moneys deposited in the hurricane reserve trust fund and any
20 accounts thereunder or any other trust fund or account shall be
21 held by the fund, as trustee, in a depository as defined in
22 section 38-1 or according to a similar arrangement at the

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

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

17 ~~The special mortgage recording fee shall be an amount equal~~
18 ~~to one tenth of one per cent of the stated principal amount of~~
19 ~~the debt secured by the mortgage or, in the case of an amendment~~
20 ~~or refinancing of a mortgage, an amount equal to one tenth of~~
21 ~~one per cent of the amount of the increase of the stated~~
22 ~~principal amount of the secured debt; provided that the board~~

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

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

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1 ~~required by the bureau of conveyances or the assistant registrar~~
2 ~~of the land court of the State.]~~

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

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

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

20 [~~(e)~~] (d) After each covered event, if the board
21 determines that the moneys in the hurricane reserve trust fund,
22 excluding moneys determined by the board to be needed to

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

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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
22 casualty insurers or the State that are required to be

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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
remaining balance and all fees other than the ~~[special mortgage
recording fee established pursuant to section 431P-16]~~ temporary

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1 recording fee established pursuant to section 431P-B and
2 conveyance tax collected pursuant to section 247-1 to the credit
3 of the bureau of conveyances special fund established under
4 section 502-8."

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

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

17 PART IV

18 SECTION 19. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$50,000,000 or so
20 much thereof as may be necessary for fiscal year 2025-2026 to
21 provide a loan to the Hawaii property insurance association for
22 administrative and startup costs, minimum solvency costs, and

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1 the purchase of reinsurance. The moneys shall be deposited into
2 the Hawaii property insurance association's reserve trust fund
3 established pursuant to section 431:21-105(b)(9), Hawaii Revised
4 Statutes.

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

18 PART V

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

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- 1 (1) Recommendations for capitalizing the Hawaii property
2 insurance association and Hawaii hurricane relief
3 fund;
- 4 (2) Recommendations for monitoring the stability of the
5 property insurance market in the State;
- 6 (3) A determination of the efficacy of the changes
7 implemented pursuant to this Act;
- 8 (4) An evaluation of the feasibility of establishing a
9 mutual or captive insurance model to address the
10 affordability and availability of property insurance
11 in the State, including solutions to address the needs
12 of condominium associations and individual residential
13 condominium property owners; and
- 14 (5) Recommendations on a mechanism to ensure that
15 condominium properties are maintained and repaired in
16 a timely manner to ensure that the condominium
17 properties remain in insurable condition.
- 18 (b) The insurance commissioner shall submit reports of the
19 insurance commissioner's findings and recommendations, including
20 any proposed legislation, to the legislature no later than
21 twenty days prior to the convening of the regular sessions of
22 2026 and 2027.

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SECTION 21. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 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.

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

PART VI

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

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

SECTION 24. This Act, upon its approval, shall take effect on July 1, 2025.

INTRODUCED BY:



BY REQUEST

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Report Title:

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

Description:

Expands the powers of the Hawaii Property Insurance Association and 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.

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO THE
STABILIZATION OF PROPERTY INSURANCE.

PURPOSE: To expand the powers of the Hawaii Property Insurance Association and Hawaii Hurricane Relief Fund to help stabilize the property insurance market in the State and require the Insurance Commissioner to conduct a study to determine a long-term solution to stabilize the property insurance market in Hawaii.

MEANS: Amend sections 431:21-102, 431:21-105, 431:21-106(a) and (c), 431:21-107, 431:21-109, and 431:21-115, Hawaii Revised Statutes (HRS); add two new sections to chapter 431P and amend sections 431P-1, 431P-2, 431P-5, 431P-5.5(a), (c), and (d), 431P-7(c), 431P-10, 431P-11(b), 431P-16, 501-23.5, and 502-25(b), HRS.

JUSTIFICATION: The availability of condominium building master property insurance policy options within the condominium insurance marketplace has been shrinking and costs continue to increase exponentially, even before the tragic Lahaina, Maui fires.

Additionally, while Hawaii has managed to avoid a direct hit from a major hurricane since Hurricane Iniki more than thirty years ago, mortgage lenders continue to require homeowners to carry hurricane insurance that could cost two to three times the annual premiums of a conventional homeowner policy.

In 1993, the legislature created the Hawaii Hurricane Relief Fund to provide hurricane property insurance policies in the State in the event they are not available in the private market, but due to increased availability from the private sector, the fund ceased writing policies effective

December 1, 2000. Additionally, in 1991, the legislature also created the Hawaii Property Insurance Association (HPIA), an unincorporated association of insurance companies in Hawaii, to help ensure that property insurance remains available for properties located in hard-to-write areas.

It is critical to begin the process to adequately capitalize the Hawaii property insurance association and Hawaii hurricane relief fund because insuring these risks could bring an enormous amount of risk exposure to the funds.

Impact on the public: This bill looks to provide a stop-gap measure to help stabilize and support insurance availability for condominium associations that are unable to purchase adequate property insurance for their respective condominium buildings that are in insurable condition. Additionally, the study conducted by the insurance commissioner in this Act, would help to create recommendations to support a long-term solution to stabilize the property insurance market.

Impact on the department and other agencies: As an ex officio voting member of the Hawaii Hurricane Relief Fund Board, the Insurance Commissioner will see an increased responsibility with the fund's actions and review processes. Additionally, the Insurance Commissioner and Division will see an increased role with the long-term study requirement in this bill and may need to seek additional support or funding in the future to achieve the intention of this provision of the bill.

GENERAL FUND: \$50,100,000 for fiscal year 2025-2026.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: CCA 106.

OTHER AFFECTED
AGENCIES:

None.

EFFECTIVE DATE:

July 1, 2025.