JOSH GREEN, M.D.
GOVERNOR | KE KIAʻĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIAʻĀINA

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce and Consumer Protection
and
Senate Committee on Energy, Economic Development, and Tourism**

**Wednesday, February 7, 2024
9:30a.m.
State Capitol, Rm. 229 & via Videoconference**

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

Chairs Keohokalole and DeCoite, 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.

We note that there is one section in the bill with conflicting language. Section 14 of the bill amends subsection Hawaiʻi Revised Statutes section 431P-5(b)(8)(A) by removing the post event increased assessment rate up to five percent. (see p. 40, lines 8-13). This conflicts with the following sentence, page 40, lines 13-17 which is no longer necessary should the previous sentence be deleted. However, consideration should be given to retaining the post event rate increase up to five percent in the event of a significant hurricane loss.

Thank you for the opportunity to testify on this bill.

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 COMMERCE AND CONSUMER PROTECTION
And
SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM
Wednesday, February 7, 2024, 9:30 AM
State Capitol, Conference Room 229
in consideration of
Senate Bill No. 3234
RELATING TO THE STABILIZATION OF PROPERTY INSURANCE

Chairs Keohokalole and DeCoite, Vice Chairs Fukunaga and Wakai, and Members of the Committees:

Thank you for the opportunity to testify on SB 3234, 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 repiping, 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.

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[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.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR

GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

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DEPARTMENT OF TAXATION
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TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION

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

BEFORE THE:
Senate Committees on Commerce and Consumer Protection and
Energy, Economic Development, and Tourism

DATE:	Wednesday, February 7, 2024
TIME:	9:30 a.m.
LOCATION:	State Capitol, Room 229

Chairs Keohokalole and DeCoite, Vice-Chairs Fukunaga and Wakai, and Members of the Committees:

The Department of Taxation (“Department”) offers the following comments regarding S.B. 3234 for your consideration.

Parts II and III of S.B. 3234 makes several changes to chapter 237D, Hawaii Revised Statutes (HRS), which governs transient accommodation tax (TAT), and chapter 247, HRS, which governs conveyance tax.

With respect to TAT, 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, the measure creates a new section to be inserted in chapter 247, HRS, creating an additional surcharge on conveyance tax modeled off of existing conveyance tax rates and bases. The surcharge percentages are mostly unspecified, except that if a purchaser is 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. Surcharge revenues would also be deposited into a property insurance trust account under section 431:21-105, as well as into a hurricane insurance trust account under section 431P-16, but the surcharge's respective deposit percentages are not specified. The surcharge would 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.

S.B. 3234 is effective upon approval.

The Department notes that enforcement of the tax on transient vacation rentals may be challenging, as the Department does not have the subject-matter expertise to determine whether a rental unit qualifies as a transient vacation rental, as defined by county ordinance. Additionally, the definition of a transient vacation rental may vary from county to county and may change over time.

Additionally, the Department notes that the allocations on pages 14 and 15 of the bill will be difficult for the Department to administer. Currently, the Department determines the TAT allocations based on the total TAT actually collected for the month. This bill would require the Department to segregate the amounts collected from transient vacation rental units from the remainder of the TAT revenues and distribute those amounts to the trust accounts established under sections 431:21-105 and 431P-16, HRS. This will require a fundamental change in the way that the Department accounts for and reports on TAT revenues. This would also create administrative difficulties, as the amounts reported do not always match the amounts paid with the return. Accordingly, the Department requests that the provisions that would require an allocation of TAT revenues from transient vacation rentals to the trust accounts established under sections 431:21-105 and 431P-16, HRS, be deleted. To provide funding to the trust accounts, the Department recommends that allocations instead be made as set dollar amounts or percentages of all TAT revenues collected in section 237D-6.5, HRS.

Finally, the Department requests that the effective date of the tax law changes in sections 2, 3, 4, and 5 of this measure be delayed until January 1, 2026 to provide sufficient time for the Department to make the various necessary form, instruction, computer system, and administrative changes that this proposal contemplates, as well as provide taxpayer education about the upcoming changes.

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

HAWAII INSURERS COUNCIL
A trade association of property and casualty insurance companies

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1003 Bishop Street
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Telephone (808) 525-5877

Alison H. Ueoka
President

TESTIMONY OF MICHAEL ONOFRIETTI

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM
Senator Lynn DeCoite, Chair
Senator Glenn Wakai, Vice Chair

Wednesday, February 7, 2024
9:30 a.m.

SB 3234

Chair Keohokalole, Vice Chair Fukunaga, and members of the Committee on Commerce and Consumer Protection, and Chair DeCoite and Vice Chair Wakai, and members of the Committee on Energy, Economic Development, and Tourism, my name is Michael Onofrietti, ACAS, MAAA, CPCU, Senior Vice President, Actuarial Services, Product Development & Management for Island Insurance and Chairman of the Auto Policy Committee for Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit association of property and casualty insurance companies licensed to do business in Hawaii. Members companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

The Hawaii Insurers Council **supports** this bill. This bill is a product of the Working Group on Property Insurance Stabilization that comprised representatives from both the House and Senate, insurance companies, insurance agents, mortgage lenders, bankers, realtors, and condominium buildings.

The purpose of the bill is to amend two existing laws, the Hawaii Property Insurance Association (HPIA) and the Hawaii Hurricane Relief Fund (HHRF) to enable these entities to underwrite certain insurance risks in the state that no standard insurer is willing to underwrite. Those risks are as follows: Condominium buildings for hurricane only coverage, condominium buildings for all other coverage excluding hurricane, condominium unit coverage excluding hurricane, single family homes for hurricane coverage, and single-family homes for all other coverage excluding hurricane. New capital is added to accommodate the expansion of risk and to broaden the base for those who contribute. In addition to insurance assessments, the bill provides for a conveyance tax increase to be allocated to each fund, a transient vacation rental tax increase to be allocated to each fund, and a mortgage recordation fee increase to the Hawaii hurricane relief fund. These markets of last resort are designed to stabilize the insurance market until which time they are depopulated back to standard insurance companies either because market conditions have changed to accommodate the risks and/or the risks themselves have become more insurable, for instance, because of re-piping of a building or mitigation for fire, wildfire, or hurricane risk.

The goal of the legislation is to encourage property insurers to remain in the state, to encourage condominium buildings to be repaired and maintained, and to allow lenders to meet the requirements of the secondary mortgage market.

The HPIA was originally enacted in the early 1990's to accommodate homes allowed to be built in lava zones 1 and 2 on Hawaii Island. However, it is designed as a market of last resort for *all* residential properties that cannot find coverage in the standard market. Today, HPIA underwrites single family home and condominium unit insurance outside lava zones 1 and 2, statewide. There is a need now for condominium unit coverage excluding hurricane coverage, possibly single-family home insurance excluding hurricane coverage, and possibly condominium building coverage excluding hurricane. The scope of risk to be added to HPIA is undetermined because the greatest risk for losses exists in the condominium buildings' water losses and the number of buildings that could need insurance is unknown. A secondary risk for condominium buildings is fire. In addition, there could be a large number of condominium unit owners who need to purchase insurance with high limits to accommodate the building master policies' high deductibles. Finally, it is expected that market conditions and wildfire risk could cause some retraction in the single-family home insurance market and those risks will seek coverage from HPIA.

The HHRF was enacted also in the early 1990's post Hurricane-Iniki to underwrite hurricane-only insurance primarily for residential single-family homes and small commercial businesses. It was in place for approximately 9 years before a hurricane-only insurer came into the standard market and depopulated the Fund. There is a need now for condominium building hurricane insurance and possibly single-family home hurricane insurance coverage. Condominium buildings that are underinsured for the hurricane risk are estimated to be between 375-390 buildings. The number of single-family homes that could need hurricane insurance is unknown at this time but some retraction in the market is expected due to the high cost of reinsurance for standard insurers, the potential for insurers to reduce their exposures because of geographical concentration, and the potential for insurers to reduce their wildfire exposure.

We urge passage of this bill. Thank you for the opportunity to testify.

SanHi
GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 7, 2024

TO: Senator Jarrett Keohokalole
Chair, Committee on Commerce and Consumer Protection

Senator Lynne DeCoite
Chair, Committee on Energy, Economic Development, and Tourism

Submitted Via Capitol Website

FROM: Tiffany Yajima / Mihoko Ito

RE: **S.B. 3234 – Relating to the Stabilization of Property Insurance**
Hearing Date: Wednesday, February 7, 2024 at 9:30 a.m.
Conference Room: 229

Dear Chair Keohokalole, Chair DeCoite, 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 is in **support** of this measure to capitalize the Hawaii Property Insurance Association and capitalize and reactivate the Hawaii Hurricane Relief Fund. This measure is intended to help stabilize the property insurance market so that insurers can continue to insure properties in the State. It would also 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.

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Capitalizing the Hawaii Property Insurance Association and the Hawaii Hurricane Relief Fund will enable these entities to underwrite certain insurance risks in the State that no standard insurer is currently willing to underwrite. As an insurer of last resort, these entities could help to stabilize the property insurance market until market conditions improve.

For these reasons, we support this measure and ask the committee to pass this for further consideration. Thank you for the opportunity to submit this testimony.

SanHi
GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 6, 2024

TO: Senator Jarrett Keohokalole
Chair, Committee on Commerce and Consumer Protection

Senator Lynn DeCoite
Chair, Committee on Energy, Economic Development, and Tourism

FROM: Matt Tsujimura

RE: **S.B. 3234 – Relating to the Stabilization of Property Insurance**
Hearing Date: Wednesday, February 7, 2024, at 9:30AM
Conference Room: 229

Dear Chair Keohokalole, Chair DeCoite, and Members of the joint Committees on Commerce and Consumer Protection and Energy, Economic Development, and Tourism:

I am Matt Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm **offers comments** to S.B. 3234, 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 appreciates the effort spent crafting the proposals in S.B. 3234, and 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 insurance marketplace as it relates to Hawaii's condominium buildings and individual units. We understand the goal is to create a stable market for insurers that will draw more insurance companies back to Hawaii. More insurers in the market means greater accessibility and affordability for consumers.

The issues are complex. State Farm encourages the Legislature to continue the open dialog with insurers and other stakeholders to ensure all parties involved understand the issues and challenges. We hope the Legislature will continue to engage in discussions that will ensure the Hawaii Property Insurance Association (HPIA) and Hawaii Hurricane Relief Fund (HHRF) (1) provide products which are actuarially sound; (2) service consumers who cannot obtain insurance on the voluntary market;

(3) encourages consumers to repair, renovate, and remediate properties in an insurable condition; and (4) incentives the depopulation of HPIA and HHRF. Further discussion and information gathering are crucial as the Legislature continues to mold S.B. 3234 into a proposal that will help to resolve the issues of condominium building and condominium unit insurability, accessibility, and affordability.

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

LATE

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Unite for Good

Testimony to the Senate Committee on Commerce & Consumer Protection; and
Committee on Energy, Economic Development, & Tourism
Wednesday, February 7, 2024, at 9:30AM
Conference Room 229

Testimony in Support of SB 3234, Relating to Stabilization of Property Insurance

To: The Honorable Jarrett Keohokalole, Chair
The Honorable Lynn DeCoite, Chair
The Honorable Carol Fukunaga, Vice-Chair
The Honorable Glenn Wakai, Vice-Chair
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 47 Hawaii credit unions, representing over 864,000 credit union members across the state.

HCUL offers the following testimony in strong support of SB 3234, Relating to Stabilization of Property Insurance. This bill amends the laws relating to the Hawaiʻi Hurricane Relief Fund and Hawaiʻi Property Insurance Association, expands 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, reinstates the special mortgage recording fee, explicitly authorizes 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, mandates that the Hawaiʻi 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 Hawaiʻi Hurricane Relief Fund and the Hawaiʻi Property Insurance Association boards to recommend appropriate amounts and percentages to the Insurance Commissioner.

This bill is important to financial institutions who provide loans to buyers of condominium units. With the threat of destructive weather events and other natural disasters, this bill is necessary to protect property owners and consumers and to ensure that required property insurance remains affordable and attainable.

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

MORTGAGE BANKERS ASSOCIATION OF HAWAII

Mortgage Bankers Association of Hawaii
P.O. Box 4129, Honolulu, Hawaii 96812

LATE

February 6, 2024

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Senate Committee on Commerce & Consumer Protection

Senator Lynn DeCoite, Chair
Senator Glenn Wakai, Vice Chair
Members of Senate Committee on Energy, Economic Development, & Tourism

Date: February 7, 2024
Hearing Time: 9:30 am

Re: SB 3234 relating to the stabilization of property insurance

I am Victor Brock, representing the Mortgage Bankers Association of Hawaii ("MBAH"). The MBAH is a voluntary organization of individuals involved in the real estate lending industry in Hawaii. Our membership consists of employees of banks, savings institutions, mortgage bankers, mortgage brokers, financial institutions, and companies whose business depends upon the ongoing health of the financial services industry of Hawaii. The members of the MBAH originate and service, or support the origination and servicing, of the vast majority of residential and commercial real estate mortgage loans in Hawaii. When, and if, the MBAH testifies on legislation or rules, it is related only to mortgage lending and servicing.

The MBAH SUPPORTS THIS BILL, which reinstates the Hawaii Hurricane Relief Fund (“HHRF”), which provides additional sources of financing the HHRF, and which expands the HHRF’s scope to include condominium building insurance.

The availability of hurricane insurance, particularly for condominium projects, has become increasingly limited, with certain insurers refusing to renew coverage at existing levels to insure the full estimated replacement cost of rebuilding the improvements in the event of a named storm. Fannie Mae and Freddie Mac, to whom we sell mortgages, both require hurricane insurance for the full replacement value. Even if a lender contemplates keeping a loan secured by a unit in one of the underinsured condo projects in their portfolio (as they are unable to sell the loan to Fannie Mae or Freddie Mac), prudential regulators are likely to cite safety and soundness concerns of holding a loan on our balance sheet secured by underinsured collateral. As a result, we are unable to finance units in certain condominium projects, thereby decreasing options for first-time homebuyers and low- to moderate-income borrowers to buy the most affordable type of housing in Hawaii. The impact is snowballing and currently affects hundreds of buildings and thousands of dwelling units.

Our colleagues in the insurance industry have advised us that their ability to obtain re-insurance for hurricane losses at pre-existing prices, or altogether, and to continue to write policies with coverage for the full replacement cost has been impaired by the international re-insurance market, as many of these re-insurers have experienced recent significant hurricane claim losses with climate change. Making matters worse, the risk profile of Hawaii has changed altogether due to the Maui wildfires this past August. Strong and very destructive hurricanes have not impacted Hawaii frequently in recent history, however climate change may increase the future likelihood of severe damage and losses. Therefore, historic losses for all perils are less predictive for these insurers when estimating future claim amounts. This in turn decreases their willingness to write new policies and/or renew at marginally profitable or unprofitable premium rates.

In 1993, the HHRF was established under HRS 431P to provide hurricane insurance when the private hurricane insurance market collapsed as a result of the 1992 Hurricane Iniki. It ceased operations in 2002 when the private hurricane market had been re-established. As originally structured, the HHRF was not authorized to issue hurricane insurance for condominiums in amounts sufficient to address the current underinsurance situation. Nor was it funded at levels sufficient to cover the amounts of cumulative coverage needed in today's environment. This Bill will amend the HHRF to include coverage of condominiums, while continuing to provide coverage for single-family and commercial properties.

This Bill also provisions various methods to build the fund to a level sufficient for the expected losses. As drafted, the burden of funding the HHRF will be allocated between sellers of real estate, (with a conveyance tax surcharge), buyers and/or lenders of real estate, (with a special mortgage recording fee), all property owners, (with an ongoing surcharge on policy premiums), and landlords/renters of transient vacation rentals (with an increase to the transient vacation rental tax). We understand that funding mechanisms sufficient to sustain the HHRF on an ongoing basis are necessary and we support this multi-faceted approach. However, **WE REQUEST THE FOLLOWING AMENDMENT on page 52:**

> Leave the "special mortgage recording fee" percentage at one tenth of one per cent, as originally incorporated into HRS 431P, instead of increasing it to two-tenths of one per cent.

The average purchase mortgage loan amount in Hawaii in 2023 was $653,709[1], resulting in a fee of $653.71 at one tenth of a percent and $1,307.42 at two tenths of a percent. This fee will be borne by the home buyer and is an additional burden and obstacle to homeownership in Hawaii. Many potential homeowners are already struggling with the down payment and closing costs, and the additional $653 will be yet another impediment to deter a first-time homebuyer from achieving homeownership, but <u>doubling it makes matters even worse</u>.

(1) Source: Title Guaranty monthly Residential Market Share report

As mortgage lenders, our hands are tied to severely curtailing or discontinuing lending on units in these underinsured condo projects altogether. Additionally, our ability to provide low-downpayment financing with mortgage insurance may be impaired by mortgage insurers' unwillingness to insure condo projects that do not meet Fannie Mae's or Freddie Mac's guidelines. Therefore, first-time homebuyers and low- to moderate-income borrowers, who need low-downpayment financing, are the most adversely impacted.

We request expedited passage of this Bill by the Legislature, the signing by the Governor of this Bill into law, and re-establishment of the HHRF's ability to issue policies as soon as operationally viable.

Thank you for the opportunity to present this testimony.

Victor Brock
Mortgage Bankers Association of Hawaii

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February 7, 2024

The Honorable Jarrett Keohokalole, Chair
Senate Committee on Commerce and Consumer Protection

The Honorable Lynn DeCoite, Chair
Senate Committee on Energy, Economic Development, and Tourism
State Capitol, Conference Room 229 & Videoconference

RE: Senate Bill 3234, Relating to the Stabilization of Property Insurance
HEARING: Wednesday, February 7, 2024, at 9:30 a.m.

Aloha Chair Keohokalole, Chair DeCoite, 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 Hawai'i and its over 11,000 members. HAR provides **comments** on Senate Bill 3234, 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.

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 builds to move

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

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

LATE

SB-3234
Submitted on: 2/6/2024 2:08:56 PM
Testimony for CPN on 2/7/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael Tanoue	Testifying for Island Insurance Company, Ltd.	Support	Written Testimony Only

Comments:

Chair Keohokalole, Vice Chair Fukunaga, and members of the Committee on Commerce and Consumer Protection, and Chair DeCoite, Vice Chair Wakai, and members of the Committee on Energy, Economic Development, and Tourism, my name is Michael Tanoue, Vice President and General Counsel for Island Insurance Company. Island Insurance is the only locally-owned property/casualty insurer in Hawaii and has been serving our community for over 80 years. Hawaii is the only place Island writes business.

Island Insurance strongly supports SB3234, which concerns two property insurance markets of last resort, Hawaii Property Insurance Association (HPIA) and Hawaii Hurricane Relief Fund (HHRF). The bill was developed to address the fragility of Hawaii's property insurance market caused by the lack of insurability of condominium buildings and loan requirements promulgated by Fannie Mae and Freddie Mac:

- Significant water damage losses over the last several years in condominium buildings and the units therein have rendered many of these buildings uninsurable in the standard market. The losses are largely due to the lack of or inadequate maintenance in older buildings but even some newer buildings have experienced significant water damage losses.
- Fannie Mae and Freddie Mac are requiring that condominium buildings be insured up to full replacement value to purchase loans from financial institutions. Because of reduced reinsurance capacity due in large part to the Lahaina fire/wind event, some insurers are unable to offer this level of coverage. As a result many banks are unwilling to finance sales and other transactions in many condominium buildings as they would need to retain such loans on their balance sheets.

Condominium buildings must make needed repairs to become insurable. We understand the financial burden such repairs will place on condominium unit owners. Mandated sprinkler/life safety requirements, while important, add to this burden. We are hopeful that SB3234, when combined with other bills that offer lower-cost financing options, will enable the repair and maintenance of condominium buildings. The goal is that HPIA will not need to insure condominium buildings at some point in the future as buildings get repaired and become insurable.

In addition, enactment of SB3234 provides a framework in the event that property insurers reduce their writings and/or withdraw from the market. Hawaii is a very small market and the withdrawal of even one significant market share participant will result in thousands of property owners needing to find replacement insurance coverage. An available market of last resort will, hopefully, stabilize the property insurance market and allow coverage to remain available in such an event.

Again, Island Insurance strongly supports this bill. Thank you for the opportunity to testify.

HAWAII LEGISLATIVE
ACTION COMMITTEE
community
ASSOCIATIONS INSTITUTE

P.O. Box 976
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February 5, 2024

Honorable Jarret Keohokalole
Honorable Carol Fukunaga
Committee on Commerce and Consumer Protection
415 South Beretania Street
Honolulu, Hawaii 96813

Honorable Lynn De Coite
Honorable Glenn Wakai
Committee of Energy, Economic Development, and Tourism
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **SB 3234 SUPPORT**

Dear Chairs, Vice Chairs and Committee Members:

CAI supports the intent of SB 3234 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.

CAI notes that the definition of condominium in Sections 6 and 13 of SB 3234 restricts the definition to properties of "four or more stories[.]"

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

The instability of the insurance market also affects condominiums of three stories and less, so broadening the definition to encompass all affected condominiums should be considered.

CAI Legislative Action Committee, by

Philip Nerney

Its Chair

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Hawai'i State Legislature February 5, 2024
Senate Committee on Commerce and Consumer Protection
Seante Committee on Energy, Economic Development and Tourism

Filed via electronic testimony submission system

RE: SB 3234 – Stabilization of Property Insurance - NAMIC's Testimony of Concerns and Recommendations

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 7, 2024, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation.

The National Association of Mutual Insurance Companies (NAMIC) membership includes nearly 1,500 member companies. The association supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC member companies write approximately $1.8 billion in annual premiums.

NAMIC and its members appreciate the importance of promoting the availability and affordability of insurance products for the condominium insurance marketplace, and we commend the bill sponsors and the interested stakeholders who have diligently and thoughtfully invested a great deal of time and resources this interim session into discussing possible solutions to the current insurance coverage problems faced by condominium associations and condominium unit policyholders.

As policymakers work through the details of expanding the HPIA and HHRF to stabilize the condominium insurance marketplace, NAMIC recommends that the committee be mindful of the fact that the proposed legislation and market stabilization program needs to comply with two foundational principles of property and casualty insurance: 1) Insurance products, whether they are provided directly by private insurers or through a market stabilization program, must be based upon actuarially sounds rates. Risk based pricing is the cornerstone to a healthy marketplace; and 2) The underlying risk of loss exposure problem that caused or contributed to the availability of insurance coverage challenges for condominium associations and condominium unit policymakers needs to be properly and comprehensively resolved in order for the insurance market to once again be healthy and competitive.

NAMIC appreciates the fact that the condominium infrastructure degradation problem didn't happen over-night and won't be resolved over-night, but the proposed legislation needs to expressly require condominium associations to be timely and vigilant in their infrastructure remediation, risk management and repair. Consequently, NAMIC recommends that the proposed legislation expressly set forth compliance guidelines and a time-table for evaluating whether condo associations are addressing the underlying risk of loss exposure issues that led many insurers to withdraw from the condominium insurance marketplace. Specifically, NAMIC believes that accountability requirements should be put in place to ensure that condominium associations are addressing the root-causes of the risk of loss exposure problem. NAMIC suggests that the proposed legislation require a formal report to the legislature, at a set date, from the HPIA/HHRF and the state regulator on the status of remediation efforts by condominium associations and the impact the stabilization program is having on attracting new carriers to the condominium insurance marketplace. A clear metric for evaluating progress should be established and a sunset provision should be included in the bill so that this temporary “insurer of last resort” approach to stabilizing the marketplace does not ultimately turn into a permanent “insurer of first resort” that perpetuates the status quo of a business sector that is systemically uninsurable as an unacceptable risk equation. Robust market competition - not perpetual subsidization of the condominium insurance marketplace is the only real long-term solution, and competition will only evolve once condominium associations are required to be prudent and accountable risk managers.

As policymakers grapple with the details of this complex condominium insurance market stabilization program, NAMIC requests that they be cautious and judicious in their imposition of assessments on insurers and their policyholders, because the property and casualty insurance industry is already struggling to address the needs of insurance consumers in the age of hyper-inflationary repair costs and global-warming natural catastrophic risk exposure. The financial health of the entire insurance marketplace could be adversely impacted by a condominium insurance market stabilization program that does not adhere to strict accountability guidelines.

NAMIC welcomes the opportunity to participate in the ongoing discussions and negotiations surrounding the structure and organizational operation of the market stabilization program.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you would like to discuss NAMIC’s written testimony.

Respectfully,

Christian John Rataj, Esq.
NAMIC Senior Regional Vice President
State Government Affairs, Western Region

SB-3234
Submitted on: 2/3/2024 9:17:52 AM
Testimony for CPN on 2/7/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Testifying for Palehua Townhouse Association	Support	Written Testimony Only

Comments:

Our association supports SB3234.

Mike Golojuch, Sr., President

SB-3234
Submitted on: 2/3/2024 3:41:34 PM
Testimony for CPN on 2/7/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Richard Emery	Testifying for Hawaii First Realty LLC	Support	Written Testimony Only

Comments:

It is becoming a burden to insure associations with a major impact on maintenance fees. Anything that can be done to mitigate the problem should be supported.

SB-3234
Submitted on: 2/4/2024 2:57:43 PM
Testimony for CPN on 2/7/2024 9:30:00 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.

SB-3234
Submitted on: 2/5/2024 11:22:52 AM
Testimony for CPN on 2/7/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Julia C	Individual	Support	Written Testimony Only

Comments:

I support SB 3234.

Property insurances, especially hurricane insurances for condo HOA associations in Hawaii have become economically infeasible and oftentimes unattainable for the condo HOA associations to afford. For condos that decide to be "fully insured" in the eyes of the insurance companies and mortgage lenders in Hawaii, condo owners are faced with triple digit increases with their monthly maintenance fees and these increases will only go up every year if the State does not step in now to stabilize the property insurance industry. More and more condo owners, especially elderly, cannot afford to pay these outrageously high maintenance fees. They will be forced to sell their condos and move away from Hawaii then less tax income for the State of Hawaii. We are in a crisis and the property insurance problem in Hawaii has to be dealt with now than later.