

JAN 17 2024

A BILL FOR AN ACT

RELATING TO THE HAWAII WILDFIRE RELIEF FUND.

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

1 SECTION 1. The legislature finds that adequate insurance
2 coverage for catastrophic events such as wildfires is of
3 paramount importance to the welfare and safety of Hawaii's
4 people. On August 8, 2023, Hurricane Dora created dry, gusty
5 conditions that catalyzed a series of wildfires in Hawaii and
6 Maui counties. Specifically, the wildfires on Maui devastated
7 the island's west coast, destroying eighty per cent of the
8 coastal town of Lahaina. As of November 2023, the death toll
9 comprised of ninety-nine people while five people remained
10 missing. Additionally, over two thousand homes and businesses
11 were destroyed in the firestorm, displacing thousands of
12 residents and disrupting economic activity in Lahaina and Maui
13 county.

14 In the aftermath of the devastating wildfires, thousands of
15 residents continue to struggle with securing funds to rebuild
16 homes, find affordable housing, and purchase everyday essential
17 items while recovering from the impacts of the wildfires.



1 Significant issues have emerged including delayed or denied
2 insurance claims, concurrent mortgage payments on destroyed
3 homes, and rent for temporary housing, creating uncertainty for
4 residents and businessowners in the recovery process. As
5 efforts to reconstruct Lahaina are projected to take years, many
6 residents need immediate relief to rebuild their lives, homes,
7 and businesses.

8 The legislature further finds that new, creative, and
9 flexible mechanisms are necessary to insure against future
10 wildfire losses in Hawaii. The economic welfare of the State is
11 dependent on the availability of property insurance, including
12 coverage for catastrophic losses in the event of another major
13 wildfire.

14 Therefore, the purpose of this Act is to establish the
15 Hawaii wildfire relief fund. The Hawaii wildfire relief fund
16 will assess the availability of insurance from all sources and
17 be empowered to take steps to provide coverage should the
18 private market prove unreliable.

19 The establishment of the Hawaii wildfire relief fund serves
20 as a public purpose and is an essential government function.



1 SECTION 2. The Hawaii Revised Statutes is amended by
2 adding a new chapter to title 24 to be appropriately designated
3 and to read as follows:

4 "CHAPTER

5 HAWAII WILDFIRE RELIEF FUND

6 § -1 Definitions. As used in this chapter:

7 "Board" means the board of directors of the Hawaii wildfire
8 relief fund.

9 "Commissioner" means the insurance commissioner as defined
10 in section 431:2-102.

11 "Companion policy" means a policy of property insurance
12 issued by a servicing facility in conjunction with a fund policy
13 of wildfire property insurance that provides, at a minimum,
14 coverage equivalent to a standard fire policy for the peril of
15 fire and, after considering all exclusions and endorsements,
16 that provides insurance for fire related losses or damage
17 created by a weather system that has not resulted in the
18 declaration and definition of a red flag watch or warning.

19 "Covered event" means each wildfire that directly causes
20 fire damage in the State.



1 "Deductible" or "mandatory deductible" means the amount of
2 loss assumed by the policyholder that is not included in the
3 coverages provided by the fund.

4 "Eligible property" means:

5 (1) Real property of one to four units used for
6 residential purposes and in insurable condition,
7 including tangible personal property located in or on
8 the property and other structures at the insured
9 location, as provided in the plan of operation or any
10 manual of rules and rates adopted under the plan of
11 operation;

12 (2) Real property used for business, commercial, or
13 industrial purposes in insurable condition, including
14 tangible personal property located in or on the
15 property, as provided in the plan of operation or any
16 manual of rules and rates adopted under the plan of
17 operation;

18 (3) Tangible personal property owned by an occupant of and
19 located in or on real property of the types described
20 in paragraph (1), as provided in the plan of operation
21 or any manual of rules and rates adopted under the



1 plan of operation; provided that the owner of the
2 tangible personal property does not own the real
3 property in or on which the tangible personal property
4 is located; and

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

13 "Fund" means the Hawaii wildfire relief fund established by
14 this chapter.

15 "Licensed property and casualty insurer" means:

16 (1) Any insurer licensed to transact any one or more
17 classes of insurance authorized in section 431:3-204
18 where premiums written within the authority are
19 required to be reported in the "Exhibit of Premiums
20 and Losses" for the State in the National Association
21 of Insurance Commissioners fire and casualty annual



1 statement convention blank that is required to be
2 filed with the commissioner under section 431:3-302;
3 and

4 (2) The Hawaii Property Insurance Association created in
5 article 21 of chapter 431.

6 "Mortgage" means every transfer of an interest in real
7 property, except fixtures, made as security for the performance
8 of another act or subject to defeasance upon the payment of an
9 obligation, whether the transfer is made in trust or otherwise.

10 "Plan of operation" means the plan for providing wildfire
11 property insurance as adopted by the board, and any amendments,
12 under section -7.

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

17 (1) \$750,000 per risk on real property of one to four
18 units used for residential purposes and the personal
19 property located in or on and other structures at the
20 insured location, subject to the limits defined by the



1 plan of operation or any manual of rules and rates
2 adopted under the plan of operation; and
3 (2) \$500,000 per risk on real and personal property used
4 for business, commercial, or industrial purposes,
5 subject to the limits defined by the plan of operation
6 or any manual of rules and rates adopted under the
7 plan of operation; provided that the board may
8 designate an association of property owners or
9 cooperative housing corporation to be a commercial
10 risk;

11 provided that the policy or endorsement does not include
12 coverage for business interruption and other similar coverages.

13 "Policy of property insurance" means a policy providing
14 "property insurance" as defined in section 431:1-206 and
15 includes "basic property insurance" as defined in section
16 431:21-102.

17 "Property insurance" means policies, riders, or
18 endorsements of insurance that provide indemnity, in whole or in
19 part, for the loss, destruction, or damage of eligible property.

20 "Servicing facility" means any insurer engaged in writing
21 direct property insurance in the State and licensed in the



1 State, and any other party authorized to act in like capacity on
2 behalf of the fund.

3 "Wildfire" means an unplanned, unwanted fire burning in a
4 natural area such as a forest, grassland, or prairie, that is
5 started from natural causes.

6 "Year immediately preceding the year of the covered event"
7 means the twelve-month period ending on the last day of the
8 calendar month immediately preceding the month in which a
9 covered event occurs.

10 § -2 **Establishment of Hawaii wildfire relief fund.**

11 There is established the Hawaii wildfire relief fund within the
12 department of commerce and consumer affairs for administrative
13 purposes. The fund shall be a public body and a body corporate
14 and politic.

15 § -3 **Board of directors.** (a) The board shall consist
16 of the insurance commissioner as an ex officio voting member and
17 six members appointed by the governor in accordance with section
18 26-34. The board shall be the policy making body of the fund.
19 The board shall be responsible for establishing policies for the
20 administration and operation of the fund and the performance of
21 other duties and functions assigned to the fund.



1 (b) Two members shall be appointed for a term of four
2 years; provided that of the initial appointees, one shall be
3 appointed for a two-year term. A vacancy on the authority of a
4 seat subject to this subsection shall be filled in accordance
5 with article V, section 6, of the Hawaii State Constitution.

6 (c) Two members shall be appointed from a list of
7 nominations submitted by the president of the senate for a term
8 of four years; provided that of the initial appointees, one
9 shall be appointed for a two-year term.

10 (d) Two members shall be appointed from a list of
11 nominations submitted by the speaker of the house of
12 representatives for a term of four years; provided that of the
13 initial appointees, one shall be appointed for a two-year term.

14 (e) The governor shall select a chairperson and vice-
15 chairperson from among the members.

16 (f) The board shall meet as often as necessary to
17 formulate and implement strategies and plans of operation in
18 furtherance of this chapter. Upon its appointment, the board
19 shall adopt an interim plan of operation within ninety days.

20 (g) The members of the board shall receive no compensation
21 for services, but shall be entitled to reimbursement of



1 necessary expenses, including travel expenses, incurred in the
2 performance of their duties.

3 (h) The board may appoint an executive director of the
4 fund, that shall be exempt from chapter 76, whose salary shall
5 be set by the board. The board may employ technical experts and
6 officers, agents, and employees, permanent or temporary, that
7 shall be exempt from chapter 76, as required. The board may
8 also contract with individuals, that shall be exempt from
9 chapters 76 and 78 when in the determination of the board, the
10 services to be performed are unique and essential to the
11 execution of the functions of the fund.

12 § -4 **Planning and assessment functions of the fund;**
13 **discretion to provide insurance.** (a) The fund shall be
14 responsible for monitoring the availability of property
15 insurance, including insurance for covered events, in the State.
16 If at any time the board determines, in its sole discretion,
17 that the private insurance market is not making insurance
18 reasonably available to consumers in the State, the fund may
19 offer policies of wildfire property insurance for sale in
20 accordance with this chapter.



1 (b) Nothing in subsection (a) shall prohibit the board
2 from exercising its powers to develop plans and procedures for
3 the operation and management of the fund without regard to the
4 determination of the board as to the availability of insurance
5 in the private market.

6 § -5 **Powers, duties, and functions.** (a) The fund shall
7 have the following general powers:

8 (1) To sue and be sued;

9 (2) To make and alter policies for its organization and
10 internal administration;

11 (3) To adopt rules in accordance with chapter 91 to
12 effectuate the purposes of this chapter;

13 (4) To borrow moneys, including moneys from state or
14 federal sources and to issue notes or other
15 obligations of the fund for the purposes of providing
16 funds for any of its purposes as authorized by the
17 legislature from time to time;

18 (5) To pledge, assign, or grant a security interest in all
19 or any part of the moneys, rents, charges,
20 assessments, or other revenue and any proceeds thereof
21 derived by the fund; provided that any pledge,



1 assignment, or grant of security interest shall
2 constitute a lien and security interest on the money,
3 rents, charges, assessments, or other revenue, and any
4 proceeds thereof to the extent and with the priority
5 set forth in the document establishing the pledge,
6 assignment, or security interest, without the
7 necessity for physical delivery, recording, or further
8 act; provided further that in effectuating any pledge,
9 assignment, or grant of security interest, the fund
10 may do either or both of the following:

- 11 (A) Transfer possession of collateral to its secured
12 parties; or
- 13 (B) Execute and cause to be filed at the bureau of
14 conveyances of the State of Hawaii, Uniform
15 Commercial Code financing statements for the
16 purpose of providing notice to third parties of a
17 pledge, assignment, or grant of security
18 interest; provided that any failure to file a
19 financing statement or the filing of a financing
20 statement that contains incomplete or inaccurate
21 information shall not affect the perfected lien



1 and security interest of the pledge, assignment,
2 or grant of security interest; and

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

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

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

12 (2) Authorize the provision of wildfire coverage by the
13 fund for real property and tangible personal property
14 located in or on real property and establish limits of
15 liability for specific coverages within the range of
16 authorized coverage;

17 (3) Adopt actuarially sound rates based on reasonable
18 assumptions relative to expectations of wildfire
19 frequency and severity for all coverage provided under
20 policies or endorsements issued by the fund. Rates
21 adopted shall be subject to approval by the



1 commissioner pursuant to article 14 of chapter 431.
2 Rates adopted shall provide for classification of
3 risks and shall include past and prospective losses
4 and expense experience in the State;
5 (4) Adopt procedures, guidelines, and surcharges
6 applicable to policies of wildfire property insurance
7 issued in connection with an underlying property
8 policy issued by an unauthorized insurer;
9 (5) Adopt any form of insurance policy necessary for
10 providing policies of wildfire property insurance by
11 the fund, with the approval of the commissioner;
12 (6) Issue policies of wildfire property insurance and pay
13 claims for coverage over the mandatory deductible or
14 other deductible provided in the plan of operation or
15 any manual of rules and rates adopted under the plan
16 of operation;
17 (7) Require every licensed property and casualty insurer
18 transacting direct property insurance business in the
19 State to act as a servicing facility, and by contract
20 with that insurer authorize the insurer to inspect
21 eligible properties, service policies and



1 policyholders of wildfire property insurance, provide
2 claim services, and perform any other duties as
3 authorized by the fund for applicants to the fund and
4 those insured by it;

- 5 (8) (A) Assess all licensed property and casualty
6 insurers the amounts which, together with the
7 other assets of the fund, are sufficient to meet
8 all necessary obligations of the fund. The
9 assessment shall be made on the insurer's gross
10 direct written premiums for property and casualty
11 insurance in the State for the preceding calendar
12 year. The rate of assessment in a year in which
13 a covered event has not occurred shall be 3.75
14 per cent and shall not include the insurer's
15 gross direct written premiums for motor vehicle
16 insurance in the State; provided that following a
17 covered event, the rate of assessment may be
18 increased to an amount not to exceed five per
19 cent and may include the insurer's gross direct
20 written premiums for motor vehicle insurance in
21 the State. This increase shall remain in effect



1 until all claims and other obligations, including
2 bonds and notes, arising out of a covered event
3 shall have been fully discharged. An insurer
4 authorized to provide comparable coverage under
5 section -10(b) and is providing wildfire
6 property insurance in the State shall be assessed
7 an amount that excludes gross direct written
8 premiums for property insurance in the State.
9 The assessment for a year in which a covered
10 event has not occurred shall be collected
11 quarterly during each calendar year;

12 (B) In the event of a loss from a covered event the
13 fund, in addition to the assessment in
14 subparagraph (A), shall assess those insurers
15 that acted as servicing facilities during the
16 twelve months ending at the start of the month
17 preceding the month in which the covered event
18 occurs. The total assessment shall be a fixed
19 percentage of the total coverage provided by the
20 fund under its policies of wildfire property
21 insurance during the month preceding the month in



1 which the covered event occurs. The percentage
2 to be used in calculating the total assessment
3 shall be as follows:

- 4 (i) For calendar year 2029, a percentage as
5 fixed by the board in the plan of operation,
6 but in no event shall the total assessment
7 exceed \$500,000,000;
- 8 (ii) For calendar year 2030, 1.125 per cent;
- 9 (iii) For calendar year 2031, 1.25 per cent; and
- 10 (iv) For calendar year 2032, and each calendar
11 year thereafter, 1.5 per cent.

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



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

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

15 (9) Develop a program of incentives to encourage insurers
16 to provide policies of wildfire property insurance in
17 the event the commissioner authorizes the provision of
18 comparable insurance pursuant to section -10(b),
19 which may include exemption of the insurer's gross
20 direct written premium for property insurance from the
21 assessment pursuant to paragraph (8) (A);



- 1 (10) Develop a credit based on the difference between
2 premiums written in 2024 and the premiums written in
3 2023 by each property insurer against the assessment
4 for gross direct written premiums written in 2024;
- 5 (11) Develop procedures regarding policies written by
6 unauthorized insurers comparable to the assessments,
7 surcharges, and other contributions made by insurers
8 authorized to do business in the State;
- 9 (12) Accumulate reserves or funds, including the investment
10 income thereon, to be used for paying expenses, making
11 or repaying loans or other obligations of the fund,
12 providing loss mitigation incentives, and paying valid
13 claims for covered events insured by the fund;
- 14 (13) Collect and maintain statistical and other data as may
15 be required by the commissioner;
- 16 (14) Exempt mortgage transactions from payments of the
17 special mortgage recording fee and provide for maximum
18 limits on or, uniform reduction of the special
19 mortgage recording fee, pursuant to rules adopted by
20 the board;



- 1 (15) Suspend or reactivate the special mortgage recording
2 fee pursuant to resolution of the board;
- 3 (16) Impose fines for each incident of nonpayment of
4 amounts due to the fund under this chapter; provided
5 that the fines shall not exceed twenty-five per cent
6 of the amount then due;
- 7 (17) Create loss mitigation incentives, including premium
8 credits, premium rebates, loans, or cash payments;
- 9 (18) Enter into claims financing transactions, including
10 reinsurance transactions, debt transactions, and other
11 transactions incorporating elements of reinsurance,
12 insurance, debt, or equity;
- 13 (19) Establish business and corporate entities or
14 organizations pursuant to the purposes of this
15 chapter; and
- 16 (20) Perform any and all acts reasonably necessary to carry
17 out the purposes of this chapter.

18 § **-6 Advisory committee.** To assist it in implementing
19 this chapter the fund may appoint an advisory committee
20 consisting of:



- 1 (1) At least one individual who is employed or trained as
2 a climate scientist and possesses knowledge of the
3 history, trends, and nature of wildfires in the State;
- 4 (2) At least one individual who is a member of the
5 American Academy of Actuaries; and
- 6 (3) At least one individual who is a structural engineer
7 licensed to practice in the State and is knowledgeable
8 about local community building codes.

9 The fund may establish additional advisory committees as it
10 may deem necessary in furtherance of this chapter.

11 § -7 **Plan of operation.** (a) The fund shall adopt a
12 plan of operation and a manual of rules and rates necessary or
13 suitable to ensure both the solvency and the reasonable and
14 equitable administration of the fund. The adoption of or
15 amendments to the plan of operation and manual of rules and
16 rates shall not be subject to chapter 91, except that the policy
17 forms for policies of wildfire property insurance shall be
18 adopted pursuant to chapter 91.

19 (b) If the fund fails to adopt a plan of operation, or the
20 fund fails to adopt amendments to the plan of operation, the
21 commissioner shall adopt a plan of operation or make amendments



1 necessary to carry out the purposes of this chapter. Any plan
2 of operation, or amendment, adopted by rule of the commissioner,
3 shall continue in full force and effect until the rule is
4 superseded by a plan of operation, or amendment, adopted by a
5 majority vote of all members of the board, and approved by the
6 commissioner.

7 (c) The plan of operation shall:

8 (1) Establish procedures for performance of all powers and
9 duties of the fund;

10 (2) Establish procedures for providing notice to all
11 persons with interests insurable by the fund in the
12 State of the type of insurance available from the fund
13 in the event the fund offers insurance;

14 (3) Provide for and adopt all necessary forms, including
15 insurance policies to be used by and on behalf of the
16 fund, for use by the fund and servicing facilities;

17 (4) Adopt actuarially sound rates, based on reasonable
18 assumptions relative to expectations of wildfire
19 frequency and severity, to be charged for insurance
20 provided by the fund, in accordance with article 14 of
21 chapter 431;



- 1 (5) Publish manuals of rules, rates, and rating and
- 2 classification plans, which shall address mandatory
- 3 deductibles, limits of coverage, and the
- 4 classification of risks and rate modifications based
- 5 on the exposure of insureds;
- 6 (6) Establish procedures for receiving and servicing
- 7 applications to the fund;
- 8 (7) Establish procedures for processing and maintaining
- 9 records of the fund relating to its financial
- 10 transactions, its agents, its employees, its
- 11 operations, and all transactions with any servicing
- 12 facility;
- 13 (8) Establish procedures for the collection and remittance
- 14 of the premiums and return of unearned premiums where
- 15 applicable;
- 16 (9) Establish procedures for the payment of valid claims;
- 17 (10) Establish procedures for prorating available funds
- 18 pursuant to section -15;
- 19 (11) Establish procedures for obtaining reinsurance;
- 20 (12) Establish procedures to borrow funds; and



1 (13) Develop a plan for the investment of moneys held by
2 the fund subject to the limitations in article 6 of chapter 431.

3 § **-8 Annual statements.** (a) The fund shall submit to
4 the commissioner, an annual financial report in a form approved
5 by the commissioner within one hundred twenty days after the end
6 of the fund's fiscal year.

7 (b) The commissioner may require other reports concerning
8 risks insured by the fund as the commissioner deems appropriate.

9 § **-9 Powers of the commissioner.** (a) For the purpose
10 of ascertaining the fund's condition or compliance with this
11 chapter, the commissioner shall examine the accounts, records,
12 documents, and transactions of the fund at least once every
13 three years commencing at the time the fund starts issuing
14 policies of wildfire property insurance or more often if the
15 commissioner deems advisable. The fund shall pay all reasonable
16 and actually incurred expenses of the examination in accordance
17 with section 431:2-306(b); provided that a detailed estimate of
18 the expenses to be incurred shall be approved by the board prior
19 to the examination. In the event the actual expenses incurred
20 are in excess of ten per cent of the estimate, the commissioner



1 shall communicate in writing to the board the reason for the
2 excess expenses.

3 (b) The commissioner may exercise all of the
4 commissioner's powers provided by law in the supervision and
5 regulation of the fund, any servicing facility, and any other
6 person or entity subject to the jurisdiction of the
7 commissioner.

8 § -10 Coverage available from the fund; deductible. (a)

9 Policies issued by the fund shall provide a maximum aggregate
10 coverage of up to \$750,000 per risk on real property of one to
11 four units used for residential purposes and \$500,000 per risk
12 for real property used for business, commercial, or industrial
13 purposes and shall provide for a mandatory deductible. The
14 deductible amount for residential property policies shall be the
15 greater of \$1,000 or one per cent of the insured value or the
16 greater of \$2,000 or two per cent of the insured value; provided
17 that the board may establish higher deductible limits. The
18 deductible amount for commercial property policies shall be the
19 greater of \$5,000 or five per cent of the insured value or an
20 amount equivalent to all the other perils deductible of the



1 companion policy; provided that the board may establish higher
2 deductible limits.

3 (b) Insurers seeking to provide multi-peril coverage for
4 residential property, including multi-peril coverage of the
5 wildfire peril, subject to the fund's program for incentives and
6 credits, shall submit to the commissioner a written request for
7 permission to write the coverage; provided that in the absence
8 of authorization, no other policy of residential property
9 insurance or endorsement to a policy of residential property
10 insurance on eligible residential property located in the State
11 shall be issued to provide insurance for damages or losses
12 caused by a covered event if the coverage is less than that
13 offered by the fund. If multi-peril coverage on commercial
14 property is no longer being offered by the fund, any multi-peril
15 coverage on commercial property offered by an insurer shall
16 qualify as comparable coverage under section -5(b)(8)(A).
17 Multi-peril coverage on residential property which includes
18 coverage for wildfire losses offered by an insurer shall qualify
19 as a comparable coverage under section -5(b)(8)(A).

20 § -11 **Underlying policy required; wildfire coverage**
21 **shall be provided.** (a) Any eligible property for which



1 coverage is sought from the fund shall already be insured by an
2 underlying policy of property insurance as defined in section
3 431:1-206 or article 21 of chapter 431 but excluding the covered
4 event. Every underlying policy of property insurance provided
5 by an unauthorized insurer shall be subject to the procedures,
6 guidelines, and surcharges as provided in the plan of operation.

7 (b) The fund shall not deny any application for wildfire
8 property insurance on any property eligible under subsection
9 (a).

10 (c) The fund shall renew any policy; provided that payment
11 of the applicable renewal premium is received by the fund on or
12 before the expiration date stated in the policy. The fund may
13 nonrenew a policy on the grounds that the property is no longer
14 covered by a companion policy. The policy issued by the fund
15 shall not provide coverage in the event that there is no
16 companion policy at the time of loss. In such case, any
17 unearned premiums shall be returned to the policyholder on a pro
18 rata basis. Limits of coverage under a policy issued by the
19 fund shall not exceed the limits of comparable coverages for
20 fire and windstorm under the companion policy. The statute of



1 limitations for actions under a policy of wildfire property
2 insurance shall be one year.

3 § **-12 Mitigation.** The fund shall develop a
4 comprehensive loss reduction plan for the wildfire peril. The
5 plan shall include standards for new residential and commercial
6 structures and separate standards for existing residential and
7 commercial structures. The plan shall provide a timetable for
8 implementation of mandatory loss mitigation measures for both
9 new and existing structures.

10 § **-13 Appeals.** (a) Any applicant or policyholder
11 adversely affected by a decision of the fund shall have the
12 right to appeal to the board within thirty days after the
13 decision. The application for an appeal shall specify how the
14 person making the appeal was aggrieved and the grounds upon
15 which relief is demanded. The decision of the board shall be
16 deemed final.

17 (b) Any final action, decision, or order of the board
18 under this chapter shall be subject to judicial review by the
19 circuit court.

20 § **-14 Immunity and limitation on liability.** There shall
21 be no liability on the part of, and no cause of action of any



1 nature shall arise against, any servicing facility or its
2 authorized insurance producers; the fund or its agents,
3 employees, or board; the State; the commissioner; or the
4 commissioner's representatives for any action taken by them in
5 the performance of their powers and duties under this chapter;
6 provided that this section shall not be construed to prohibit
7 any exercise of the commissioner's power pursuant to this
8 chapter or any other law or rule adopted pursuant to law or
9 chapters 661 and 662, any other law to the contrary
10 notwithstanding. Nothing in this chapter shall create an
11 obligation, debt, claim, cause of action, claim for relief,
12 charge, or any other liability of any kind in favor of any
13 person or entity without regard to whether that person or entity
14 received any benefits under this chapter, against the State, or
15 its officers and employees. The State and its officers and
16 employees shall not be liable for the results of any
17 application, denial of application, claim, loss, or other
18 benefits provided by the fund pursuant to this chapter. Nothing
19 in this chapter shall be construed as authorizing any claim
20 against the State whatsoever, nor shall this chapter be
21 construed as authorizing any claim against the fund in excess of



1 any note, loan, liability, or other obligation incurred by the
2 fund. Nothing in this section shall be construed to alter any
3 obligation to pay assessments or charges authorized to be
4 imposed or levied by the board pursuant to this chapter. The
5 fund shall be subject to chapter 431 only as provided for in
6 this chapter.

7 § -15 **Exemption from property and liability insurance**
8 **guaranty association; insolvency of fund.** Notwithstanding any
9 other law to the contrary, neither the fund nor its
10 policyholders shall be subject to, or be eligible for, the
11 benefits provided in part I of article 16 of chapter 431. If
12 the total amount available at any time to the fund is
13 insufficient to make all necessary payments, the moneys
14 available shall be prorated and the unpaid portion shall be paid
15 as soon as moneys become available.

16 § -16 **Establishment of trust funds.** (a) The fund shall
17 establish outside the state treasury a wildfire reserve trust
18 fund and any accounts thereunder and any other trust fund or
19 account necessary to carry out the purposes of this chapter.
20 Moneys deposited in the wildfire reserve trust fund and any
21 accounts thereunder or any other trust fund or account shall be



1 held by the fund, as trustee, in a depository as defined in
2 section 38-1 or according to a similar arrangement at the
3 discretion of the board, including trust or custodial accounts
4 created for the benefit of the fund's secured parties under
5 contractual claims financing arrangements. These moneys may be
6 invested and reinvested in accordance with the plan of
7 operation. Disbursements from the trust funds shall not be
8 subject to chapter 103D and shall be made in accordance with
9 procedures adopted by the board.

10 (b) The wildfire reserve trust fund shall receive deposits
11 of the special mortgage recording fee established by this
12 chapter. Except as determined by board order, the special
13 mortgage recording fee shall be imposed on each mortgage and
14 each amendment to a mortgage which, in each case, increases the
15 principal amount of the secured debt and which is recorded in
16 the bureau of conveyances under chapter 502 or filed with the
17 assistant registrar of the land court of the State under chapter
18 501.

19 The special mortgage recording fee shall be an amount equal
20 to one-tenth of one per cent of the stated principal amount of
21 the debt secured by the mortgage or, in the case of an amendment



1 or refinancing of a mortgage, an amount equal to one-tenth of
2 one per cent of the amount of the increase of the stated
3 principal amount of the secured debt; provided that the board
4 may establish a lower special mortgage recording fee amount
5 pursuant to section -5(b)(14). With respect to an open end
6 revolving loan, the principal amount of the debt on which the
7 special mortgage recording fee is calculated shall be the
8 maximum amount which may be outstanding under the loan at any
9 one time. With respect to a mortgage securing a nonmonetary or
10 inchoate obligation, the principal amount of the debt on which
11 the special mortgage recording fee is calculated shall be the
12 monetary amount which the mortgagee attributes to the
13 obligation. If the debt is stated in a foreign currency, it
14 shall be converted to U.S. dollars using an exchange rate
15 published in a newspaper of general circulation in the State
16 within one week prior to recordation of the mortgage or
17 amendment of mortgage.

18 The special mortgage recording fee shall be in addition to
19 any applicable fees under chapter 501 or 502. The special
20 mortgage recording fee shall be submitted to and collected by
21 the bureau of conveyances or the assistant registrar of the land



1 court of the State and shall be deposited into the wildfire
2 reserve trust fund. The special mortgage recording fee shall be
3 submitted at the time the mortgage or amendment of mortgage is
4 recorded together with any related forms or certifications
5 required by the bureau of conveyances or the assistant registrar
6 of the land court of the State.

7 (c) The fund shall implement the assessments of all
8 property and casualty insurers as authorized by section -
9 5(b)(8)(A) and (B) and the proceeds from the assessments shall
10 be deposited into the wildfire reserve trust fund or into trust
11 or custodial accounts, created for the benefit of the fund's
12 secured parties, that are held inside or outside the wildfire
13 reserve trust fund.

14 (d) If the fund offers to issue policies of wildfire
15 property insurance, the premiums for the policies shall be
16 deposited into the wildfire reserve trust fund.

17 (e) After each covered event, excluding moneys determined
18 by the board to be needed to continue fund operations following
19 the covered event, if the board determines that the moneys in
20 the wildfire reserve trust fund will be insufficient to pay
21 claims and other obligations of the fund arising out of that



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



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

4 (g) 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 of finance to the fund, and
7 other moneys as the State may make available from time to time
8 shall be deposited into the wildfire reserve trust fund.

9 (h) Moneys in the wildfire reserve trust fund or in trust
10 or custodial accounts, created for the benefit of the fund's
11 secured parties, shall be expended by the fund or its authorized
12 designee and used solely for the purposes of this chapter.

13 (i) Moneys in the wildfire reserve trust fund may be
14 disbursed upon dissolution of the fund; provided that:

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



1 (2) If moneys are paid on behalf of licensed property and
2 casualty insurers, payment shall be made in proportion
3 to the premiums from policies of wildfire property
4 insurance serviced by the insurers in the twelve
5 months prior to dissolution of the fund;
6 provided that all interest earned from the principal in the
7 wildfire reserve trust fund shall be transferred and deposited
8 into the general fund each year that the wildfire reserve trust
9 fund remains in existence.

10 § -17 **Immunity.** There shall be no cause of action,
11 claim for damages or relief, charge, or any other liability of
12 any kind whatsoever created against the State, fund,
13 commissioner, or their respective agents, employees, or board,
14 by, or relating to the loss mitigation grant program.

15 § -18 **Exemption for Hawaiian home lands.** Nothing in
16 this chapter shall prohibit or limit any person from obtaining
17 insurance for property subject to the Hawaiian Homes Commission
18 Act of 1920, as amended, from any insurer other than the fund if
19 the insurance is deemed sufficient by the commissioner."

20 SECTION 3. Section 431:13-104, Hawaii Revised Statutes, is
21 amended by amending subsection (g) to read as follows:



1 "(g) Nothing in this section shall prevent a person who
2 lends money or extends credit from assisting a mortgagor,
3 borrower, or purchaser in obtaining homeowners insurance where
4 the borrower requests [~~such~~] assistance in writing. Nothing in
5 this section shall prevent a person who lends money or extends
6 credit from referring a mortgagor, borrower, or purchaser to the
7 Hawaii hurricane relief fund[+] or the Hawaii wildfire relief
8 fund."

9 SECTION 4. (a) The director of commerce and consumer
10 affairs may establish a loan program to assist the Hawaii
11 wildfire relief fund in carrying out the plan of operation, and
12 may make loans to the Hawaii wildfire relief fund. There is
13 hereby created in the treasury of the State a separate and
14 special fund to be designated as the wildfire bond loan fund of
15 this Act.

16 (b) The department of budget and finance, with the
17 approval of the governor, is authorized to issue in the name of
18 the department of budget and finance revenue bonds at such times
19 and in an amount or amounts not to exceed \$ in
20 aggregate principal as may be requested and deemed necessary by
21 the commissioner for the purposes of the Hawaii wildfire relief



1 fund. All bonds shall be issued pursuant to part III of chapter
2 39, except as provided in this section.

3 (c) The resolution or certificate providing for the
4 issuance of the bonds may provide that all or part of the
5 proceeds may be held and invested in the wildfire bond loan fund
6 until needed for the purposes of the Hawaii wildfire relief
7 fund. For the purposes of providing a source of revenue or
8 security for these bonds, the director may pledge funds
9 deposited or to be deposited in the wildfire bond loan fund to
10 the payment or security of the bonds, and the pledge shall
11 constitute a lien and security interest on the moneys in the
12 wildfire bond loan fund to the extent and with the priority set
13 forth in the document establishing the pledge, without the
14 necessity for physical delivery, recording, or other further
15 act. No revenue bonds shall be issued pursuant to this section
16 unless the director of finance shall first make a determination
17 based on information provided by the commissioner that there are
18 sufficient revenues and other assets to pay debt service on the
19 revenue bonds.

20 (d) The director of finance is authorized to issue
21 reimbursable general obligation bonds in the principal amount of



1 \$, or so much thereof as may be requested and deemed
2 necessary by the commissioner for the purposes of the Hawaii
3 wildfire relief fund, and the same sum is appropriated for
4 fiscal year 2024-2025 for deposit into the wildfire reserve
5 trust fund. The commissioner, upon the commissioner's
6 determination that it is advisable to transfer funds from the
7 wildfire reserve trust fund, shall reimburse the state general
8 fund for payment of debt service on general obligation bonds
9 authorized and issued under this section.

10 SECTION 5. The state supreme court shall have exclusive
11 and original jurisdiction over any controversy or dispute
12 regarding the financing of the Hawaii wildfire relief fund and
13 the wildfire reserve trust fund through the issuance of revenue
14 bonds or general obligation bonds, and the security provisions
15 thereof and the imposition and collection of any rates and
16 charges to repay or provide security for the bonds; provided
17 that the jurisdiction be limited to the applicability of article
18 VII of the Hawaii State Constitution to these matters.

19 SECTION 6. In accordance with section 9 of article VII of
20 the Hawaii State Constitution and sections 37-91 and 37-93,
21 Hawaii Revised Statutes, the legislature has determined that the



1 appropriations contained in Act 164, Regular Session of 2023,
2 and this Act will cause the state general fund expenditure
3 ceiling for fiscal year 2024-2025 to be exceeded by
4 \$ or per cent. This current declaration takes
5 into account general fund appropriations authorized for fiscal
6 year 2024-2025 in Act 164, Regular Session of 2023, and this Act
7 only. The reasons for exceeding the general fund expenditure
8 ceiling are that:

- 9 (1) The appropriation made in this Act is necessary to
10 serve the public interest; and
11 (2) The appropriation made in this Act meets the needs
12 addressed by this Act.

13 SECTION 7. There is appropriated out of the general
14 revenues of the State of Hawaii the sum of \$ or so
15 much thereof as may be necessary for fiscal year 2024-2025 for
16 the purposes of carrying out section 2 of this Act.

17 The sum appropriated shall be expended by the department of
18 commerce and consumer affairs for the purposes of this Act.

19 SECTION 8. If any provision of this Act, or the
20 application thereof to any person or circumstance, is held
21 invalid, the invalidity does not affect other provisions or



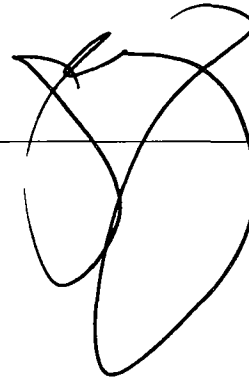
1 applications of the Act that can be given effect without the
2 invalid provision or application, and to this end the provisions
3 of this Act are severable.

4 SECTION 9. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 10. This Act shall take effect on July 1, 2024.

7

INTRODUCED BY: _____

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S.B. NO. 2086

Report Title:

Hawaii Wildfire Relief Fund; Wildfire Bond Loan Program;
Wildfire Reserve Trust Fund; Wildfire Insurance; Property
Insurance; Appropriation

Description:

Establishes the Hawaii Wildfire Relief Fund. Requires the establishment of a Wildfire Reserve Trust Fund to support the Hawaii Wildfire Relief Fund. Authorizes the Director of Commerce and Consumer Affairs to establish a Wildfire Bond Loan Program in conjunction with the Hawaii Wildfire Relief Fund. Authorizes the Director of Budget and Finance to issue revenue bonds and general obligation bonds to support the Hawaii Wildfire Relief Fund. Makes an appropriation.

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

