

ACT 296

S.B. NO. 1044

A Bill for an Act Relating to the Stabilization of Property Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. The legislature finds that before the wildfire event in Lahaina, Maui, on August 8, 2023, the availability of condominium building master property insurance policy options within the condominium insurance marketplace was already shrinking. Due in part to the shrinking condominium insurance marketplace, condominium building master property insurance policy premiums 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.

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

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

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

The legislature finds that the consequences of under-insured condominium buildings, including condominium buildings that lack full hurricane coverage, also impact individual owners. Today, there are only three insurers writing hurricane coverage for condominium buildings, one of which is only willing to underwrite \$10,000,000 to \$25,000,000 in hurricane coverage while underwriting all other coverage up to the building's value. If a condominium building's insurance coverage, including hurricane coverage, is below its full value, the mortgages on individual units within that building would not meet the underwriting criteria to qualify for purchase through the federal government's secondary mortgage market, meaning that these mortgages cannot be sold by financial institutions to mortgage investor entities, such as the Federal National Mortgage Association (commonly referred to as Fannie Mae) and the Federal Home Loan Mortgage Corporation (commonly referred to as Freddie Mac). Coverage to address this lack of hurricane insurance coverage options is available from the excess and surplus lines market, which comprises insurers that are not licensed in the State; however, some condominium buildings are unwilling to purchase this coverage because of its high price. The legislature

understands that although this Act authorizes the Hawaii hurricane relief fund to expand coverage to condominium buildings, premium rates may be high due to the rise in the global reinsurance market for hurricane insurance caused by the frequency and severity of worldwide disasters.

In addition, Hawaii Business Magazine has reported that the 2021 collapse of the Surfside condominium building in Miami, Florida, is also having a ripple effect on condominium lending. In 2023, Fannie Mae and Freddie Mac made permanent the rules for condominium lending that were created in the wake of that disaster and ceased buying loans for buildings or projects that have put off major repairs—such as replacing old water pipes. These new lending rules also prohibit the sale of a loan on a condominium building to Fannie Mae and Freddie Mac if that building has unfunded repairs totaling more than \$10,000 per unit.

This inability to sell condominium mortgages would require financial institutions that originated mortgages to retain those mortgages, thereby lessening their overall financial capacity to originate more mortgages. Further, the risk of loss if a hurricane occurs may impair a financial institution's financial safety and soundness, which would in turn hamper consumers' abilities to obtain financing to purchase dwellings of their own. This measure establishes the condominium loan program, to be administered by the Hawaii green infrastructure authority, to provide financing for condominium associations to address deferred maintenance or repair issues and to further help stabilize the standard property insurance market in the State by mitigating future claims.

The legislature notes that the wildfire in Lahaina, Maui, on August 8, 2023, has also impacted the way reinsurers and standard insurers view Hawaii's wildfire risk. The president of Insurance Associates estimates that while Hawaii has always been rated for hurricanes for property insurance purposes, it has never been rated for wildfires. Now that the State has experienced wildfires, not only in Lahaina, but also in Kula, West Oahu, and Mililani, parts of all islands will be rated for wildfires. Moreover, it is surmised that some insurers will not maintain their current policy-count in the State because of their increased costs for reinsurance, geographical concentration of risk, and inadequate rates both pre- and post-wildfire. Insurers have the financial responsibility to pay losses, and if reinsurance and premiums are not sufficient to cover these losses, an insurer needs to reduce their exposure by restricting new policies, reducing their policy-count, or both. The legislature recognizes that the price impact on reinsurance from recent wildfires is not fully known and price increases may continue into the foreseeable future.

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

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

This Act expands the authority of these State-established insurance entities to assist in the stabilization of the property insurance market until risks

can be depopulated back to the standard insurance market when market conditions improve and risks become more insurable because of building component replacement or maintenance, or mitigation equipment or protocols have been implemented for fire, wildfire, or hurricane events.

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

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

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

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

Therefore, this Act repeals the special mortgage recording fee and instead authorizes the Hawaii hurricane relief fund board of directors, subject to the approval of the insurance commissioner, to establish a temporary recording fee, which will be imposed as a flat assessment on each document that is recorded with the bureau of conveyances or filed with the assistant registrar of the land court of the State, as appropriate. This fee, if activated by the Hawaii hurricane relief fund and approved by the insurance commissioner, is intended to be a temporary funding mechanism that will spread costs out in a way that will reduce the regressive financial impact imposed on individuals and families who can only afford to purchase a residential dwelling by financing the purchase. If the Hawaii hurricane relief fund board of directors determines that the fee revenue is no longer required, this Act allows the board to terminate collection of the fee without seeking legislative action.

This Act provides additional funding mechanisms through the:

- (1) Appropriation of general funds; and
- (2) Option for the Hawaii hurricane relief fund to reactivate the assessment of insurers at an assessment rate determined by the Hawaii hurricane relief fund's board of directors to augment the capitalization of the Hawaii hurricane relief fund.

The legislature finds that this Act is necessary to:

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

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

Accordingly, the purpose of this Act is to:

- (1) Amend state laws governing the Hawaii property insurance association and the Hawaii hurricane relief fund to enable these entities to underwrite certain insurance risks in the State that no standard insurer is currently willing to underwrite;
- (2) Establish a condominium loan program and condominium loan revolving fund to provide qualified condominium associations with low-cost financing or refinancing for maintenance or repair projects;
- (3) Establish a condominium loan loss reserves program to incentivize community development financial institutions to provide loans at competitive rates and terms to condominium associations to allow the associations to perform necessary maintenance or make repairs;
- (4) 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; and
- (5) Appropriate funds.

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 section 514B-3;
- (3) Is used primarily for residential purposes; and
- (4) Is in insurable condition as determined by the association's board of directors.

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

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

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

"§431:21-105 Powers and duties of the association. (a) In addition to any other requirements imposed by law, the association shall:

- (1) Formulate and administer a plan of operation to insure persons having an insurable interest in real or tangible personal property in ~~[the]~~ an area designated by the commissioner;
- (2) Establish in the plan of operation a maximum period of time during which a high-rise condominium association may be eligible to be insured by the association, which shall not exceed sixty months;
- ~~[(2)]~~ (3) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while processing applications and servicing policies on behalf of the association; and
- ~~[(3)]~~ (4) Collect and maintain statistical information and other information required by the commissioner.
- (b) In addition to any other powers allowed by law, the association may:
 - (1) Add additional insurance coverages with the approval of the commissioner, including coverage for commercial risks up to the limits of coverage ~~[for residential risks]~~ as set forth in the plan of operation;
 - (2) Employ or retain persons as are necessary to perform the duties of the association;
 - (3) Contract with a member insurer to perform the duties of the association;
 - (4) Sue or be sued;
 - (5) Borrow funds necessary to effectuate the purposes of this article in accord with the plan of operation;
 - (6) If approved by the commissioner, ~~[assess]~~ activate, reduce, or terminate the collection of an assessment on member insurers in amounts necessary to cover extraordinary losses incurred by the association~~[-];~~ provided that:
 - (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 thirty-six 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 the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact business;
- (7) Devise a method to give credit to member insurers [for homeowners and fire insurance policies individually underwritten on risks located in the area designated for coverage by the association;] as set forth in the plan of operation;
- (8) Negotiate and become a party to contracts as are necessary to carry out the purposes of this article; [and]
- (9) Establish outside the state treasury a reserve trust fund and any accounts thereunder and any other trust fund or account necessary to carry out the purposes of this article. Moneys deposited in the reserve trust fund and any accounts thereunder or any other trust fund or account established by the association shall be held by the association, as trustee, in a depository as defined in section 38-1 or according to a similar arrangement at the discretion of the board of directors, including but not limited to trust or custodial accounts created for the benefit of the fund's secured parties under contractual claims financing arrangements. These moneys may be invested and reinvested in accordance with the plan of operation. Disbursements from the trust funds shall not be subject to chapter 103D and shall be made in accordance with procedures adopted by the board of directors;
- (10) Receive moneys for deposit into a trust fund or account from the revenues received from sources of revenue available to the board of directors; and
- (9) (11) Perform all other acts as are necessary or proper to effectuate the purpose of this article."

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

1. By amending subsection (a) to read:

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

2. By amending subsection (c) to read:
 - “(c) The plan of operation ~~[shall]~~:
 - (1) ~~[Establish]~~ Shall establish procedures for performance of all the powers and duties of the association under section 431:21-105;
 - (2) ~~[Establish]~~ Shall establish maximum limits of liability to be placed through the association;
 - (3) ~~[Establish]~~ Shall establish reasonable underwriting standards for determining insurability of a risk ~~[which]~~ that are comparable to the standards used to determine insurability of a risk located outside the area designated by the commissioner as eligible for association coverage;
 - (4) ~~[Establish]~~ Shall establish a schedule of deductibles, if appropriate;
 - (5) Shall establish a maximum period of time during which a high-rise condominium may be eligible to be insured by the association, which shall not exceed sixty months;
 - ~~[(5)]~~ ~~Establish]~~ (6) Shall establish the commission to be paid to licensed producers;
 - ~~[(6)]~~ ~~Establish]~~ (7) Shall establish the rates to be charged for the insurance coverages, so that the total premium income from all association policies, when combined with the investment income, shall annually fund the administration of the association. The administration of the association shall include the expenses incurred in processing applications, conducting inspections, issuing and servicing policies, paying commissions, and paying claims, but shall not include assessments approved by the commissioner;
 - ~~[(7)]~~ ~~Establish]~~ (8) Shall establish the manner and scope of the inspection and the form of the inspection report. The inspection guidelines may include setting minimum conditions the property must meet before an inspection is required;
 - ~~[(8)]~~ ~~Establish]~~ (9) Shall establish procedures whereby selections for the board of directors will be submitted to the commissioner for the commissioner’s information;
 - ~~[(9)]~~ ~~Establish]~~ (10) Shall establish procedures for records to be kept of all financial transactions of the association, its producers, and its board of directors;
 - ~~[(10)]~~ ~~Establish]~~ (11) Shall establish procedures by which applications will be received and serviced by the association;
 - ~~[(11)]~~ ~~Establish]~~ (12) Shall establish guidelines for the investigation and payment of claims; ~~and~~
 - ~~[(12)]~~ ~~Establish]~~ (13) Shall establish procedures whereby the association may assume and cede reinsurance on risks written through the association[-];
 - ~~[(14)]~~ Shall include the following:
 - (A) Coverage forms, endorsements, limits, and deductibles for the covered condominium; provided that the association may categorize these forms, endorsements, limits, and deductibles by the type of peril being covered;
 - (B) Rate tiers, including potential high deductible options and surcharges for condominiums that remain in the plan of operation;
 - (C) Provisions authorizing the association to decline providing coverage;
 - (D) Potential annual premium rate increases; and

- (E) Establishment of adequate rates to avoid assessment of the voluntary market;
- (15) Shall require, prior to issuance or renewal of coverage, the applicant for condominium property insurance coverage or renewal to:
 - (A) Provide the following to the association:
 - (i) The condominium association's declarations, bylaws, or other documents that describe the condominium association's process for paying claims, including the portion of the claim to be paid by the condominium association and the portion to be paid by each unit owner; and
 - (ii) The condominium association's declarations, bylaws, or other documents that describe the condominium association's process for handling losses both pursuant to the applicable master policy and by the applicable condominium association;
 - (B) 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 of directors of the association and incorporated into the plan of operation pursuant to paragraph (8); and
 - (C) Satisfy any relevant requirements established by the board of directors of the association and incorporated into the plan of operation;
- (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; and
- (17) Shall adopt procedures, guidelines, installment amounts, and a timetable for the repayment of any general fund moneys that are loaned to sufficiently capitalize the reserve trust fund established pursuant to section 431:21-105(b)(9) and deposited into the separate account within the reserve trust fund; provided that the repayment shall not commence until the reserve trust fund is sufficiently capitalized as determined by the board of directors."

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

(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 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.**

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

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

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

"[~~§~~§431:21-115]—Credits for] Recoupment of assessments paid. [A member insurer may offset against its premium tax liability to this State an assessment made with the commissioner's approval to the extent of twenty per cent of the amount of the assessment for each of the five calendar years following the year in which the assessment was paid. In the event a member insurer should cease doing business in this State, all uncredited assessments may be credited against its premium tax liability for the year it ceases doing business.] **(a) Subject to the approval of the commissioner, each member insurer shall annually recoup assessments paid by the member insurer under section 431:21-105(b)(6). The recoupment shall be recovered by means of a surcharge on premiums charged by the member insurer for property and casualty insurance, not including motor vehicle insurance. Any excess recovery by a member insurer shall be credited pro rata to that member insurer's policyholders' premiums in the succeeding year unless there has been a subsequent assessment, in which case the excess shall be used to pay the amount of the subsequent assessment. A member insurer may continue to surcharge premiums until the full assessments are recouped.**

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

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

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

PART III

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

"§431P-A Recoupment of assessments paid. (a) Subject to the approval of the commissioner, each licensed property and casualty insurer shall annually recoup assessments paid by the licensed property and casualty insurer under sections 431P-5(b)(8)(A) and (B) and 431P-16(d). The recoupment shall be recovered by means of a surcharge on premiums charged by the licensed property and casualty insurer for policies on which the assessment was made. Any excess recovery by a licensed property and casualty insurer shall be credited pro rata to that insurer's policyholders' premiums in the succeeding year unless there has been a subsequent assessment, in which case the excess shall be used to pay the amount of the subsequent assessment. A licensed property and casualty insurer may continue to collect a surcharge on premiums until the full assessments are recouped.

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

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

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

§431P-B Temporary recording fee; establishment, reduction, and cessation by board. (a) Subject to the approval of the commissioner, the board may activate, reduce, or terminate the collection of a temporary recording fee as provided in this section.

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

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

- (1) Set the amount of the fee; provided that the amount shall not exceed \$44 per document recorded with the bureau of conveyances or filed with the assistant registrar of the land court of the State; and
- (2) Establish the period of time during which the fee shall be collected; provided that the time period shall not exceed thirty-six months.

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

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

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

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

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

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

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

"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 section 514B-3;
- (3) Is used for residential purposes; and
- (4) Is in insurable condition as determined by the board.

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

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

"Eligible property" means:

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

- (5) A condominium 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:

““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:

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

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

- (2) ~~\$500,000 per risk on real and personal property used for business, commercial, or industrial purposes, subject to the limits defined by the plan of operation or any manual of rules and rates adopted under the plan of operation;~~

~~provided that the board may designate an association of property owners or cooperative housing corporation to be a commercial risk; provided that this policy or endorsement shall not include coverage for business interruption and other similar coverages.], subject to the limits and deductibles allowed by the plan of operation or any manual of rules and rates adopted under the plan of operation.~~”

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

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

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

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

- (1) To sue and be sued;

- (2) To make and alter policies for its organization and internal administration;
 - (3) To adopt rules in accordance with chapter 91 to effectuate the purposes of this chapter;
 - (4) To borrow moneys, including but not limited to moneys from [state ~~or~~] federal or state sources and to issue notes or other obligations of the fund for the purposes of providing funds for any of its purposes as authorized by the legislature from time to time;
 - (5) To pledge, assign, or grant a security interest in all or any part of the moneys, rents, charges, assessments, or other revenue and any proceeds thereof derived by the fund; provided that any pledge, assignment, or grant of security interest shall constitute a lien and security interest on [such] the money, rents, charges, assessments, or other revenue, and any proceeds thereof to the extent and with the priority set forth in the document establishing the pledge, assignment, or security interest, without the necessity for physical delivery, recording, or further act; and provided further that in effectuating any pledge, assignment, or grant of security interest, the fund may do either or both of the following:
 - (A) Transfer possession of collateral to its secured parties; or
 - (B) Execute and cause to be filed at the bureau of conveyances of the State of Hawaii, Uniform Commercial Code financing statements for the purpose of providing notice to third parties of a pledge, assignment, or grant of security interest; provided that any failure to file a financing statement or the filing of a financing statement that contains incomplete or inaccurate information shall not affect the perfected lien and security interest of the pledge, assignment, or grant of security interest; and
 - (6) Enter into contracts as necessary to effectuate the purposes of this chapter.
- (b) In addition to the general powers under subsection (a), the fund shall have the specific power to:
- (1) Adopt and administer a plan of operation in accordance with section 431P-7, and a manual of rules and rates to provide persons having an insurable interest in 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 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 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 or an entity specializing in providing insurance administration to act as a servicing facility, and by contract with that ~~[insurer]~~ servicing facility authorize the ~~[insurer]~~ servicing facility 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 and shall not include the insurer's gross direct written premiums for motor vehicle insurance in this State; provided that following a covered event, the rate of assessment may be increased to an amount not to exceed five per cent and may include the insurer's gross direct written premiums for motor vehicle insurance in this State. This increase shall remain in effect until ~~[such]~~ the time ~~[as]~~ all claims and other obligations, including but not limited to bonds and notes, arising out of a covered event ~~[shall]~~ have been fully discharged. ~~[An insurer authorized to provide comparable coverage under section 431P-10(b) and which is providing hurricane property insurance in the State shall be assessed an amount that excludes gross direct written premiums for property insurance in this State.]~~ The assessment for a year in which a covered event has not occurred shall be collected quarterly during each calendar year;
- (B) ~~[In the event of]~~ If a loss occurs from a covered event ~~[the fund]~~, in addition to the assessment in subparagraph (A), ~~[shall]~~ assess those insurers ~~[which]~~ that acted as servicing facilities during the twelve months ending at the start of the month preceding the month in which the covered event occurs. The total assessment shall be a fixed percentage of the total coverage provided by the fund under its policies of hurricane property insurance during the month preceding the month in which the covered event occurs. The percentage to be used in calculating the total assessment shall be [as follows]:
 - (i) For calendar year 1998, a percentage as fixed by the board in the plan of operation, but in no event shall the total assessment exceed \$500,000,000;
 - (ii) For calendar year 1999, 1.125 per cent;

- (iii) For calendar year 2000, 1.25 per cent; and
- (iv) (i) For calendar year 2001~~[-, and each calendar year thereafter,]~~ through calendar year 2025, 1.5 per cent~~[-]; and~~
 (ii) Beginning January 1, 2026, a percentage not to exceed 1.5 per cent as determined by the board.

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

- (C) ~~[The fund may exempt]~~ Exempt or defer, in whole or in part, the assessment of any insurer if the assessment would cause the insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority in this State;
- (9) Develop a program of incentives to encourage insurers to provide policies of hurricane property insurance ~~[in the event the commissioner authorizes the provision of comparable insurance pursuant to section 431P-10(b) which]~~ that may include but are not limited to exemption of the insurer's gross direct written premium for property insurance from the assessment pursuant to paragraph (8)(A);
- ~~[(10) Develop a credit based on the difference between premiums written in 1993 and the premiums written in 1992 by each property insurer against the assessment for gross direct written premiums written in 1993;~~
- ~~[(11)]~~ (10) Develop procedures regarding policies written by unauthorized insurers comparable to the assessments, surcharges, and other contributions made by insurers authorized to do business in this State;
- ~~[(12)]~~ (11) Accumulate reserves or funds, including the investment income thereon, to be used for paying expenses, making or repaying loans or other obligations of the fund, providing loss mitigation incentives, and paying valid claims for covered events insured by the fund;
- ~~[(13)]~~ (12) Collect and maintain statistical and other data as may be required by the commissioner;
- ~~[(14)]~~ (13) Exempt mortgage transactions from payments of the special mortgage recording fee and provide for maximum limits on or, uniform reduction of the special mortgage recording fee, pursuant to rules adopted by the board;
- (15) ~~Suspend or reactivate the special mortgage recording fee pursuant to resolution of the board;~~
- ~~[(16)]~~ (13) Impose fines for each incident of nonpayment of amounts due to the fund under this chapter; provided that the fines shall not exceed twenty-five per cent of the amount then due;
- ~~[(17)]~~ (14) Create loss mitigation incentives, including but not limited to premium credits, premium rebates, loans, or cash payments;

- (15) Enter into claims financing transactions, including but not limited to reinsurance transactions, debt transactions, and other transactions incorporating elements of reinsurance, insurance, debt, or equity;
- (16) Establish business and corporate entities or organizations pursuant to the purposes of this chapter; ~~and~~
- (17) Receive for deposit into separate accounts within the hurricane reserve trust fund established pursuant to section 431P-16 revenues received from any fee revenue authorized by the legislature for deposit into the hurricane relief trust fund, and any other source of revenue available to the board;
- (18) Notwithstanding any law to the contrary, loan funds to the Hawaii property insurance association established under section 431:21-103; and
- (19) Perform any and all acts reasonably necessary to carry out the purposes of this chapter.”

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

1. By amending subsection (a) to read:

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

- (1) Commitments from either the federal government or an agency of the federal government or a financial institution;
- (2) Revenue bonds other than those issued or to be issued in response to the occurrence of a covered event; or
- (3) A combination of the commitments or bonds[;],

the Hawaii hurricane relief fund shall[;]

- (1) ~~Control~~ control or freeze rates[;] and
- (2) ~~Continue~~ continue accumulating premiums from policies of hurricane property insurance ~~[and the special mortgage recording fee]~~, net of any reinsurance payments, operating expenses, and funds necessary for the development of a comprehensive loss reduction plan.”

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

“(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)(2) shall be used only ~~[in the event]~~ if losses from a covered event exceed the assessment pursuant to section 431P-5(b)(8)(B).

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

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

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

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

- (2) ~~[Establish]~~ Shall establish procedures for providing notice to all persons with interests insurable by the fund in the State of the type of insurance available from the fund ~~[in the event]~~ if the fund offers insurance;
- (3) ~~[Provide]~~ Shall provide for and adopt all necessary forms, including insurance policies to be used by and on behalf of the fund, for use by the fund and servicing facilities;
- (4) ~~[Adopt]~~ Shall adopt actuarially sound rates, based on reasonable assumptions relative to expectations of hurricane frequency and severity, to be charged for insurance provided by the fund, in accordance with article 14 of chapter 431;
- (5) ~~[Publish]~~ Shall publish manuals of rules, rates, and rating and classification plans, which shall address mandatory deductibles, limits of coverage, and the classification of risks and rate modifications based on the exposure of insureds~~;~~, subject to the approval of the commissioner;
- (6) ~~[Establish]~~ Shall establish procedures for receiving and servicing applications to the fund;
- (7) ~~[Establish]~~ Shall establish procedures for processing and maintaining records of the fund relating to its financial transactions, its agents, its employees, its operations, and all transactions with any servicing facility;
- (8) ~~[Establish]~~ Shall establish procedures for the collection and remittance of the premiums and return of unearned premiums where applicable;
- (9) ~~[Establish]~~ Shall establish procedures for the payment of valid claims;
- (10) ~~[Establish]~~ Shall establish procedures for prorating available funds pursuant to section 431P-15;
- (11) ~~[Establish]~~ Shall establish procedures for obtaining reinsurance;
- (12) ~~[Establish]~~ Shall establish procedures to borrow funds; ~~[and]~~
- (13) ~~[Develop]~~ Shall develop a plan for the investment of moneys held by the fund ~~[subject to the limitations in article 6 of chapter 431-];~~
- (14) Shall require, prior to issuance or renewal of coverage, the applicant for condominium insurance 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 14. Section 431P-10, Hawaii Revised Statutes, is amended to read as follows:

"§431P-10 Coverage available from the fund; deductible. ~~[(a)—Policies]~~ Coverage limits and deductibles for policies issued by the fund covering eligible property shall [provide a maximum aggregate coverage of up to \$750,000 per risk on real property of one to four units used for residential purposes and

\$500,000 per risk for real property used for business, commercial, or industrial purposes and shall provide for a mandatory deductible. The deductible amount for residential property policies shall be the greater of \$1,000 or one per cent of the insured value or the greater of \$2,000 or two per cent of the insured value; provided that the board may establish higher deductible limits. The deductible amount for commercial property policies shall be the greater of \$5,000 or five per cent of the insured value or an amount equivalent to all the other perils deductible of the companion policy; provided that the board may establish higher deductible limits.

(b) Insurers seeking to provide multi-peril coverage for residential property, including multi-peril coverage of the hurricane peril, subject to the fund's program for incentives 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 15. 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)."

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

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

(b) ~~The hurricane reserve trust fund shall receive deposits of the special mortgage recording fee established by this chapter. Except as determined~~

by board order, the special 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 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 required by the bureau of conveyances or the assistant registrar of the land court of the State.

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

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

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

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

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

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

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

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

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

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

“(b) 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.”

PART IV

SECTION 19. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER FINANCING FOR CONDOMINIUMS PART I. DIRECT FINANCING

§ -1 **Definitions.** As used in this chapter, unless the context clearly requires otherwise:

“Authority” means the Hawaii green infrastructure authority as established under section 196-63.

“Community development financial institution” means an entity certified as a community development financial institution by the United States Department of the Treasury’s Community Development Financial Institutions Fund.

“Condominium association” has the same meaning as association as defined in section 514B-3.

“Condominium project” has the same meaning as project as defined in section 514B-3.

“Financial institution” includes a bank, trust company, banking association, savings and loan association, mortgage company, investment bank, credit union, or nontraditional financial institution.

“Loan” includes a line of credit.

“Participating community development financial institution” means a community development financial institution participating in the condominium loan loss reserves program.

“Qualified condominium association” means a condominium association that meets the eligibility requirements under section -6 and rules adopted by the authority.

“Reserve account” means an account established in a participating community development financial institution on approval of the authority in which money is deposited to serve as a reserve to reimburse a participating community development financial institution for losses on loans enrolled in the condominium loan loss reserves program.

§ -2 **Powers; rulemaking.** In addition to any other powers authorized by law, the authority may:

- (1) Contract with any community development financial institution for services, including servicing or administering loans pursuant to this part; and
- (2) Adopt rules pursuant to chapter 91 to effectuate this chapter, including but not limited to rules relating to:

- (A) Determinations of any other maintenance or repairs that qualify for financing or refinancing under this chapter;
- (B) The establishment of interest rates chargeable by the authority for direct loans under this part and by the participating community development financial institutions for loans under part II;
- (C) The establishment of restrictions on the terms, maturities, collateral, and other requirements not inconsistent with this part;
- (D) Procedures for validating a qualified condominium association's compliance with the obligation to increase its replacement reserves balance;
- (E) Determinations of eligibility of a community development financial institution to participate in the condominium loan loss reserves program;
- (F) Eligibility participation criteria for loans issued by an eligible community development financial institution to a qualified condominium association; and
- (G) The authorization of a single community development financial institution or a consortium of community development financial institutions to participate in the condominium loan loss reserves program subject to condominium loan loss reserves program guidelines.

§ -3 Condominium loan program. There is established within the authority the condominium loan program to provide qualified condominium associations with low-cost financing, or refinancing for loans previously obtained, for maintenance or repair projects in accordance with this part.

§ -4 Condominium loan revolving fund. (a) There is established in the state treasury the condominium loan revolving fund, into which shall be deposited:

- (1) Moneys received as repayment of loans and interest payments as provided in this chapter;
- (2) Appropriations made by the legislature to the condominium loan revolving fund; and
- (3) All interest and investment earnings credited to the assets of the fund.

(b) Moneys in the condominium loan revolving fund shall be expended by the authority for:

- (1) The purposes of providing loans and credit enhancements in accordance with this chapter; and
- (2) Paying administrative costs of the condominium loan program.

§ -5 Loans; limitations and conditions. (a) Loans under this chapter shall be for financing, or refinancing previous loans that were used for, the following maintenance or repairs in a condominium project:

- (1) Installing, repairing, or replacing fire sprinklers or other fire safety measures;
- (2) Repairing or replacing the pipes;
- (3) Repairing or replacing the roof; or
- (4) Any other maintenance or repairs the authority deems qualified for the loans.

(b) The loan agreement shall require that the qualified condominium association increase its replacement reserves fund balance over the term of the loan.

(c) Any loan provided under this chapter shall have a term of not more than twenty years. No new loan under this chapter shall be issued after June 30, 2027.

§ -6 Loans; eligibility. The authority may make loans directly to a condominium association that has:

- (1) Received at least one letter from a financial institution declining its eligibility for a loan to address maintenance or insurance coverage issues; and
- (2) Obtained full replacement property and hurricane insurance coverage or intends to do so as a condition of any financing received.

§ -7 Annual reports. The authority shall submit a report to the legislature no later than twenty days prior to the convening of each regular session that details the progress of the condominium loan program, aggregate data on the loans issued under this part, and the balance of the condominium loan revolving fund.

§ -8 Gifts and grants. The authority may accept gifts, grants, and donations from any source for the purposes of this chapter.

PART II. CREDIT ENHANCEMENT THROUGH LOAN LOSS RESERVES

§ -11 Condominium loan loss reserves program. (a) There is established within the authority the condominium loan loss reserves program to incentivize community development financial institutions, in accordance with this part, to provide loans at competitive rates and terms to condominium associations for the purpose of allowing condominium associations to perform maintenance or make necessary repairs.

(b) The authority shall use moneys in the condominium loan revolving fund to make deposits into a participating community development financial institution's reserve account in an amount specified by this part to be a source of moneys the participating community development financial institution may receive as reimbursement for losses attributable to loans in the condominium loan loss reserves program.

§ -12 Participating community development financial institutions; reserve account. (a) To participate in the condominium loan loss reserves program, an eligible community development financial institution shall enter into a participation agreement with the authority that sets out the terms and conditions under which the authority will make contributions to the community development financial institution's reserve account and specifies the criteria for a loan to qualify as a loan under this part.

(b) On approval by the authority and after a community development financial institution enters into a participation agreement with the authority, the authority shall establish a reserve account at a participating community development financial institution making a loan under this part and deposit an amount equal to five per cent of the original loan amount. The reserve account shall be used by the authority to cover any losses arising from a default of the loan made by the participating community development financial institution under this part or as otherwise provided by this part.

(c) When a participating community development financial institution makes a loan enrolled in the condominium loan loss reserves program, the participating community development financial institution shall pay to the authority a fee equal to fifty basis points of the amount deposited into the condominium loan revolving fund to support the loan, which the authority shall deposit into the reserve account, and annually thereafter. The participating community development financial institution may recover from the borrower all or part of the amount the participating community development financial institution is required to pay under this subsection in any manner agreed to by the financial institution and borrower.

(d) For each loan under this part, the participating community development financial institution shall provide executed loan documents to the authority, within the period prescribed by the authority, including the amount of fees received from the borrower.

§ -13 Loans. (a) Except as otherwise provided by this chapter, the authority shall determine the recipient, amount, or interest rate of a loan under this part or the fees or other requirements related to the loan.

(b) To qualify as a loan under this part, a loan shall:

(1) Be made to a condominium association that has:

(A) Received at least one letter from a financial institution declining the condominium association's eligibility for a loan to address maintenance or insurance coverage issues; and

(B) Obtained full replacement property and hurricane insurance coverage or intends to do so as a condition of any financing received;

(2) Meet the limitations and conditions under section -5; and

(3) Meet other criteria established by the authority by rules adopted pursuant to chapter 91.

(c) For a line of credit to qualify for participation in the condominium loan loss reserves program, a line of credit shall:

(1) Be an account at a participating community development financial institution under which the community development financial institution agrees to lend money to a qualified condominium association from time to time to finance one or more projects that are authorized by this chapter; and

(2) Contain the same restrictions, to the extent possible, that are placed on a loan that is not a line of credit.

(d) A loan under this part may be sold on the secondary market under conditions as may be determined by the participating community development financial institution with the consent of the authority.

(e) When enrolling a loan in the condominium loan loss reserves program, a participating community development financial institution may specify an amount to be covered under the condominium loan loss reserves program that is less than the amount allowed under section -12(b).

§ -14 Limitations on amounts retained in reserve accounts. The maximum aggregate amount the authority may retain on deposit in a reserve account shall not exceed five per cent of the aggregate outstanding principal balance of enrolled loans. On a regular basis, no less than annually, the authority shall withdraw from a reserve account the amounts in excess of the limit and deposit that amount into the condominium loan revolving fund. A withdrawal of money authorized under this section shall not reduce an active reserve account to an amount that is less than the aggregate amount allowed under this section.

§ -15 State's rights with respect to reserve account. (a) All of the money in a reserve account established under this part shall be the property of the State.

(b) The State shall be entitled to earn interest on the amount of contributions made by the authority, borrower, and participating community development financial institution to a reserve account under this part. On a regular basis, no less than annually, the authority shall withdraw from a reserve account the amount of the interest earned by the State. The authority shall deposit the amount withdrawn under this section into the condominium loan revolving fund.

(c) The authority shall withdraw from the participating community development financial institution's reserve account the total amount in the account and any interest earned on the account and deposit the amount into the condominium loan revolving fund when:

- (1) A participating community development financial institution is no longer eligible to participate in the condominium loan loss reserves program or a participation agreement entered into under this part expires without renewal by the authority or institution; and
- (2) The participating community development financial institution has no outstanding loans under this part.

§ -16 Participating community development financial institution's annual reports. A participating community development financial institution shall submit an annual report to the authority. The report shall:

- (1) Provide information regarding outstanding principal balances of the loans under this part, loan losses, and any other information on loans under this part the authority considers appropriate;
- (2) Include a copy of the participating community development financial institution's most recent financial statement; and
- (3) Include information regarding the condominium associations with loans under this part.

§ -17 Authority's annual report; audits. (a) The authority shall submit to the legislature an annual status report on the condominium loan loss reserves program's activities.

(b) The condominium loan revolving fund shall be audited at least annually by a firm of independent certified public accountants selected by the authority and provide the results of the audit to the department of business, economic development, and tourism and the legislature.

§ -18 State liability prohibited. The State shall not be liable to a participating community development financial institution for payment of the principal, interest, or any late charges on a loan made by a participating community development financial institution to a qualified condominium association under this part."

SECTION 20. The director of finance is authorized to issue reimbursable general obligation bonds in the sum of \$20,000,000 or so much thereof as may be necessary and the same sum or so much thereof as may be necessary is appropriated for fiscal year 2025-2026 for deposit into the condominium loan revolving fund.

SECTION 21. There is appropriated out of the condominium loan revolving fund the sum of \$20,000,000 or so much thereof as may be necessary for fiscal year 2025-2026 to implement the condominium loan program.

The sum appropriated shall be expended by the Hawaii green infrastructure authority, on behalf of the department of business, economic development, and tourism, to carry out the purposes of this part; provided that the director of business, economic development, and tourism, upon the director's determination that it is advisable to transfer funds from the condominium loan revolving fund, shall reimburse the general fund from principal and interest payments collected on loans issued by the authority, and any other funds available to the authority, for payment of debt service on reimbursable general obligation bonds authorized and issued under section 20 of this Act.

SECTION 22. There is appropriated out of the hurricane reserve trust fund the sum of \$5,000,000 or so much thereof as may be necessary for fiscal year 2025-2026 for deposit into the condominium loan revolving fund.

The sum appropriated shall be expended by the Hawaii green infrastructure authority on behalf of the director of business, economic development, and tourism, for payment of debt service on reimbursable general obligation bonds authorized and issued under section 20 of this Act.

PART V

SECTION 23. The director of finance is authorized to issue reimbursable general obligation bonds in the sum of \$30,000,000 or so much thereof as may be necessary and the same sum or so much thereof as may be necessary is appropriated for fiscal year 2025-2026 for deposit into the hurricane reserve trust fund; provided that the existing fund balance in the hurricane reserve trust fund shall be committed before reimbursable general obligation bonds are deposited into the trust fund.

SECTION 24. There is appropriated out of the hurricane reserve trust fund the sum of \$30,000,000 or so much thereof as may be necessary for fiscal year 2025-2026 for the purpose of providing working capital to finance any permitted purpose under this Act.

The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act; provided that the insurance commissioner, upon the insurance commissioner's determination that it is advisable to transfer funds from the hurricane reserve trust fund, shall reimburse the general fund from premiums collected on insurance policies issued by the Hawaii hurricane relief fund, and any other funds available to the Hawaii hurricane relief fund, for payment of debt service on reimbursable general obligation bonds authorized and issued under section 23 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 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; and
 - (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.
- (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 \$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 VII

SECTION 27. 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 the new sections in this Act.

SECTION 28. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 29. This Act shall take effect on July 1, 2025; provided that:

- (1) The condominium loan revolving fund shall be abolished on June 30, 2047;
- (2) Any remaining balance in the condominium loan revolving fund as of June 30, 2047, shall lapse to the credit of the general fund; and
- (3) Any moneys received after June 30, 2047, for the repayment of loans under the condominium loan program, including any interest on the loan principal, shall be deposited into the general fund.

(Approved July 7, 2025.)

Note

- 1. Edited pursuant to HRS §23G-16.5.