
A BILL FOR AN ACT

RELATING TO THE STABILIZATION OF PROPERTY INSURANCE.

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

1 PART I

2 SECTION 1. The legislature finds that before the wildfire
3 event in Lahaina, Maui, on August 8, 2023, the availability of
4 both condominium building master insurance policy and unit owner
5 insurance policy options within the condominium insurance
6 marketplace was already shrinking.

7 For condominium building master insurance policies,
8 insurers have increased deductible amounts from what used to be
9 between \$10,000 to \$25,000 per unit, per occurrence, to as much
10 as \$250,000. These increased deductibles were due to consistent
11 and high-cost losses, primarily water damage losses within
12 condominium buildings caused by failing water pipe systems.
13 These large deductible costs were then transferred to unit
14 owners who needed to provide proof to the condominium
15 association that they were insured up to the higher deductible
16 amount. These water damage losses also contributed to unit
17 owner property insurance becoming scarce, with one or two



1 insurers willing to underwrite this coverage with higher
2 deductibles of \$75,000 and up.

3 The legislature also finds that while the State has avoided
4 a direct, major impact from a major hurricane since Hurricane
5 Iniki devastated Kauai and damaged homes along Oahu's leeward
6 coast more than thirty years ago, mortgage lenders continue to
7 require Hawaii homeowners to carry hurricane insurance that can
8 cost two to three times the annual premiums of a conventional
9 homeowner policy.

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



1 and entity associated with condominiums in Hawaii, from lenders
2 and insurance agents to buyers and sellers of condominiums.

3 Furthermore, some condominium associations for older
4 buildings are forced to obtain insurance through the secondary
5 insurance market if they are dropped by the standard insurers
6 for having too many claims, or if their buildings have delayed
7 renovations or deferred maintenance on high-cost items such as
8 aging water pipes. The president of Insurance Associates
9 reported that more than seven hundred condominium buildings on
10 Oahu alone were built before 1990. These secondary market
11 insurers are not bound by the State's laws or administrative
12 rules governing rates, so their prices may be more expensive
13 than those of standard insurance carriers.

14 To illustrate the difference in insurance premium costs,
15 the president of Insurance Associates cites the example of one
16 high-rise condominium in Waikiki in which the condominium
17 association had been paying an annual insurance premium of
18 \$235,000 for property and hurricane insurance and had already
19 been dropped by two of the standard insurance companies when the
20 third company declined to renew their insurance policy. The
21 stated reason for the nonrenewal and rejection was that the



1 building's aging plumbing had not been replaced. As a result,
2 the condominium association was forced to purchase insurance on
3 the secondary market, which cost approximately \$1,200,000.

4 The legislature finds that the consequences of
5 under-insured condominium buildings, including condominium
6 buildings that lack full hurricane coverage, also impact
7 individual owners. Today, there are only three insurers writing
8 hurricane coverage for condominium buildings, one of which is
9 only willing to underwrite \$10,000,000 to \$25,000,000 in
10 hurricane coverage while underwriting all other coverage up to
11 the building's value. If a condominium building's insurance
12 coverage, including hurricane coverage, is below its full value,
13 the mortgages on individual units within that building would not
14 meet the underwriting criteria to qualify for purchase through
15 the federal government's secondary mortgage market, meaning that
16 these mortgages cannot be sold by financial institutions to
17 mortgage investor entities such as Fannie Mae and Freddie Mac.
18 Coverage to address this lack of hurricane insurance coverage
19 options is available from the excess and surplus lines market,
20 which comprises insurers who are not licensed in the State, but
21 some condominium buildings are unwilling to purchase this



1 coverage because of its high price. The legislature understands
2 that although this Act authorizes the Hawaii hurricane relief
3 fund to expand coverage to condominium buildings, premium rates
4 may be high due to the rise in the global reinsurance market for
5 hurricane insurance caused by the frequency and severity of
6 worldwide disasters.

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

18 This inability to sell condominium mortgages would require
19 financial institutions that originated mortgages to retain those
20 mortgages, thereby lessening their overall financial capacity to
21 originate more mortgages. Further, the risk of loss if a



1 hurricane occurs may impair a financial institution's financial
2 safety and soundness, which would in turn hamper consumers'
3 abilities to obtain financing to purchase dwellings of their
4 own. In addition, the failure of individual condominium units
5 to maintain the property insurance required by their condominium
6 association could result in fines, lender-placed insurance, and
7 foreclosure of those units.

8 The legislature notes that the wildfire in Lahaina, Maui,
9 on August 8, 2023, has also impacted the way reinsurers and
10 standard insurers view Hawaii's wildfire risk. The president of
11 Insurance Associates estimates that while Hawaii has always been
12 rated for hurricanes for property insurance purposes, it has
13 never been rated for wildfires. Now that the State has
14 experienced wildfires, not only in Lahaina, but also in Kula,
15 West Oahu, and Mililani, parts of all islands will be rated for
16 wildfires. Moreover, it is surmised that some insurers will not
17 maintain their current policy-count in the State because of
18 their increased costs for reinsurance, geographical
19 concentration of risk, and inadequate rates both pre- and
20 post-wildfire. Insurers have the financial responsibility to
21 pay losses, and if reinsurance and premiums are not sufficient



1 to cover these losses, an insurer needs to reduce their exposure
2 by restricting new policies, reducing their policy-count, or
3 both. The legislature recognizes that the price impact on
4 reinsurance from recent wildfires is not fully known and price
5 increases may continue into the foreseeable future.

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

13 The legislature also acknowledges that although coverage,
14 excluding hurricane coverage, for condominium buildings is
15 available in the standard insurance market, the availability of
16 this coverage is not guaranteed. If this coverage became
17 unavailable to condominium buildings, then under this Act, the
18 Hawaii property insurance association would be authorized to
19 provide this coverage. In addition to losses resulting from
20 hurricanes, condominium building losses are mostly caused by
21 water pipes failing due to a lack of maintenance or replacement.



1 This Act provides a framework to provide coverage to these
2 condominium buildings if insurance in the standard market is not
3 available for the buildings. However, prices will reflect
4 risks. To that end, this Act requires that the Hawaii property
5 insurance association's plan of operation address the lack of
6 maintenance or replacement of aging or failing components, or
7 both, and include: coverage limits and deductibles for the
8 condominium building; policies of the applicable condominium
9 association to pay claims, including the portion of the claim to
10 be paid by the condominium association and the portion to be
11 paid by the individual unit owners; rate tiers, including
12 surcharges for condominium buildings that remain in the plan of
13 operation; and submittals provided by condominium associations
14 outlining the timeline to complete projects to repair or replace
15 failing components in applicable condominium buildings,
16 including loan or funding provisions. The legislature believes
17 that premiums for condominium buildings that are lagging in
18 maintenance and repairs need to be paid by individuals who
19 reside in the condominium buildings. Therefore, the legislature
20 also believes that insurance rates should be adequate to ensure
21 that losses are not the responsibility of individuals who either



1 do not reside in condominium buildings or reside in condominium
2 buildings that do not have any failing components.

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

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

20 (1) Imposition of a higher transient accommodation tax
21 rate for transient vacation rentals, since many



1 transient vacation rental units are situated within
2 condominiums, and using those revenues to capitalize
3 the Hawaii property insurance association's
4 operations;

5 (2) Establishment of a property insurance surcharge on
6 conveyance tax and using those revenues to capitalize
7 the Hawaii property insurance association's
8 operations;

9 (3) Establishment of a temporary property insurance
10 stabilization fee on real property transactions to
11 capitalize operations of the Hawaii property insurance
12 association and Hawaii hurricane relief fund;

13 (4) Reactivation of the assessment of insurers to
14 capitalize the Hawaii hurricane relief fund;

15 (5) Reactivation of the Hawaii hurricane relief fund's
16 special mortgage recording fee that was last imposed
17 in 2001 to capitalize the Hawaii hurricane relief
18 fund;

19 (6) Appropriation of general funds for the Hawaii
20 hurricane relief fund; and



1 (7) Issuance of general obligation bonds and appropriation
2 of the bond revenues to the Hawaii hurricane relief
3 fund.

4 The legislature finds that this Act is necessary to:

- 5 (1) Stabilize the property insurance market so that
- 6 insurers continue to insure properties in the State;
- 7 (2) Encourage the repair and maintenance of condominium
- 8 buildings;
- 9 (3) Allow lenders to meet the requirements of the
- 10 secondary mortgage market; and
- 11 (4) Serve an important public purpose.

12 The legislature intends that if property insurance
13 coverage, excluding hurricane coverage, for condominium
14 buildings becomes unavailable through the standard insurance
15 market, then under this Act, the Hawaii property insurance
16 association would be authorized to provide this coverage. This
17 Act provides older condominium buildings that are in need of
18 repair or replacement of components a path to have the work
19 completed within a certain timeframe. In addition to losses
20 resulting from hurricanes, condominium building losses are
21 mostly caused by water pipes failing due to a lack of



1 maintenance or replacement. While this Act addresses the
2 availability of insurance coverage and not affordability, fixing
3 failing components will make these older condominium buildings
4 more insurable in the long run. The Hawaii property insurance
5 association, in its plan of operations, is mandated to ensure
6 that those applying for coverage have plans in place for the
7 repair and subsequent maintenance of the insured buildings.
8 This is the only way that buildings will become insurable within
9 five years. Some of those items include coverage limits and
10 deductibles for the condominium building; policies of the
11 applicable condominium association to pay claims, including the
12 portion of the claim to be paid by the condominium association
13 and the portion to be paid by the individual unit owners; rate
14 tiers, including surcharges for condominium buildings that
15 remain in the plan of operation; a plan to replace building
16 pipes; approval of the plan by the owners; loan approval or a
17 timeline for loan approval; a project manager; and potential
18 contractors. Similar items could be required for other aging
19 components that would affect the building's insurability.

20 The legislature believes that premiums for condominium
21 buildings that are lagging in maintenance and repairs need to be



1 paid by individuals who reside in the condominium buildings.
2 Therefore, the legislature also believes that insurance rates
3 should be adequate to ensure that losses are not the
4 responsibility of individuals who either do not reside in
5 condominium buildings or reside in condominium buildings that do
6 not have any failing components.

7 This Act is a stop-gap measure to provide insurance
8 availability for buildings that have become uninsurable due to a
9 lack of needed repair and maintenance. Condominium associations
10 that apply for coverage through the Hawaii property insurance
11 association will need to pay premiums that will cover the
12 condominium association's exposure to losses, not to offer a
13 subsidy for these poor insurance risks. This measure is not
14 designed to be a long-term solution and therefore the
15 legislature has imposed a one-time five-year coverage period.
16 It is expected that condominium buildings will complete or have
17 almost completed their major component repairs and replacements
18 that are causing ongoing insurance losses within this period and
19 their ability to procure future building insurance is more
20 likely.



1 "Hosting platform" means a person that participates in the
2 transient vacation rental business by providing, and collecting
3 or receiving a fee for, booking services through which an
4 operator may offer a transient vacation rental. "Hosting
5 platform" includes persons who provide booking services through
6 an online platform that allows an operator to advertise a
7 transient vacation rental through a website provided by the
8 hosting platform, and through which the hosting platform
9 conducts a transaction by which potential renters arrange use
10 and payment of rent to the operator or the hosting platform.

11 "Transient vacation rental" means "short term rental",
12 "transient vacation rental", "transient vacation unit", or
13 "transient vacation use", as defined by applicable county
14 ordinance."

15 2. By amending the definition of "operator" to read:

16 "Operator" means any person operating a transient
17 accommodation[7] or transient vacation rental, whether as owner
18 or proprietor or as lessee, sublessee, mortgagee in possession,
19 licensee, or otherwise, or engaging or continuing in any service
20 business which involves the actual furnishing of transient
21 accommodation[7] or transient vacation rental."



1 SECTION 3. Section 237D-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§237D-2 Imposition and rates.** (a) There is levied and
4 shall be assessed and collected each month a tax of:

5 (1) Five per cent for the period beginning on January 1,
6 1987, to June 30, 1994;

7 (2) Six per cent for the period beginning on July 1, 1994,
8 to December 31, 1998;

9 (3) 7.25 per cent for the period beginning on January 1,
10 1999, to June 30, 2009;

11 (4) 8.25 per cent for the period beginning on July 1,
12 2009, to June 30, 2010; and

13 (5) 9.25 per cent for the period beginning on July 1,
14 2010, and thereafter[?],

15 on the gross rental or gross rental proceeds derived from
16 furnishing transient accommodations.

17 (b) Every transient accommodations broker, travel agency,
18 and tour packager who arranges transient accommodations at
19 noncommissioned negotiated contract rates and every operator or
20 other taxpayer who receives gross rental proceeds shall pay to



1 the State the tax imposed by subsection (a), as provided in this
2 chapter.

3 (c) There is levied and shall be assessed and collected
4 each month, on the occupant of a resort time share vacation
5 unit, a transient accommodations tax of:

6 (1) 7.25 per cent on the fair market rental value until
7 December 31, 2015;

8 (2) 8.25 per cent on the fair market rental value for the
9 period beginning on January 1, 2016, to December 31,
10 2016; and

11 (3) 9.25 per cent on the fair market rental value for the
12 period beginning on January 1, 2017, and thereafter.

13 (d) Every plan manager shall be liable for and pay to the
14 State the transient accommodations tax imposed by subsection (c)
15 as provided in this chapter. Every resort time share vacation
16 plan shall be represented by a plan manager who shall be subject
17 to this chapter.

18 (e) Notwithstanding the tax rates established in
19 subsections (a)(5) and (c)(3), the tax rates levied, assessed,
20 and collected pursuant to subsections (a) and (c) shall be 10.25



1 per cent for the period beginning on January 1, 2018, to
2 December 31, 2030; provided that:

3 (1) The tax revenues levied, assessed, and collected
4 pursuant to this subsection that are in excess of the
5 revenues realized from the levy, assessment, and
6 collection of tax at the 9.25 per cent rate shall be
7 deposited quarterly into the mass transit special fund
8 established under section 248-2.7; and

9 (2) If a court of competent jurisdiction determines that
10 the amount of county surcharge on state tax revenues
11 deducted and withheld by the State, pursuant to
12 section 248-2.6, violates statutory or constitutional
13 law and, as a result, awards moneys to a county with a
14 population greater than five hundred thousand, then an
15 amount equal to the monetary award shall be deducted
16 and withheld from the tax revenues deposited under
17 paragraph (1) into the mass transit special fund, and
18 those funds shall be a general fund realization of the
19 State.

20 The remaining tax revenues levied, assessed, and collected
21 at the 9.25 per cent tax rate pursuant to subsections (a) and



1 (c) shall be deposited into the general fund in accordance with
2 section 237D-6.5(b).

3 (f) Notwithstanding the tax rates established in
4 subsections (a)(5), (c)(3), and (e), the tax rate levied,
5 assessed, and collected with regard to a transient vacation
6 rental pursuant to subsections (a), (c), and (e) shall
7 be per cent for the period beginning on July 1, 2024;
8 provided that:

9 (1) Fifty per cent of the tax revenues levied, assessed,
10 and collected pursuant to this subsection that are in
11 excess of the revenues realized from the levy,
12 assessment, and collection of tax at the percentage
13 rates authorized pursuant to subsections (a)(5),
14 (c)(3), and (e) shall be deposited quarterly into a
15 trust account established pursuant to
16 section 431:21-105 for the purpose of administering
17 and providing property insurance for properties
18 located outside of a lava zone that obtain property
19 insurance under that article; and

20 (2) Fifty per cent of the tax revenues levied, assessed,
21 and collected pursuant to this subsection that are in



1 excess of the revenues realized from the levy,
 2 assessment, and collection of tax at the percentage
 3 rates authorized pursuant to subsections (a) (5),
 4 (c) (3), and (e) shall be deposited quarterly into a
 5 trust account established pursuant to section 431P-16
 6 for the purpose of providing hurricane insurance under
 7 that chapter."

PART III

9 SECTION 4. Chapter 247, Hawaii Revised Statutes, is
 10 amended by adding a new section to be appropriately designated
 11 and to read as follows:

12 **"§247- Property insurance surcharge on conveyance tax;**
 13 **disposition of revenues.** (a) In addition to any tax imposed
 14 under this chapter, there shall be levied, assessed, and
 15 collected a property insurance surcharge on conveyance tax on
 16 all transfers or conveyances of realty or any interest therein
 17 that is subject to section 247-1. The rate of the surcharge on
 18 conveyance tax shall be based on the basis and tax rates
 19 established in section 247-2 and levied, assessed, and collected
 20 as follows:

21 (1) Except as provided in paragraph (2):



- 1 (A) per cent for properties having a value of
- 2 less than \$600,000;
- 3 (B) per cent for properties having a value of
- 4 at least \$600,000, but less than \$1,000,000;
- 5 (C) per cent for properties having a value of
- 6 at least \$1,000,000, but less than \$2,000,000;
- 7 (D) per cent for properties having a value of
- 8 at least \$2,000,000, but less than \$4,000,000;
- 9 (E) per cent for properties having a value of
- 10 at least \$4,000,000, but less than \$6,000,000;
- 11 (F) per cent for properties having a value of
- 12 at least \$6,000,000, but less than \$10,000,000;
- 13 and
- 14 (G) per cent for properties having a value of
- 15 \$10,000,000 or greater; and
- 16 (2) For the sale of a condominium unit or single family
- 17 residence for which the purchaser is ineligible for a
- 18 county homeowner's exemption on property tax:
- 19 (A) per cent for properties having a value of
- 20 less than \$600,000;



1 (B) _____ per cent for properties having a value of
2 at least \$600,000, but less than \$1,000,000;

3 (C) 40 cents per \$100 for properties having a value
4 of at least \$1,000,000, but less than \$2,000,000;

5 (D) 60 cents per \$100 for properties having a value
6 of at least \$2,000,000, but less than \$4,000,000;

7 (E) _____ per cent for properties having a value of
8 at least \$4,000,000, but less than \$6,000,000;

9 (F) _____ per cent for properties having a value of
10 at least \$6,000,000, but less than \$10,000,000;
11 and

12 (G) _____ per cent for properties having a value of
13 \$10,000,000 or greater,

14 of actual and full consideration; provided that in the case of a
15 lease or sublease, this chapter shall apply only to a lease or
16 sublease the full unexpired term of which is for a period of
17 five years or more, and in those cases, including (where
18 appropriate) those cases in which the lease has been extended or
19 amended, the surcharge shall be based on the cash value of the
20 lease rentals discounted to present day value and capitalized at
21 the rate of _____ per cent, plus the actual and full



1 consideration paid or to be paid for any and all improvements,
2 that shall include on-site as well as off-site improvements,
3 applicable to the leased premises; provided further that the
4 surcharge imposed for each transaction shall be no less than \$1.

5 (b) All surcharge on conveyance tax revenues realized
6 pursuant to this section shall be deposited as follows:

7 (1) An amount equaling _____ per cent shall be deposited
8 quarterly into a trust account established pursuant to
9 section 431:21-105 for the purpose of administering
10 and providing property insurance for properties
11 located outside of a lava zone that obtain property
12 insurance under that article; and

13 (2) An amount equaling _____ per cent shall be deposited
14 quarterly into a trust account established pursuant to
15 section 431P-16 for the purpose of providing hurricane
16 insurance under that chapter.

17 (c) The surcharge established pursuant to this section
18 shall not apply to any document, transaction, deed, lease,
19 sublease, assignment of lease, agreement of sale, assignment of
20 agreement of sale, or writing exempted pursuant to
21 section 247-3.



1 (d) For the purposes of this section, "condominium unit"
2 means an individual dwelling unit located within a residential
3 building or complex."

4 SECTION 5. Section 247-4, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§247-4 Payment and liability of the tax.** (a) The tax
7 imposed by this chapter shall be paid by the grantor, lessor,
8 sublessor, assignor, transferor, seller, conveyor, or any other
9 person conveying realty, or any interest therein, by a document
10 or instrument subject to section 247-1; except, however, in the
11 case where the United States or any agency or instrumentality
12 thereof or the State or any agency, instrumentality, or
13 governmental or political subdivision thereof is the grantor,
14 lessor, sublessor, assignor, transferor, seller, or conveyor,
15 the tax shall be paid by the grantee, lessee, sublessee,
16 assignee, transferee, purchaser, or conveyee, as the case may
17 be.

18 (b) The tax imposed by this chapter shall be paid at
19 ~~[such]~~ a place or places as the director of taxation may direct
20 and shall be due and payable no later than ninety days after the
21 taxable transaction, and ~~[in any event prior to]~~ before the



1 imprinting of the seal or seals as provided by section 247-5.
2 Penalties and interest shall be added to and become a part of
3 the tax, when and as provided by section 231-39.

4 (c) Notwithstanding any requirement of subsection (a) to
5 the contrary, the cost of the property insurance surcharge on
6 conveyance tax established under section 247- shall be paid
7 by the seller."

8 PART IV

9 SECTION 6. Section 431:21-102, Hawaii Revised Statutes, is
10 amended by adding two new definitions to be appropriately
11 inserted and to read as follows:

12 "Condominium" means real property that:

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

15 (2) Has four or more stories that are or can be occupied
16 by a person; and

17 (3) Is in insurable condition, or may be repaired,
18 renovated, or remediated into insurable condition
19 within a reasonable period under a repair, renovation,
20 or remediation plan and timetable established and



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

3 "Property insurance" means policies, riders, or
4 endorsements of insurance that provide indemnity, in whole or in
5 part, for the loss, destruction, or damage of property and
6 against legal liability for the death, injury, or disability of
7 any human being, or from damage to property."

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

10 "**§431:21-105 Powers and duties of the association.** (a)

11 In addition to any other requirements imposed by law, the
12 association shall:

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

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



1 [+2+] (3) Reimburse each servicing facility for obligations
2 of the association paid by the facility and for
3 expenses incurred by the facility while processing
4 applications and servicing policies on behalf of the
5 association; and

6 [+3+] (4) Collect and maintain statistical information and
7 other information required by the commissioner.

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

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

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

16 (3) Contract with a member insurer to perform the duties
17 of the association;

18 (4) Sue or be sued;

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



- 1 (6) If approved by the commissioner, assess member
2 insurers amounts necessary to cover extraordinary
3 losses incurred by the association. Each member
4 insurer shall be notified of the assessment not later
5 than thirty days before it is due. No member insurer
6 may be assessed in any year an amount greater than two
7 per cent of that member insurer's net direct written
8 premiums for the preceding calendar year. The
9 association may exempt or defer, in whole or in part,
10 the assessment of any member insurer if the assessment
11 would cause the member insurer's financial statement
12 to reflect amounts of capital or surplus less than the
13 minimum amounts required for a certificate of
14 authority by any jurisdiction in which the member
15 insurer is authorized to transact business;
- 16 (7) Devise a method to give credit to member insurers [~~for~~
17 ~~homeowners and fire insurance policies individually~~
18 ~~underwritten on risks located in the area designated~~
19 ~~for coverage by the association;~~] as set forth in the
20 plan of operation;



1 (8) Negotiate and become a party to contracts as are
2 necessary to carry out the purposes of this article;
3 [~~and~~]
4 (9) Establish outside the state treasury a reserve trust
5 fund and any accounts thereunder and any other trust
6 fund or account necessary to carry out the purposes of
7 this article. Moneys deposited in the reserve trust
8 fund and any accounts thereunder or any other trust
9 fund or account established by the association shall
10 be held by the association, as trustee, in a
11 depository as defined in section 38-1 or according to
12 a similar arrangement at the discretion of the board,
13 including but not limited to trust or custodial
14 accounts created for the benefit of the fund's secured
15 parties under contractual claims financing
16 arrangements. These moneys may be invested and
17 reinvested in accordance with the plan of operation.
18 Disbursements from the trust funds shall not be
19 subject to chapter 103D and shall be made in
20 accordance with procedures adopted by the board;



1 (10) Receive moneys for deposit into a trust fund or
2 account from the revenues derived from the transient
3 accommodations tax imposed pursuant to
4 section 237D-2(f), surcharge on conveyance tax
5 established pursuant to section 247- , portion of
6 the temporary property insurance stabilization fee
7 identified in section 431P-B(e)(1), special mortgage
8 recording fee authorized after June 30, 2024, pursuant
9 to section 431P-16, and any other source of revenue
10 available to the board; and

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

13 SECTION 8. Section 431:21-106, Hawaii Revised Statutes, is
14 amended as follows:

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

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



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

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

8 "(c) The plan of operation shall:

- 9 (1) Establish procedures for performance of all the powers
10 and duties of the association under
11 section 431:21-105;
- 12 (2) Establish maximum limits of liability to be placed
13 through the association;
- 14 (3) Establish reasonable underwriting standards for
15 determining insurability of a risk [~~which~~] that are
16 comparable to the standards used to determine
17 insurability of a risk located outside the area
18 designated by the commissioner as eligible for
19 association coverage;
- 20 (4) Establish a schedule of deductibles, if appropriate;



- 1 (5) Establish a maximum period of time during which a
2 condominium may be eligible to be insured by the
3 association, which shall not exceed sixty months;
- 4 [~~5~~] (6) Establish the commission to be paid to licensed
5 producers;
- 6 [~~6~~] (7) Establish the rates to be charged for the
7 insurance coverages, so that the total premium income
8 from all association policies, when combined with the
9 investment income, shall annually fund the
10 administration of the association. The administration
11 of the association shall include the expenses incurred
12 in processing applications, conducting inspections,
13 issuing and servicing policies, paying commissions,
14 and paying claims, but shall not include assessments
15 approved by the commissioner;
- 16 [~~7~~] (8) Establish the manner and scope of the inspection
17 and the form of the inspection report. The inspection
18 guidelines may include setting minimum conditions the
19 property must meet before an inspection is required;



- 1 (B) Rate tiers, including potential high deductible
- 2 options and surcharges for condominiums that
- 3 remain in the plan of operation;
- 4 (C) Provisions authorizing the association to decline
- 5 providing coverage;
- 6 (D) Potential annual premium rate increases; and
- 7 (E) Establishment of adequate rates to avoid
- 8 assessment of the voluntary market; and
- 9 (15) Require, prior to issuance or renewal of coverage, the
- 10 applicant for condominium insurance coverage or
- 11 renewal to provide the following to the association:
- 12 (A) The condominium association's declarations,
- 13 bylaws, or other documents that describe their
- 14 process for paying claims, including the portion
- 15 of the claim to be paid by the condominium
- 16 association and the portion to be paid by each
- 17 unit owner;
- 18 (B) Plans to replace aging or failing components;
- 19 provided that the plans shall prioritize the
- 20 replacement of those components that are actively
- 21 causing losses, including pipe replacements;



1 (C) Timelines to complete projects to repair or
2 replace failing components in the condominium,
3 including loan or funding provisions; provided
4 that no timeline included pursuant to this
5 subparagraph shall exceed sixty months; and

6 (D) The condominium association's declarations,
7 bylaws, or other documents that describe their
8 process for handling losses:

9 (i) Pursuant to the applicable master policy;

10 and

11 (ii) By the applicable condominium association."

12 SECTION 9. Section 431:21-107, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "~~[+]§431:21-107[+]—Designation]~~ Coverage eligibility;

15 designation of [area-] areas within certain lava zones;

16 condominiums within the State. (a) After consultation with
17 representatives of the United States Geological Survey, the
18 state department of defense, and the county in which the area is
19 located, the commissioner shall designate the geographical area
20 eligible for coverage in lava zones 1 and 2 through the
21 association. Those properties in the designated area that meet



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

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

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

14 SECTION 10. Section 431:21-109, Hawaii Revised Statutes,
15 is amended by amending subsection (a) to read as follows:

16 "(a) The association shall be an insurer of last resort,
17 and any applicant for insurance provided by the fund shall
18 provide proof, to the satisfaction of the association, of the
19 inability to obtain property insurance from insurers licensed to
20 transact business in the State. All properties qualifying for
21 coverage under the plan of operation shall be eligible for the



1 standard fire policy and extended coverage endorsement. The
2 association shall provide additional coverages when directed by
3 the commissioner or when approved by the commissioner."

4 SECTION 11. Section 431:21-115, Hawaii Revised Statutes,
5 is amended as follows:

6 "~~[§431:21-115] Credits for~~ Recoupment of assessments
7 paid. ~~[A member insurer may offset against its premium tax~~
8 ~~liability to this State an assessment made with the~~
9 ~~commissioner's approval to the extent of twenty per cent of the~~
10 ~~amount of the assessment for each of the five calendar years~~
11 ~~following the year in which the assessment was paid. In the~~
12 ~~event a member insurer should cease doing business in this~~
13 ~~State, all uncredited assessments may be credited against its~~
14 ~~premium tax liability for the year it ceases doing business.]~~
15 (a) Each member insurer shall annually recoup assessments paid
16 by the member insurer under section 431:21-105(b)(6). The
17 recoupment shall be recovered by means of a surcharge on
18 premiums charged by the member insurer for policies of all
19 kinds. Any excess recovery by a member insurer shall be
20 credited pro rata to that member insurer's policyholders'
21 premiums in the succeeding year unless there has been a



1 subsequent assessment, in which case the excess shall be used to
2 pay the amount of the subsequent assessment. A member insurer
3 may continue to surcharge premiums until the full assessments
4 are recouped.

5 (b) The surcharge required under subsection (a) shall be
6 two per cent of the total premiums charged for each policy by
7 the member insurer.

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

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

17 SECTION 12. Section 431:21-109, Hawaii Revised Statutes,
18 is repealed.

19 [~~"§431:21-109 Insurance coverages available under plan.~~

20 ~~(a) All properties qualifying for coverage under the plan of~~
21 ~~operation shall be eligible for the standard fire policy and~~



1 ~~extended coverage endorsement. The association shall provide~~
2 ~~additional coverages when directed by the commissioner or when~~
3 ~~approved by the commissioner.~~

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

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

15 PART V

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

19 **"§431P-A Recoupment of assessments paid.** (a) Each
20 licensed property and casualty insurer shall annually recoup
21 assessments paid by the licensed property and casualty insurer



1 under sections 431P-5(b)(8)(A) and (B), and 431P-16(e). The
2 recoupment shall be recovered by means of a surcharge on
3 premiums charged by the licensed property and casualty insurer
4 for policies on which the assessment was made. Any excess
5 recovery by a licensed property and casualty insurer shall be
6 credited pro rata to that insurer's policyholder's premiums in
7 the succeeding year unless there has been a subsequent
8 assessment, in which case the excess shall be used to pay the
9 amount of the subsequent assessment. A licensed property and
10 casualty insurer may continue to collect a surcharge on premiums
11 until the full assessments are recouped.

12 (b) The surcharge required under subsection (a) shall be
13 the same percentage of the total premiums charged for each
14 policy assessed under sections 431:P-5(b)(8)(A) and (B), and
15 431P-16(e).

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



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

6 **§431P-B Temporary property insurance stabilization fee;**
7 **established.** (a) There is established a temporary property
8 insurance stabilization fee, the proceeds of which shall be
9 deposited into a separate trust account within the hurricane
10 reserve trust fund established pursuant to section 431P-16.

11 (b) Except as determined by board order, the temporary
12 property insurance stabilization fee shall be imposed on or
13 after _____, on all transfers or conveyances of realty or any
14 interest therein, by way of deeds, leases, subleases,
15 assignments of lease, agreements of sale, assignments of
16 agreement of sale, instruments, writings, and any other
17 document, whereby any lands, interests in land, tenements, or
18 other realty sold shall be granted, assigned, transferred, or
19 otherwise conveyed to, or vested in, the purchaser or
20 purchasers, lessee or lessees, sublessee or sublessees, assignee



1 or assignees, or any other person or persons, by the person's or
2 their direction; provided that:

3 (1) The temporary property insurance stabilization fee
4 shall not apply to any document, transaction, deed,
5 lease, sublease, assignment of lease, agreement of
6 sale, assignment of agreement of sale, or writing
7 under section 247-3; and

8 (2) Unless otherwise determined by the board, the
9 temporary property insurance stabilization fee shall
10 not be imposed after _____.

11 (c) The temporary property insurance stabilization fee
12 shall be an amount equal to _____ of one per cent of the
13 actual and full consideration (whether cash or otherwise,
14 including any promise, act, forbearance, property interest,
15 value, gain, advantage, benefit, or profit), paid or to be paid
16 for all transfers or conveyance of realty or any interest
17 therein, that shall include any liens or encumbrances thereon at
18 the time of sale, lease, sublease, assignment, transfer, or
19 conveyance; provided that the board may establish a lower
20 temporary property insurance stabilization fee amount pursuant
21 to section 431P-5(b)(13).



1 (d) The temporary property insurance stabilization fee
2 shall be:

3 (1) In addition to any applicable fees under chapter 501
4 or 502;

5 (2) Submitted at the time the transaction is recorded by
6 the bureau of conveyances or the assistant registrar
7 of the land court of the State to, and collected by,
8 the bureau of conveyances or the assistant registrar
9 of the land court of the State; and

10 (3) Shared, unless otherwise agreed to, by the grantor,
11 lessor, sublessor, assignor, transferor, seller,
12 conveyor, or any other person conveying realty and the
13 grantee, lessee, sublessee, assignee, transferee,
14 purchaser, or conveyee or any other person purchasing,
15 leasing, subleasing, assigning, transferring or
16 conveying any realty that is subject to this section.

17 (e) All revenues realized from the temporary property
18 insurance stabilization fee shall be deposited as follows:

19 (1) An amount equaling per cent shall be deposited
20 quarterly into a trust account established pursuant to
21 section 431:21-105(b) (9) for the purpose of



1 administering and providing property insurance for
 2 properties qualified to receive property insurance
 3 pursuant to section 431:21-107(b); and
 4 (2) An amount equaling per cent shall be deposited
 5 quarterly into a trust account established pursuant to
 6 section 431P-16."

7 SECTION 14. Section 431P-1, Hawaii Revised Statutes, is
 8 amended as follows:

9 1. By adding a new definition to be appropriately inserted
 10 and to read:

11 "Condominium" means real property that:

- 12 (1) Has an association registered with the real estate
 13 commission in accordance with chapter 514B, part VI;
- 14 (2) Has four or more stories that are or can be occupied
 15 by a person; and
- 16 (3) Is in insurable condition, or may be repaired,
 17 renovated, or remediated into insurable condition
 18 within a reasonable period under a repair, renovation,
 19 or remediation plan and timetable established and
 20 provided in the plan of operation or any manual of
 21 rules and rates adopted under the plan of operation."



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

3 ""Eligible property" means:

- 4 (1) Real property [~~of one to four units~~] used for
5 residential purposes and [~~which~~] that is in insurable
6 condition, and [~~which~~] that may include tangible
7 personal property located therein or thereon and other
8 structures at the insured location, as provided in the
9 plan of operation or any manual of rules and rates
10 adopted under the plan of operation;
- 11 (2) Real property used for business, commercial, or
12 industrial purposes [~~which~~] that is in insurable
13 condition, and [~~which~~] that may include tangible
14 personal property located therein or thereon, as
15 provided in the plan of operation or any manual of
16 rules and rates adopted under the plan of operation;
- 17 (3) Tangible personal property owned by an occupant of and
18 located in or on real property of the types described
19 in paragraph (1), as provided in the plan of operation
20 or any manual of rules and rates adopted under the
21 plan of operation; provided that the owner of the



1 tangible personal property does not own the real
2 property in or [~~on~~] upon which the tangible personal
3 property is located; and

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

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

14 ""Licensed property and casualty insurer" means[+
15 ~~(1)~~ ~~Any~~] any insurer licensed to transact any one or more
16 classes of insurance authorized in section 431:3-204
17 where premiums written within [~~such~~] the authority are
18 required to be reported in the "Exhibit of Premiums
19 and Losses" for this State in the National Association
20 of Insurance Commissioners fire and casualty annual
21 statement convention blank that is required to be



1 filed with the commissioner under section 431:3-302[+
2 and
3 ~~(2) The Hawaii Property Insurance Association created in~~
4 ~~article 21 of chapter 431]."~~

5 4. By amending the definition of "policy of hurricane
6 property insurance" to read:

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

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

18 ~~(2) \$500,000 per risk on real and personal property used~~
19 ~~for business, commercial, or industrial purposes,~~
20 ~~subject to the limits defined by the plan of operation~~
21 ~~or any manual of rules and rates adopted under the~~



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

10 SECTION 15. Section 431P-2, Hawaii Revised Statutes, is
 11 amended to read as follows:

12 "[~~§~~431P-2] **Establishment of Hawaii hurricane relief**
 13 **fund.** There shall be a Hawaii hurricane relief fund to be
 14 placed within the department of commerce and consumer affairs
 15 for administrative purposes. The fund shall be a public body
 16 and a body corporate and politic. The fund shall be an insurer
 17 of last resort, and any applicant for insurance from the fund
 18 shall provide proof, to the satisfaction of the board, of the
 19 inability to obtain hurricane property insurance from insurers
 20 licensed to transact business in the State."



1 SECTION 16. Section 431P-5, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

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

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

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

15 (3) Adopt actuarially sound rates based on reasonable
16 assumptions relative to expectations of hurricane
17 frequency and severity for all coverage provided under
18 policies or endorsements issued by the fund. Rates
19 adopted shall be subject to approval by the
20 commissioner pursuant to article 14 of chapter 431.
21 Rates adopted shall provide for classification of



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



1 and perform any other duties as authorized by the fund
2 for applicants to the fund and those insured by it;

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



1 limited to bonds and notes, arising out of a
2 covered event [~~shall~~] have been fully discharged.
3 [~~An insurer authorized to provide comparable~~
4 ~~coverage under section 431P-10(b) and which is~~
5 ~~providing hurricane property insurance in the~~
6 ~~State shall be assessed an amount that excludes~~
7 ~~gross direct written premiums for property~~
8 ~~insurance in this State.] The assessment for a
9 year in which a covered event has not occurred
10 shall be collected quarterly during each calendar
11 year;~~

12 (B) [~~In the event of~~] If a loss occurs from a covered
13 event the fund, in addition to the assessment in
14 subparagraph (A), shall assess those insurers
15 which 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 hurricane 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 1998, 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 1999, 1.125 per cent;~~

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

10 ~~(iv) For] for calendar year 2001, and each~~
11 calendar 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 hurricane 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 hurricane 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~~] Exempt or defer, in whole
10 or in 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 this State;

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



1 premium for property insurance from the assessment
2 pursuant to paragraph (8) (A);
3 [~~(10)~~] ~~Develop a credit based on the difference between~~
4 ~~premiums written in 1993 and the premiums written in~~
5 ~~1992 by each property insurer against the assessment~~
6 ~~for gross direct written premiums written in 1993;~~
7 ~~(11)~~ (10) Develop procedures regarding policies written by
8 unauthorized insurers comparable to the assessments,
9 surcharges, and other contributions made by insurers
10 authorized to do business in this State;
11 [~~(12)~~] (11) Accumulate reserves or funds, including the
12 investment income thereon, to be used for paying
13 expenses, making or repaying loans or other
14 obligations of the fund, providing loss mitigation
15 incentives, and paying valid claims for covered events
16 insured by the fund;
17 [~~(13)~~] (12) Collect and maintain statistical and other data
18 as may be required by the commissioner;
19 [~~(14)~~] (13) Exempt mortgage transactions from payments of
20 the special mortgage recording fee or the temporary
21 property insurance stabilization fee established



1 pursuant to section 431P-B and provide for maximum
2 limits on or, uniform reduction of the special
3 mortgage recording fee~~[7]~~ or the temporary property
4 insurance stabilization fee established pursuant to
5 section 431P-B pursuant to rules adopted by the board;
6 ~~[(15)]~~ (14) Suspend or reactivate the special mortgage
7 recording fee pursuant to resolution of the board;
8 ~~[(16)]~~ (15) Impose fines for each incident of nonpayment of
9 amounts due to the fund under this chapter; provided
10 that the fines shall not exceed twenty-five per cent
11 of the amount then due;
12 ~~[(17)]~~ (16) Create loss mitigation incentives, including but
13 not limited to premium credits, premium rebates,
14 loans, or cash payments;
15 ~~[(18)]~~ (17) Enter into claims financing transactions,
16 including but not limited to reinsurance transactions,
17 debt transactions, and other transactions
18 incorporating elements of reinsurance, insurance,
19 debt, or equity;



1 trust fund established pursuant to section 431P-16;
2 provided that the repayment shall not commence until
3 the fund is sufficiently capitalized as determined by
4 the fund; and

5 [+20+] (21) Perform any and all acts reasonably necessary to
6 carry out the purposes of this chapter."

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

9 "**§431P-5.5 Accumulation of [~~\$500,000,000~~ in] funds and**
10 **commitments.** (a) Upon written confirmation from the insurance
11 commissioner that the director [~~of finance~~] has secured
12 [~~\$500,000,000~~], in the aggregate, a target amount established by
13 the plan of operation in the form of:

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

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

19 (3) A combination of the commitments or bonds[+],

20 the Hawaii hurricane relief fund shall[+]

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



1 [~~2~~ ~~Continue~~] continue accumulating premiums from policies
2 of hurricane property insurance [~~and~~], the special
3 mortgage recording fee, conveyance tax surcharge,
4 temporary property insurance stabilization fee, and
5 transient accommodations tax revenue, net of any
6 reinsurance payments, operating expenses, and funds
7 necessary for the development of a comprehensive loss
8 reduction plan.

9 (b) When the balance of the net moneys accumulated totals
10 [~~\$500,000,000,~~] the target amount established by the plan of
11 operation, the Hawaii hurricane relief fund may notify the
12 insurance commissioner of that fact. The insurance
13 commissioner, in turn, may order, following the receipt of the
14 notice, a reduction in the rates for policies of hurricane
15 property insurance.

16 (c) [~~In the event of~~] If a loss from a covered event [~~,~~]
17 occurs, the net moneys accumulated shall be used to settle
18 claims and pay current and ongoing expenses of the Hawaii
19 hurricane relief fund. The net accumulated moneys, commitments,
20 and bonds described in subsection (a) [~~2~~] shall be used only



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

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

13 (e) The Hawaii hurricane relief fund shall be exempt from
14 paying all taxes and fees levied by the State on other
15 insurers."

16 SECTION 18. Section 431P-7, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:

18 "(c) The plan of operation shall:

19 (1) Establish procedures for performance of all powers and
20 duties of the fund;



- 1 (2) Establish procedures for providing notice to all
2 persons with interests insurable by the fund in the
3 State of the type of insurance available from the fund
4 ~~[in the event]~~ if the fund offers insurance;
- 5 (3) Provide for and adopt all necessary forms, including
6 insurance policies to be used by and on behalf of the
7 fund, for use by the fund and servicing facilities;
- 8 (4) Adopt actuarially sound rates, based on reasonable
9 assumptions relative to expectations of hurricane
10 frequency and severity, to be charged for insurance
11 provided by the fund, in accordance with article 14 of
12 chapter 431;
- 13 (5) Publish manuals of rules, rates, and rating and
14 classification plans, which shall address mandatory
15 deductibles, limits of coverage, and the
16 classification of risks and rate modifications based
17 on the exposure of insureds[+], subject to the
18 approval of the commissioner;
- 19 (6) Establish procedures for receiving and servicing
20 applications to the fund;



- 1 (7) Establish procedures for processing and maintaining
2 records of the fund relating to its financial
3 transactions, its agents, its employees, its
4 operations, and all transactions with any servicing
5 facility;
- 6 (8) Establish procedures for the collection and remittance
7 of the premiums and return of unearned premiums where
8 applicable;
- 9 (9) Establish procedures for the payment of valid claims;
- 10 (10) Establish the target amount under section 431P-5.5(b)
11 and minimum amount under 431P-5.5(d), subject to the
12 approval of both the commissioner and the director;
- 13 ~~[(10)]~~ (11) Establish procedures for prorating available
14 funds pursuant to section 431P-15;
- 15 ~~[(11)]~~ (12) Establish procedures for obtaining reinsurance;
- 16 ~~[(12)]~~ (13) Establish procedures to borrow funds; and
- 17 ~~[(13)]~~ (14) Develop a plan for the investment of moneys held
18 by the fund [~~subject to the limitations in article 6~~
19 ~~of chapter 431~~]."

20 SECTION 19. Section 431P-10, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "~~§431P-10~~ **Coverage available from the fund; deductible.**

2 ~~[(a) Policies]~~ Coverage limits and deductibles for policies
3 issued by the fund covering eligible property shall ~~[provide a~~
4 ~~maximum aggregate coverage of up to \$750,000 per risk on real~~
5 ~~property of one to four units used for residential purposes and~~
6 ~~\$500,000 per risk for real property used for business,~~
7 ~~commercial, or industrial purposes and shall provide for a~~
8 ~~mandatory deductible. The deductible amount for residential~~
9 ~~property policies shall be the greater of \$1,000 or one per cent~~
10 ~~of the insured value or the greater of \$2,000 or two per cent of~~
11 ~~the insured value; provided that the board may establish higher~~
12 ~~deductible limits. The deductible amount for commercial~~
13 ~~property policies shall be the greater of \$5,000 or five per~~
14 ~~cent of the insured value or an amount equivalent to all the~~
15 ~~other perils deductible of the companion policy; provided that~~
16 ~~the board may establish higher deductible limits.~~

17 ~~(b) Insurers seeking to provide multi-peril coverage for~~
18 ~~residential property, including multi-peril coverage of the~~
19 ~~hurricane peril, subject to the fund's program for incentives~~
20 ~~and credits, shall submit to the commissioner a written request~~
21 ~~for permission to write the coverage; provided that in the~~



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

15 SECTION 20. Section 431P-11, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) [The] Except for applicants who are otherwise able to
18 procure hurricane property insurance from insurers licensed to
19 transact business in the State, the fund shall not deny any
20 application for hurricane property insurance on any property
21 eligible under subsection (a)."



1 SECTION 21. Section 431P-16, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsections (a) through (c) to read:

4 "(a) The fund shall establish outside the state treasury a
5 hurricane reserve trust fund and any accounts thereunder and any
6 other trust fund or account necessary to carry out the purposes
7 of this chapter. Commencing on July 1, 2024, any general fund
8 moneys appropriated or revenues derived from any bonds
9 authorized and issued by the State and loaned to the fund to
10 sufficiently capitalize its insurance operations shall be
11 deposited into the hurricane reserve trust fund in a separate
12 account. Moneys deposited in the hurricane reserve trust fund
13 and any accounts thereunder or any other trust fund or account
14 shall be held by the fund, as trustee, in a depository as
15 defined in section 38-1 or according to a similar arrangement at
16 the discretion of the board, including, but not limited to,
17 trust or custodial accounts created for the benefit of the
18 fund's secured parties under contractual claims financing
19 arrangements. These moneys may be invested and reinvested in
20 accordance with the plan of operation. Disbursements from the



1 trust funds shall not be subject to chapter 103D and shall be
2 made in accordance with procedures adopted by the board.

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

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



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

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



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

3 (c) The Hawaii hurricane relief fund shall implement the
4 assessments of all property and casualty insurers as authorized
5 by section 431P-5(b)(8)(A) and (B) and the proceeds from the
6 assessments shall be deposited into the hurricane reserve trust
7 fund or into trust or custodial accounts, created for the
8 benefit of the fund's secured parties, that are held inside or
9 outside the hurricane reserve trust fund[-]; provided that after
10 June 30, 2024, all proceeds realized from the collection of the
11 assessments shall be deposited into a separate trust account
12 within the hurricane reserve trust fund.

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

15 2. By amending subsection (g) to read:

16 "(g) Any proceeds from loans or other moneys from the
17 federal government, any proceeds from bonds issued pursuant to
18 this chapter loaned by the director to the Hawaii hurricane
19 relief fund, all revenues realized from the transient
20 accommodations tax established pursuant to section 237D-2(f) on
21 transient vacation rentals, the surcharge on conveyance tax



1 established pursuant to section 247- , the temporary property
2 insurance stabilization fee established pursuant to section
3 431P-B, and other moneys as the State may make available from
4 time to time shall be deposited into the hurricane reserve trust
5 fund[-]; provided that commencing on July 1, 2024, all revenues
6 realized from the transient accommodations tax established
7 pursuant to section 237D-2(f) on transient vacation rentals, the
8 surcharge on conveyance tax established pursuant to section
9 247- , the portion of the temporary property insurance
10 stabilization fee identified in section 431P-B(e) (2), and any
11 special mortgage recording fee that is reinstated after July 1,
12 2024, shall be deposited into separate accounts of the hurricane
13 reserve trust fund."

14 3. By amending subsection (i) to read:

15 "(i) Moneys in the hurricane reserve trust fund may be
16 disbursed upon dissolution of the Hawaii hurricane relief fund;
17 provided that:

- 18 (1) The net moneys in the hurricane reserve trust fund
- 19 shall revert to the state general fund after payments
- 20 by the fund on behalf of licensed property and
- 21 casualty insurers or the State that are required to be



1 made pursuant to any federal disaster insurance
2 program enacted to provide insurance or reinsurance
3 for hurricane risks are completed; and

4 (2) If [~~such~~] the moneys are paid on behalf of licensed
5 property and casualty insurers, payment shall be made
6 in proportion to the premiums from policies of
7 hurricane property insurance serviced by the insurers
8 in the twelve months prior to dissolution of the
9 fund[~~+~~

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

14 SECTION 22. (a) Notwithstanding the specific powers
15 provided to the Hawaii hurricane relief fund board of directors
16 pursuant to section 431P-5, Hawaii Revised Statutes, or any
17 other law to the contrary, the special mortgage recording fee
18 established pursuant to section 431P-16, Hawaii Revised
19 Statutes, may be reinstated by the insurance commissioner on any
20 date after the effective date of this Act.



1 (b) The special mortgage recording fee amount shall be
2 assessed at the same rate and under the same conditions that
3 existed on June 30, 2001, the day prior to the enactment of
4 Act 153, Session Laws of Hawaii 2001.

5 (c) The special mortgage recording fee amount shall remain
6 in force at the rate established pursuant to subsection (b)
7 until suspended or amended by the Hawaii hurricane relief fund
8 board of directors.

9 PART VI

10 SECTION 23. In accordance with section 9 of article VII,
11 of the Constitution of the State of Hawaii and sections 37-91
12 and 37-93, Hawaii Revised Statutes, the legislature has
13 determined that the appropriation contained in this Act will
14 cause the state general fund expenditure ceiling for fiscal year
15 2024-2025 to be exceeded by \$, or per cent. The
16 reasons for exceeding the general fund expenditure ceiling are
17 that the appropriation made in this part is necessary to serve
18 the public interest and to meet the needs provided for by this
19 Act.

20 SECTION 24. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$ or so



1 much thereof as may be necessary for fiscal year 2024-2025 to
2 provide a loan to the Hawaii hurricane relief fund to assist in
3 sufficiently capitalizing the hurricane reserve trust fund,
4 provide insurance coverage for insureds, procure reinsurance,
5 and related operations costs. The moneys shall be deposited
6 into the hurricane reserve trust fund established pursuant to
7 section 431P-16, Hawaii Revised Statutes.

8 The sum appropriated shall be expended by the Hawaii
9 hurricane relief fund for the purposes of part V of this Act;
10 provided that any moneys appropriated to the Hawaii hurricane
11 relief fund shall be repaid to the general fund in accordance
12 with the procedures, guidelines, installment amounts, and
13 timetable established for the repayment of any general fund
14 moneys pursuant to section 431P-5(b)(20), Hawaii Revised
15 Statutes.

16 SECTION 25. The director of finance is authorized to issue
17 general obligation bonds in the sum of \$ or so
18 much thereof as may be necessary and the same sum or so much
19 thereof as may be necessary is appropriated for fiscal year
20 2024-2025 to provide a loan to the Hawaii hurricane relief fund
21 to assist in sufficiently capitalizing the hurricane reserve



1 trust fund, provide insurance coverage for insureds, procure
2 reinsurance, and related operations costs. The moneys shall be
3 deposited into the hurricane reserve trust fund established
4 pursuant to section 431P-16, Hawaii Revised Statutes.

5 The sum appropriated shall be expended by the Hawaii
6 hurricane relief fund for the purposes of part V of this Act;
7 provided that any moneys appropriated to the Hawaii hurricane
8 relief fund shall be repaid to the general fund in accordance
9 with the procedures, guidelines, installment amounts, and
10 timetable established for the repayment of any general fund
11 moneys pursuant to section 431P-5(b)(20), Hawaii Revised
12 Statutes.

13 PART VII

14 SECTION 26. In codifying the new sections added by section
15 13 of this Act, the revisor of statutes shall substitute
16 appropriate section numbers for the letters used in designating
17 the new sections in this Act.

18 SECTION 27. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 28. This Act shall take effect on July 1, 3000.



Report Title:

Property Insurance; HHRF; HPIA; Condominiums; Appropriation;
Expenditure Ceiling

Description:

Amends the laws relating to the Hawaii Hurricane Relief Fund and Hawaii Property Insurance Association by: imposing a different transient accommodation tax rate for transient vacation rentals, a property insurance surcharge on conveyance tax, and a temporary property insurance stabilization fee on real property transactions to capitalize the Hawaii Property Insurance Association and Hawaii Hurricane Relief Fund; expanding the statutory authorization for the Hawaii Property Insurance Association to issue property insurance for certain condominiums and amending the designated geographic area eligible for coverage to specifically include lava zones 1 and 2; mandating that the Hawaii Hurricane Relief Fund and Hawaii Property Insurance Association be insurers of last resort; requiring Hawaii Property Insurance Association member insurers and licensed property and casualty insurers to recoup assessment costs paid into the Hawaii Property Insurance Association and the Hawaii Hurricane Relief Fund through a surcharge on premiums; requiring coverage limits and deductibles and fund capitalization amounts for licensed property and casualty insurers to be established in a plan of operation for the Hawaii Hurricane Relief Fund, subject to approval by the Insurance Commissioner; and reinstating the special mortgage recording fee to capitalize the Hawaii Hurricane Relief Fund. Appropriates moneys as a loan to the Hawaii Hurricane Relief Fund to assist it in becoming sufficiently capitalized and other purposes. Authorizes the issuance of general obligation bonds and appropriates bond revenues as a loan to the Hawaii Hurricane Relief Fund to assist it in becoming sufficiently capitalized and other purposes. Effective 7/1/3000. (HD2)

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