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GOVERNOR | KE KIAʻĀINA

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LIEUTENANT GOVERNOR | KA HOPE KIAʻĀINA

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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committees on Ways and Means and Judiciary
Friday, March 1, 2024
10:31 a.m.
State Capitol, Rm. 211 & via Videoconference

On the following measure:
S.B. 3234, S.D.1, RELATING TO THE STABILIZATION OF PROPERTY INSURANCE

WRITTEN TESTIMONY ONLY

Chair Dela Cruz, Chair Rhoads, and Members of the Committees:

My name is Gordon Ito, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. We offer comments on this bill.

The purposes of this bill are to: (1) amend the laws relating to the Hawaiʻi Hurricane Relief Fund and Hawaiʻi Property Insurance Association; (2) expand the Hawaiʻi Property Insurance Association's authority to include the issuance of property insurance other than fire insurance for certain real properties organized as a condominium; (3) reinstate the special mortgage recording fee; (4) explicitly authorize the Hawaiʻi Property Insurance Association to issue property insurance policies to certain condominiums outside of area designated for coverage by the Hawaiʻi Property Insurance Association; (5) mandate that the Hawaiʻi Property Insurance Association member insurers recoup assessment costs; (6) amend specific coverage limits, fund capitalization amounts, and assessment percentages by deleting specified dollar amounts percentages; and (7) authorize the Hawaiʻi Hurricane Relief Fund and the Hawaiʻi Property Insurance Association boards to recommend appropriate amounts and percentages to the Insurance Commissioner.

We support the intent of addressing the availability of master condominium insurance policies. Hawaiʻi is experiencing a hard market for this product. We note that a major contributing factor is the poor condition of certain condominium buildings caused by deferred maintenance and/or aging infrastructure.

Thank you for the opportunity to testify.

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT GOVERNOR

Hawaii Green Infrastructure Authority
An Agency of the State of Hawaii

JAMES KUNANE TOKIOKA
CHAIR

GWEN S YAMAMOTO LAU
EXECUTIVE DIRECTOR

Testimony of
Gwen Yamamoto Lau
Executive Director
Hawaiʻi Green Infrastructure Authority
before the
SENATE COMMITTEE ON WAYS AND MEANS
And
SENATE COMMITTEE ON JUDICIARY
Friday, March 1, 2024, 10:31 AM
State Capitol, Conference Room 211
in consideration of
Senate Bill No. 3234, SD1
RELATING TO THE STABILIZATION OF PROPERTY INSURANCE

Chairs Dela Cruz and Rhoads, Vice Chairs Moriwaki and Gabbard, and Members of the Committees:

Thank you for the opportunity to testify on SB 3234, SD1, relating to the stabilization of property insurance. The Hawaiʻi Green Infrastructure Authority (HGIA) **supports** this bill which expands the Hawaii Property Insurance Association's authority to include the issuance of property insurance for condominiums.

With approximately 55% of all condo units in Hawaii built prior to 1980[1], there are a significant number of 40+-year old condominium projects requiring replacements, upgrades and retrofits, including re-piping, spalling, windows and railings and alarms[2], all of which are costly and complicated. Providing a temporary insurance safety net for Condominium projects unable to access insurance, will provide Association leadership up to five years to plan, coordinate and implement necessary upgrades to increase its ability to obtain insurance in the condominium insurance marketplace.

Thank you for this opportunity to provide comments and testify in support of SB 3234, SD1.

[1] "Why Hawaii's Aging Condos Can't Afford to Defer Maintenance," First Insurance Company of Hawaii, January 5, 2004.
[2] "A Condominium Can Last Hundreds of Years, But Not Its Components," Hawaii Business Magazine, August 31, 2020.

JOSH GREEN M.D.
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LT. GOVERNOR

GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
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STATE OF HAWAIʻI
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TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION

TESTIMONY ON THE FOLLOWING MEASURE:
S.B. No. 3234, S.D. 1, Relating to the Stabilization of Property Insurance.

BEFORE THE:
Senate Committees on Ways and Means, and Judiciary

DATE:	Friday, March 1, 2024
TIME:	10:31 a.m.
LOCATION:	State Capitol, Room 211

Chairs Dela Cruz and Rhoads, Vice-Chairs Moriwaki and Gabbard, and Members of the Committees:

The Department of Taxation ("Department") offers the following comments regarding S.B. 3234, S.D. 1, for your consideration.

Parts II and III of S.B. 3234, S.D. 1 make several changes to the transient accommodation tax (TAT) under chapter 237D, Hawaii Revised Statutes (HRS), and the conveyance tax under chapter 247, HRS. S.B. 3234, S.D. 1, has a placeholder effective date of July 1, 2040.

With respect to TAT, Part II of the measure amends sections 237D-1 and 237D-2, HRS, to add the new taxable category of "transient vacation rental" alongside the existing category of "transient accommodations," with "transient vacation rental" defined in section 237D-1 as "'short term rental', 'transient vacation rental', 'transient vacation unit', or 'transient vacation use', as defined by applicable county ordinance." The measure also adds definitions for "booking service," "county" and "hosting platform" to section 237D-1.

The new TAT rate on transient vacation rentals is set as an unspecified percentage for the period beginning on July 1, 2024, with 50 percent of those revenues slated for deposit into a property insurance trust account under section 431:21-105, and the other 50 percent slated for deposit into a hurricane insurance trust account under section 431P-16.

With respect to conveyance tax, Part III of the measure creates a new section to be inserted in chapter 247, HRS, creating an additional surcharge on conveyance tax modeled from existing conveyance tax rates and bases. The surcharge percentages are mostly unspecified, except that for a purchaser ineligible for a county homeowner's exemption on property tax, the surcharge would be forty cents per $100 for properties having a value of at least $1,000,000, but less than $2,000,000; and sixty cents per $100 for properties having a value of at least $2,000,000, but less than $4,000,000.

Conveyance Tax surcharge revenues will also be deposited into a property insurance trust account under section 431:21-105, and into a hurricane insurance trust account under section 431P-16, but the surcharge's respective deposit percentages are not specified. The surcharge will not apply if the conveyance is already exempt from conveyance tax under section 247-3, HRS. The measure also amends section 247-4, HRS, to specify that the cost of the surcharge shall be paid by the seller.

The Department notes that the bill's new definition of “transient vacation rentals” may cause confusion, given that transient accommodations are already broadly defined for TAT purposes as units furnished for less than 180 consecutive days (HRS § 237D-1). The new term creates a sub-class of rental units taxed differently based on different county definitions. For example, the City and County of Honolulu generally defines a “transient vacation unit” as one “advertised, solicited, offered or provided,” for periods of less than 90 consecutive days, although a federal court injunction has maintained that that the classification only applies to units rented for periods of 30 days or less. Revised Ordinances of Honolulu § 21-10.1; *see also* Allison Schaefers, *Rentals ruled exempt from 90 – day change*, HONOLULU STAR-ADVERTISER, Jan. 1, 2024, at A1.

Under the current bill, the new “transient vacation rental” tax rate would apply when a Honolulu transient vacation unit is rented for less than 180 days but not for more than 30 days (or 90 days if the federal injunction is lifted). Yet for counties that define transient vacation rentals as units rented for periods of less than 180 days (e.g., Maui County Code § 19.04.040, Kaua’i County Code § 8-1.5), the definition is indistinguishable from a “transient accommodation” under HRS § 237D-1, and the surcharge would apply to all units rented.

In lieu of imposing an additional tax on four different categories of "transient vacation rentals," the Department suggests increasing the TAT on all transient accommodations. In the alternative, the Department suggests that a single definition of "transient vacation rental" be adopted, without reference to county ordinance, which will apply uniformly to all short-term rentals in the State.

Additionally, the new trust account allocations on pages 14 and 15 will be difficult for the Department to administer. The Department currently allocates TAT based on percentages applied to the total TAT collected for the month. This bill will require the

Department to segregate amounts collected from a new class of “transient vacation rental" units that are difficult to determine, and then distribute those segregated amounts to the new trust accounts established under sections 431:21-105 and 431P-16, HRS. This requires a fundamental change in how the Department accounts for and reports on TAT revenues. This will also create administrative difficulties, as TAT amounts reported do not always match those paid with the return.

The Department requests that the bill be amended to remove the proposed allocation formulas in HRS section 237D-2(f), as these will unnecessarily complicate administration of the TAT. The Department recommends that funding allocations instead be made as either set dollar amounts or percentages of all TAT revenues collected under section 237D-6.5, HRS.

Finally, if this measure passes with the Department’s proposed amendments, the Department requests the effective date of the tax law changes in sections 2, 3, 4, and 5 be delayed until January 1, 2026, to provide sufficient time for the Department to make the necessary form, instruction, computer system, and administrative changes, and provide taxpayer education about the increased taxes and requirements.

Thank you for the opportunity to provide comments on this measure.

SB-3234-SD-1
Submitted on: 2/27/2024 9:37:12 PM
Testimony for WAM on 3/1/2024 10:31:00 AM

Submitted By	Organization	Testifier Position	Testify
Resident Manager	Testifying for Honolulu Tower AOAO	Support	Written Testimony Only

Comments:

Honolulu Tower is a 396 unit condominium built in 1982, located at Beretania and Maunakea Streets. At its meeting on February 5, 2024, the Honolulu Tower Association of Apartment Owners Board of Directors voted unanimously to support SB3234. The Board urges you to move this bill forward.

This will provide a temporary insurance safety net for condominiums unable to access insurance and increase their ability to obtain insurance in the condominium insurance marketplace.

Idor Harris

Resident Manager

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March 1, 2024

The Honorable Donovan M. Dela Cruz, Chair
Senate Committee on Ways and Means

The Honorable Karl Rhoads, Chair
Senate Committee on Judiciary
State Capitol, Conference Room 211 & Videoconference

RE: Senate Bill 3234 SD1, Relating to the Stabilization of Property Insurance
HEARING: Friday, March 1, 2024, at 10:31 a.m.

Aloha Chair Dela Cruz, Chair Rhoads, and Members of the Joint Committees:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 11,000 members. HAR provides **comments** on Senate Bill 3234 SD1, which amends the laws relating to the Hawaii Hurricane Relief Fund and Hawaii Property Insurance Association. Expands the Hawaii Property Insurance Association's authority to include the issuance of property insurance other than fire insurance for certain real properties organized as a condominium. Reinstates the special mortgage recording fee. Explicitly authorizes the Hawaii Property Insurance Association to issue property insurance policies to certain condominiums outside of area designated for coverage by the Hawaii Property Insurance Association. Mandates that the Hawaii Property Insurance Association member insurers recoup assessment costs. Amends specific coverage limits, fund capitalization amounts, and assessment percentages by deleting specified dollar amounts percentages and authorizes the Hawaii Hurricane Relief Fund and the Hawaii Property Insurance Association boards to recommend appropriate amounts and percentages to the Insurance Commissioner. Takes effect 7/1/2040.

HAR supports the intent of this measure and respectfully requests that funding sources be diversified. In 1993, when the Hawaii Hurricane Relief Fund (HHRF) was formed in the aftermath of the devastation caused by Hurricane Iniki, it was financed by:

1. Special fees on mortgages recorded in the state,
2. Premiums from insurance policies issued by the fund, and
3. An annual assessment on private insurance companies.

We believe that the same or similar sources of funding should be explored this time as a fairer option to our insurance challenges, rather than putting much of the burden on future home buyers and sellers.

Our state grapples with a significant challenge concerning insurance accessibility and rising costs. The market for reinsurance is global; therefore, storms, wildfires, and other natural disasters that strike anywhere in the world impact what homeowners and

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condo association must pay for coverage in Hawaii as well. Adding to the challenge is that condominium building premiums have risen so high that hundreds of condo associations are reducing their coverage to less than 100%. This has become an issue for home buyers and sellers as Fannie and Freddie Mac[1] require multifamily properties to include 100% windstorm coverage, which includes hurricanes. While the issue of insurance coverage is an important issue facing our state, several of the taxes imposed in this measure are currently only directed at future home or property buyers and sellers.

This measure proposes to reactivate and increase the special mortgage recording fee to 2/10ths of 1% of the principal amount of the debt, the following are examples of the rates based on the following debt amounts:

Debt Amount:	Special Mortgage Recording Fee:
$300,000	$600
$500,000	$1,000
$800,000	$1,600
$1,000,000	$2,000

We are concerned with the inclusion of a Conveyance Tax surcharge as a funding source and respectfully request its replacement with another source of funding. While the Conveyance Tax surcharge contained in this measure is unspecified, it would impose an additional percentage surcharge on the Conveyance Tax in addition to the current Conveyance Tax rates which can drastically increase the total Conveyance Tax paid. The following is an example on if the surcharge was set at a mere 0.5%:

Conveyance Tax Tiers:	Current *Per $100:*	Current Rate (in Dollars):	0.5% Surcharge: (in Dollars):	TOTAL (Conveyance Tax + Surcharge)
< $600,000	$0.10	**$500** ($500,000 property)	**$2,500**	**$3,000**
$600,000 - $0.99 mil	$0.20	**$1,600** ($800,000)	**$4,000**	**$5,600**
$1 mil - $1.99 mil	$0.30	**$3,000** ($1 mil)	**$5,000**	**$8,000**
$2 mil - $3.99 mil	$0.50	**$15,000** ($3 mil)	**$15,000**	**$30,000**
$4 mil - $5.99 mil	$0.70	**$35,000** ($5 mil)	**$25,000**	**$60,000**
$6 mil - $9.99 mil	$0.90	**$81,000** ($9 mil)	**$45,000**	**$126,000**
$10 mil+	$1.00	**$100,000** ($10 mil)	**$50,000**	**$150,000**

Even a minimal surcharge leads to a large increase in total Conveyance Taxes. In the above example, if a family sells a $500,000 home, the extra Conveyance Taxes would increase from $500 to a total of $3,000. In addition, there would also be a $1,000 special mortgage recording fee on top. Such an increase affects the equity one

[1] Fannie Mae. (n.d.). *Fannie Mae Multifamily Guide*. https://mfguide.fanniemae.com/node/4516

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builds to move into a different home and adds to the cost for homebuyers, including first-time homebuyers.

Additionally, for condominiums and single-family homes which the purchaser is ineligible to qualify for a homeowner exemption, the following are the proposed rates if the surcharge was set at the 0.5% example:

Conveyance Tax Tiers:	Current *Per $100:*	Current Rate (in Dollars):	0.5% Surcharge: (in Dollars):	TOTAL (Conveyance Tax + Surcharge)
< $600,000	$0.15	**$750** ($500,000 property)	**$2,500**	**$3,250**
$600,000 - $0.99 mil	$0.25	**$2,000** ($800,000)	**$4,000**	**$6,000**
$1 mil - $1.99 mil	$0.45	**$4,500** ($1 mil)	**N/A (0.40 per $100) $4,000**	**$8,500**
$2 mil - $3.99 mil	$0.65	**$19,500** ($3 mil)	**N/A (0.60 per $100) $18,000**	**$37,500**
$4 mil - $5.99 mil	$0.85	**$42,500** ($5 mil)	**$25,000**	**$67,500**
$6 mil - $9.99 mil	$1.10	**$99,000** ($9 mil)	**$45,000**	**$144,000**
$10 mil+	$1.25	**$125,000** ($10 mil)	**$50,000**	**$175,000**

As with the previous example, even a minimal surcharge leads to a massive increase in Conveyance Taxes paid.

Our concern is also due to the fact that Conveyance Taxes are tied to the health of Hawaii's real estate market which has slowed due to rising interest rates to address inflation, resulting in a 27.22% decrease in single-family home sales and 29.15% decrease in condominium sales year-to-date as of December 2023.[2] The challenge with linking funding to the Conveyance Tax is that when the real estate market is down, there may not be enough funds to pay for the programs it supports. The Conveyance Tax is then often targeted for increase to cover these programs; however, when the market is up, there are excess funds over and above the programs' needs. This becomes a cyclical issue, and the Conveyance Tax is never lowered even in an up market, thereby contributing to the ever-increasing cost of housing in our state.

Therefore, we respectfully ask that a different source of funding be identified to fund the HHRF, such as the original sources of funding to form the HHRF. This would help address our insurance challenges, rather than putting much of the burden on future home buyers and sellers. Additionally, we look forward to continuing the conversation on this important issue and working with all stakeholders to find an equitable solution.

Mahalo for the opportunity to testify on this measure.

[2] Hawai'i REALTORS®. (2023). *Statewide Real Estate Statistics.* www.hawaiirealtors.com/resources/housing-trends-2

SUBJECT: TRANSIENT ACCOMMODATIONS, CONVEYANCE, Tax Hikes to Stabilize Property Insurance

BILL NUMBER: SB 3234 SD 1

INTRODUCED BY: Senate Committees on Commerce and Consumer Protection and Energy, Economic Development, and Tourism

EXECUTIVE SUMMARY: Attempts to stabilize property insurance in the State through unspecified increases in the TAT and Conveyance Tax, and reinstatement of the special mortgage recording fee.

SYNOPSIS: As it relates to the tax laws and the special mortgage recording fee, the following changes are proposed:

Amends section 237D-1, HRS, by adding new definitions of "booking service," "county," "hosting platform," and "transient vacation rental." Amends the definition of "operator" to include the operator of a transient vacation rental.

Amends section 237D-2, HRS, to add a new section setting the TAT rate at ___% beginning on July 1, 2024. Provides that the difference between the new rate and the current rate is to be split evenly between: (1) a trust account established under section 431:21-105, HRS, for the purpose of administering and providing property insurance for properties located outside of a lava zone that obtain property insurance under that article; and (2) a trust account established pursuant to section 431P-16 for the purpose of providing hurricane insurance under that chapter.

Adds a new section to chapter 247, HRS, providing for a property insurance surcharge on the conveyance tax. Provides for a schedule of tax rates that is currently blank save for two entries. Provides that the surcharge is to be split evenly between the same trust funds described in the amendment to section 237D-2, HRS.

Provides that the special mortgage recording fee established by section 431P-16, HRS, may be reinstated by the insurance commissioner once the act becomes effective.

EFFECTIVE DATE: July 1, 2040.

STAFF COMMENTS: Our primary concern is with the tax hikes, indeterminate at this time. Numbers need to be inserted into the drafts to give the public an idea of the extent of hikes that are being requested.

Transient Accommodations Tax Hike

In law prior to 2009, the TAT was levied at the rate of 7.25% on most transient accommodations. Once collected, 44.8% of the tax, after satisfying specified earmarks, was distributed to the counties. Act 61, SLH 2009, increased the TAT rate to 8.25% between 7/1/09 and 6/30/10 and to 9.25% between 7/1/10 to 6/30/15. Act 161, SLH 2013, made permanent the TAT rate of 9.25% and changed the allocations of TAT from a percentage basis to a specific dollar amount.

After the counties complained about their allocations, Act 174, SLH 2014, required a state-county functions working group to be convened to evaluate the division of duties and responsibilities between the State and counties relating to the provision of public services and to recommend an appropriate allocation of the transient accommodations tax revenues between the State and counties that properly reflects the division of duties and responsibilities relating to the provision of public services. The working group met and issued a report to the 2015 legislature, recommending that the percentage allocation of the TAT be restored. Bills were drafted to adopt that recommendation. The bills did not pass.

In the meantime, the City & County of Honolulu, needing a bailout to continue with its rail project, pleaded for and ultimately got an additional percentage point added to the TAT to fund rail efforts in Honolulu and to enhance transportation infrastructure in the other counties. Act 1, SLH 2017 (Special Session).

And, to put the icing on the cake, a few years later, in 2021, the legislature by veto override put an end to sharing any of the TAT revenues with the counties, but instead allowed the counties to enact their own transient accommodations tax at a rate up to 3%. Act 1, SLH 2021 (1st Special Session). The counties swiftly enacted 3% taxes.

This proposed increase in TAT will be borne largely by visitors. With the recent ability of counties to impose their own TAT charge, Hawaii already has the highest accommodation tax in the country. Although the bill's proponents may think that this is simply picking the pockets of our tourists to remediate our ravaged property insurance market, there may be ripple effects from further squeezing our tourists. What policy makers need to realize is that the more they extract from the economy in taxes and fees, the more economic performance declines. To put it specifically, tourists can't vote for our lawmakers at the ballot box but they can vote with their feet. We aren't the only resort island destination in the world, and the tourists know this. As economic performance declines, so do tax revenues.

Conveyance Tax Hike

The conveyance tax was enacted by the 1966 legislature after the repeal of the federal law requiring stamps for transfers of real property. It was enacted for the sole purpose of providing the department of taxation (which at the time also administered the real property tax) with additional data for the determination of market value of properties transferred. This information was also to assist the department in establishing real property assessed values and at that time the department stated that the conveyance tax was not intended to be a revenue raising device.

Prior to 1993, the conveyance tax was imposed at the rate of 5 cents per $100 of actual and full consideration paid for a transfer of property. At the time all revenues from the tax went to the general fund. The legislature by Act 195, SLH 1993, increased the conveyance tax to 10 cents per $100 and earmarked 25% of the tax to the rental housing trust fund and another 25% to the natural area reserve fund. Because of legislation in 2005 and in 2009, the conveyance tax rates were substantially increased and bifurcated between nonowner-occupied residential properties and all other properties. Tax brackets were based on the amount of value transferred.

There are points lawmakers may wish to consider. First, the proposed new brackets have discontinuities at the bracket break points, which means that if taxable income increases by $1 at a break point, such as from $9,999,999 to $10,000,000, the increase in tax will be substantially more than $1. In this example the tax would go from $200,000 to $300,000. Substantial discontinuities such as these may motivate behavior for taxpayers near a break point. This behavior might not be desirable from an economic standpoint. Consideration should be given to making the conveyance tax brackets more like the existing income tax brackets which do not have this problem.

Second, it should be kept in mind that a large dollar value transaction doesn't necessarily mean that a filthy rich person ripe for the fleecing is on one or the other end. A multi-unit condominium housing development, for example, could easily sell for an eight-digit number.

Third, a tax increase of any magnitude in Hawaii's fragile economy will, no doubt, have a negative impact as costs soar due to higher taxes. As costs and overhead increase, employers must find ways to stay in business by either increasing prices to their customers or cut back on costs. This may take the form of reducing inventory, shortening business hours, reducing employee hours, or even laying off workers. A tax increase of any magnitude would send many companies, especially smaller ones, out of business taking with them the jobs the community so desperately needs at this time.

Digested: 2/28/2024

SanHi
GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: March 1, 2024

TO: Senator Donovan M. Dela Cruz
Chair, Committee on Ways and Means

Senator Karl Rhoads
Chair, Committee on Judiciary

FROM: Matt Tsujimura

RE: **S.B. 3234 S.D. 1– Relating to the Stabilization of Property Insurance**
Hearing Date: Friday, March 1, 2024, at 10:31AM
Conference Room: 211

Dear Chair Dela Cruz, Chair Rhoads, and Members of the Joint Committee on Ways and Means and Judiciary:

I am Matt Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm **offers comments** to S.B. 3234 S.D. 1, which amends the laws relating to the Hawaii Hurricane Relief Fund and Hawaii Property Insurance Association.

Many of Hawaii's condominium buildings are aging. State Farm understands some condominium buildings have experienced high-cost losses, resulting from aging infrastructure including failing water pipe systems. There is no disputing that aging infrastructure and high-cost losses can have an impact on insurance rates, not to mention insurability. State Farm understands that as the costs to insure these high-rise buildings increase, some condominium associations are asking individual unit owners to cover the cost of increased deductibles.

State Farm supports the intent of S.B. 3234 S.D. 1 to ensure Hawaii has a stable insurance market, and appreciate the willingness of the Legislature to look for solutions to one of the biggest issues facing the people of Hawaii. We support the Legislatures efforts to improve the availability of insurance for Hawaii's condominium buildings and individual units. We understand the goal is to draw more insurance companies back to Hawaii. More insurers in the market means greater accessibility and affordability for consumers.

The issues are complex, and State Farm supports continued discussions to work towards a more accessible and affordable insurance environment in the State.

For these reasons we offer this testimony. Thank you for the opportunity to testify.

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GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: March 1, 2024

TO: Senator Donovan Dela Cruz
Chair, Committee on Ways and Means

Senator Karl Rhoads
Chair, Committee on Judiciary

FROM: Tiffany Yajima / Mihoko Ito

RE: **S.B. 3234, SD1 – Relating to the Stabilization of Property Insurance**
Hearing Date: Friday, March 1, 2024 at 10:31 a.m.
Conference Room: 211

Dear Chair Dela Cruz, Chair Rhoads, and Members of the Joint Committees:

We submit this testimony on behalf of the Hawaii Bankers Association (HBA). HBA represents seven Hawai`i banks and one bank from the continent with branches in Hawai`i.

HBA **supports** the intent this measure to capitalize the Hawaii Property Insurance Association and capitalize and reactivate the Hawaii Hurricane Relief Fund which could help to stabilize the property insurance market so that insurers can continue to insure properties in the State. This measure is also intended to encourage the repair and maintenance of condominium buildings thereby allowing lenders to meet the requirements of the secondary mortgage market.

To alleviate the high cost of insurance premiums, condominium boards are increasingly electing to reduce the amount of insurance coverage of condominiums. Unfortunately, this can have the unintended consequence of impacting mortgage loans for units in these condominiums because federal guidelines on Fannie Mae and Freddie Mac prohibit these entities from purchasing mortgages on condominium units that are underinsured.

Even if a lender wants to issue a loan for a unit in an underinsured condominium, holding a loan secured by underinsured collateral could affect that lender's safety and soundness rating. In addition, a lender's ability to provide low down-payment financing with mortgage insurance may be impaired by an insurer's unwillingness to insure condo projects that do not meet Fannie Mae's or Freddie Mac's guidelines. As a result, first-time homebuyers and low- to moderate-income borrowers would be disproportionately adversely impacted.

The HBA notes that this measure is funded partially through an increase in the conveyance tax on real estate transactions and an increase to the special mortgage

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recording fee. An increase to these fees will add to the transaction cost for homebuyers and could affect housing affordability.

Thank you for the opportunity to submit this testimony.

HAWAII FINANCIAL SERVICES ASSOCIATION
c/o Marvin S.C. Dang, Attorney-at-Law
P.O. Box 4109
Honolulu, Hawaii 96812-4109
Telephone No.: (808) 521-8521

March 1, 2024

Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair
and members of the Committee on Ways and Means
and
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
and members of the Committee on Judiciary
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **S.B. 3234, S.D. 1 (Stabilization of Property Insurance)**
Decision Making Date/Time: Friday, March 1, 2024, 10:31 a.m.

I am Marvin Dang, the attorney for the **Hawaii Financial Services Association** ("HFSA"). The HFSA is a trade association for Hawaii's consumer credit industry. Its members include Hawaii financial services loan companies (which make mortgage loans and other loans, and which are regulated by the Hawaii Commissioner of Financial Institutions), mortgage lenders, and financial institutions.

The HFSA **supports the intent** of this Bill.

This Bill: (a) amends the laws relating to the Hawai‘i Hurricane Relief Fund and Hawai‘i Property Insurance Association; (b) expands the Hawai‘i Property Insurance Association's authority to include the issuance of property insurance other than fire insurance for certain real properties organized as a condominium; (c) reinstates the special mortgage recording fee; (d) explicitly authorizes the Hawai‘i Property Insurance Association to issue property insurance policies to certain condominiums outside of area designated for coverage by the Hawai‘i Property Insurance Association; (e) mandates that the Hawai‘i Property Insurance Association member insurers recoup assessment costs; (f) amends specific coverage limits, fund capitalization amounts, and assessment percentages by deleting specified dollar amounts percentages and authorizes the Hawai‘i Hurricane Relief Fund and the Hawai‘i Property Insurance Association boards to recommend appropriate amounts and percentages to the Insurance Commissioner.

Hawaii's condominium buildings are confronting challenges which impact their ability to obtain adequate property insurance at reasonable premiums to cover hurricane risks and non-hurricane risks. This situation negatively impacts condominium unit owners, home buyers, and others.

The intent of this Bill is to stabilize the property insurance market in Hawaii until market conditions improve.

We support the intent of this bill because it has the potential to enable condominium unit owners and buyers to: (a) protect their investment in their condominium units, and (b) have the option to apply for mortgage loans which comply with the federal requirements of Fannie Mae and Freddie Mac (government sponsored enterprises).

Thank you for considering our testimony.

Marvin S.C. Dang
MARVIN S.C. DANG
Attorney for Hawaii Financial Services Association

(MSCD/hfsa)

SB-3234-SD-1
Submitted on: 2/27/2024 9:22:13 PM
Testimony for WAM on 3/1/2024 10:31:00 AM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

I am an owner and board member of a Downtown Honolulu condo. Circumstances beyond our control make this measure necessary. Insurance companies are leaving the state, dropping customers because the companies say there is too much deferred maintenance, buildings need to be repiped, hurricane insurance premiums must be raised because of repeated hurricanes in communities on the mainland, etc. It is estimated that 400 buildings are underinsured for hurricanes and prospective buyers are having a hard time obtaini mortgages.

The higher premiums are hard for many associations to pay, and will, if paid, result in continued deferred maintenance because there are just so may dollars owners can spend. Many are on a fixed income. This bill will also allow lenders to meet the requirements of the secondary mortgage market.

Please support this bill.

HAWAII LEGISLATIVE
ACTION COMMITTEE
community
ASSOCIATIONS INSTITUTE

P.O. Box 976
Honolulu, Hawaii 96808

February 28, 2024

Senator Donovan M. Dela Cruz
Senator Sharon Y. Moriwaki
Committee on Ways and Means
415 South Beretania Street
Honolulu, Hawaii 96813

Senator Karl Rhoads
Senator Mike Gabbard
Committee on Judiciary
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **SB 3234 SD1 SUPPORT**

Dear Chairs, Vice Chairs and Committee Members:

CAI supports the intent of SB 3234 SD1 and defers to subject matter experts on the details. Stabilization of the insurance market for condominiums is essential.

> Condominiums and other common interest ownership communities (with their regimes of privately enforceable use restrictions and financial obligations paying for formerly "public facilities" such as roads, trash collection, and recreational areas) have become a critical part of our land use fabric. Indeed, virtually all new development in Hawaii consists of common interest ownership communities.

Final Report to the Legislature, Recodification of Chapter 514A (2003), at pages 2-3. The point that condominiums "have become a critical part of our land use fabric" is even truer today than it was twenty-one years ago.

There would be staggering social costs if condominiums ceased to serve the valuable functions of providing housing and services to a substantial segment of the population. Inevitably, government would be charged with caring for those impoverished and displaced by uninsured catastrophic loss. It is in society's best interest to promote and to protect the effective functioning of self-governing condominiums.

The instability of the insurance market affects all condominiums, so the broadest practical definition, to encompass all condominiums, should be considered.

CAI Legislative Action Committee, by

Philip Nerney

Its Chair