
A BILL FOR AN ACT

RELATING TO THE STABILIZATION OF PROPERTY INSURANCE.

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

PART I

SECTION 1. The legislature finds that before the wildfire event in Lahaina, Maui, on August 8, 2023, the availability of condominium building master property insurance policy options within the condominium insurance marketplace was already shrinking. Due in part to the shrinking condominium insurance marketplace, condominium building master property insurance policies have increased exponentially, with insurers increasing deductible amounts from what used to be between \$10,000 to \$25,000 per unit, per occurrence, to as much as \$250,000. These increased deductibles are also due to consistent and high-cost losses.

The legislature also finds that while the State has avoided a direct, major impact from a major hurricane since Hurricane Iniki devastated Kauai and damaged homes along Oahu's leeward coast more than thirty years ago, mortgage lenders continue to require Hawaii homeowners to carry hurricane insurance that can



1 cost two to three times the annual premiums of a conventional
2 homeowner policy.

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

17 Furthermore, some condominium associations for older
18 buildings are forced to obtain property insurance through the
19 secondary insurance market if they are dropped by the standard
20 insurers for, among other things, having too many claims. The
21 president of Insurance Associates reported that more than seven



1 hundred condominium buildings on Oahu alone were built before
2 1990. These secondary market insurers are not bound by the
3 State's laws or administrative rules governing rates, so their
4 prices may be more expensive than those of standard insurance
5 carriers.

6 To illustrate the difference in insurance premium costs,
7 the president of Insurance Associates cites the example of one
8 high-rise condominium in Waikiki in which the condominium
9 association had been paying an annual insurance premium of
10 \$235,000 for property and hurricane insurance and had already
11 been dropped by two of the standard insurance companies when the
12 third company declined to renew their insurance policy. The
13 stated reason for the nonrenewal and rejection was that the
14 building's aging plumbing had not been replaced. As a result,
15 the condominium association was forced to purchase insurance on
16 the secondary market, which cost approximately \$1,200,000.

17 The legislature finds that the consequences of
18 under-insured condominium buildings, including condominium
19 buildings that lack full hurricane coverage, also impact
20 individual owners. Today, there are only three insurers writing
21 hurricane coverage for condominium buildings, one of which is



1 only willing to underwrite \$10,000,000 to \$25,000,000 in
2 hurricane coverage while underwriting all other coverage up to
3 the building's value. If a condominium building's insurance
4 coverage, including hurricane coverage, is below its full value,
5 the mortgages on individual units within that building would not
6 meet the underwriting criteria to qualify for purchase through
7 the federal government's secondary mortgage market, meaning that
8 these mortgages cannot be sold by financial institutions to
9 mortgage investor entities, such as the Federal National
10 Mortgage Association (commonly referred to as Fannie Mae) and
11 the Federal Home Loan Mortgage Corporation (commonly referred to
12 as Freddie Mac). Coverage to address this lack of hurricane
13 insurance coverage options is available from the excess and
14 surplus lines market, which comprises insurers that are not
15 licensed in the State; however, some condominium buildings are
16 unwilling to purchase this coverage because of its high price.
17 The legislature understands that although this Act authorizes
18 the Hawaii hurricane relief fund to expand coverage to
19 condominium buildings, premium rates may be high due to the rise
20 in the global reinsurance market for hurricane insurance caused
21 by the frequency and severity of worldwide disasters.



1 In addition, Hawaii Business Magazine has reported that the
2 2021 collapse of the Surfside condominium building in Miami,
3 Florida, is also having a ripple effect on condominium lending.
4 In 2023, Fannie Mae and Freddie Mac made permanent the rules for
5 condominium lending that were created in the wake of that
6 disaster and ceased buying loans for buildings or projects that
7 have put off major repairs--such as replacing old water pipes.
8 These new lending rules also prohibit the sale of a loan on a
9 condominium building to Fannie Mae and Freddie Mac if that
10 building has unfunded repairs totaling more than \$10,000 per
11 unit.

12 This inability to sell condominium mortgages would require
13 financial institutions that originated mortgages to retain those
14 mortgages, thereby lessening their overall financial capacity to
15 originate more mortgages. Further, the risk of loss if a
16 hurricane occurs may impair a financial institution's financial
17 safety and soundness, which would in turn hamper consumers'
18 abilities to obtain financing to purchase dwellings of their
19 own.

20 The legislature notes that the wildfire in Lahaina, Maui,
21 on August 8, 2023, has also impacted the way reinsurers and



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

18 The legislature also understands that the market for
19 reinsurance, the insurance that property and casualty insurance
20 companies pay to share their risk, is global. Therefore, storms
21 and other catastrophic losses occurring anywhere in the world



1 may potentially impact the amounts that homeowners and
2 condominium associations in Hawaii pay for their insurance
3 coverage.

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

11 This Act expands the authority of these State-established
12 insurance entities to assist in the stabilization of the
13 property insurance market until risks can be depopulated back to
14 the standard insurance market when market conditions improve and
15 risks become more insurable because of building component
16 replacement or maintenance, or mitigation equipment or protocols
17 have been implemented for fire, wildfire, or hurricane events.

18 The legislature also recognizes that, although there has
19 been much focus on the instability of the condominium insurance
20 market in Hawaii, the broader property insurance industry faces
21 uncertainty amidst changing economic and regulatory conditions,



1 rising costs, increased reinsurance costs, and more frequent
2 severe weather events. Given these precarious conditions, it is
3 possible that a future disaster or other unforeseen circumstance
4 could cause the availability of insurance to shrink for classes
5 of real property other than condominiums, including single-
6 family homes and townhouses.

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



1 The legislature believes that it is critical to begin the
2 process to adequately capitalize the Hawaii property insurance
3 association and Hawaii hurricane relief fund because insuring
4 these risks could bring an enormous amount of risk exposure to
5 the funds. Therefore, funding mechanisms must be broad on an
6 initial and ongoing basis and spread among as many parties
7 involved in real property transactions within the State as
8 possible to ensure that the financial impacts are apportioned as
9 equitably as practicable, and that reserve funds are adequately
10 capitalized if losses exceed the funds' capacities.

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

19 Therefore, this Act repeals the special mortgage recording
20 fee and instead authorizes the Hawaii hurricane relief fund
21 board of directors to establish a temporary recording fee, which



1 will be imposed as a flat assessment on each document that is
2 recorded with the bureau of conveyances or filed with the
3 assistant registrar of the land court of the State, as
4 appropriate. This fee, if activated by the Hawaii hurricane
5 relief fund, is intended to be a temporary funding mechanism
6 that will spread costs out in a way that will reduce the
7 regressive financial impact imposed on individuals and families
8 who can only afford to purchase a residential dwelling by
9 financing the purchase. If the Hawaii hurricane relief fund
10 board of directors determines that the fee revenue is no longer
11 required, this Act allows the board to terminate collection of
12 the fee without seeking legislative action.

13 This Act provides additional funding mechanisms through
14 the:

- 15 (1) Appropriation of general funds for the Hawaii property
16 insurance association; and
- 17 (2) Option for the Hawaii hurricane relief fund to
18 reactivate the assessment of insurers at an assessment
19 rate determined by the Hawaii hurricane relief fund's
20 board of directors to augment the capitalization of
21 the Hawaii hurricane relief fund.



1 The legislature finds that this Act is necessary to:

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

9 This Act is a stop-gap measure to provide insurance
10 availability for condominium associations that are unable to
11 purchase adequate property insurance for their respective
12 condominium buildings that are in insurable condition.
13 Condominium associations that apply for coverage through the
14 Hawaii property insurance association will need to pay premiums
15 that are sufficient to cover the condominium association's
16 exposure to losses. This measure is not designed to be a
17 long-term solution, and therefore the legislature has imposed a
18 one-time five-year coverage period and commissioned a study to
19 recommend long-term solutions to stabilize the property
20 insurance market in the State. To that end, in addition to
21 providing for the issuance of short-term property insurance



1 coverage, this Act also effectively requires the insurance
2 commissioner to conduct a study to develop a long-term solution.
3 The legislature notes that a long-term solution may potentially
4 include the issuance of property insurance policies for
5 condominium buildings that are in need of repair or replacement
6 of components.

7 Accordingly, the purpose of this Act is to:

- 8 (1) Amend state laws governing the Hawaii property
9 insurance association and the Hawaii hurricane relief
10 fund to enable these entities to underwrite certain
11 insurance risks in the State that no standard insurer
12 is currently willing to underwrite;
- 13 (2) Appropriate funds as a loan to the Hawaii property
14 insurance association; and
- 15 (3) Require the insurance commissioner to conduct a study
16 to monitor and identify the most effective methods of
17 stabilizing the property insurance market in the
18 State.



PART II

SECTION 2. Section 431:21-102, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

"Condominium" means real property that:

(1) Has a condominium association that is registered with the real estate commission in accordance with chapter 514B, part VI;

(2) Consists of units as defined in section 514B-3;

(3) Is used primarily for residential purposes; and

(4) Is in insurable condition as determined by the association's board of directors.

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

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



1 damage of property, or death, injury, or disability of any human
2 being, or from damage to property, caused by a hurricane."

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

5 "**§431:21-105 Powers and duties of the association.** (a)

6 In addition to any other requirements imposed by law, the
7 association shall:

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

12 (2) Establish in the plan of operation a maximum period of
13 time during which a high-rise condominium association
14 may be eligible to be insured by the association,
15 which shall not exceed sixty months;

16 ~~[-(2)-]~~ (3) Reimburse each servicing facility for obligations
17 of the association paid by the facility and for
18 expenses incurred by the facility while processing
19 applications and servicing policies on behalf of the
20 association; and



1 ~~[(3)]~~ (4) Collect and maintain statistical information and
2 other information required by the commissioner.

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

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

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

11 (3) Contract with a member insurer to perform the duties
12 of the association;

13 (4) Sue or be sued;

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

16 (6) If approved by the commissioner, [~~assess~~] activate,
17 reduce, or terminate the collection of an assessment
18 on member insurers in amounts necessary to cover
19 extraordinary losses incurred by the association~~[-]~~;
20 provided that:



(A) Each member insurer shall be notified of the assessment ~~[not]~~ no later than thirty days before it is due~~[-]~~;

(B) The association, subject to the approval of the commissioner, may set the amount of the assessment; provided further that:

(i) No member insurer may be assessed in any year an amount greater than two per cent of that member insurer's net direct written premiums for the preceding calendar year[.];

and

(ii) The association may at any time reduce the
amount of the assessment;

(C) The association, subject to the approval of the commissioner, may establish the period of time during which the assessment shall be collected; provided that the time period shall not exceed _____ months; provided further that the association at any time may terminate the collection of the assessment; and



1 (D) The association may exempt or defer, in whole or
2 in part, the assessment of any member insurer if
3 the assessment would cause the member insurer's
4 financial statement to reflect amounts of capital
5 or surplus less than the minimum amounts required
6 for a certificate of authority by any
7 jurisdiction in which the member insurer is
8 authorized to transact business;

9 (7) Devise a method to give credit to member insurers [~~for~~
10 ~~homeowners and fire insurance policies individually~~
11 ~~underwritten on risks located in the area designated~~
12 ~~for coverage by the association;~~] as set forth in the
13 plan of operation;

14 (8) Negotiate and become a party to contracts as are
15 necessary to carry out the purposes of this article;
16 [and]

17 (9) Establish outside the state treasury a reserve trust
18 fund and any accounts thereunder and any other trust
19 fund or account necessary to carry out the purposes of
20 this article. Moneys deposited in the reserve trust
21 fund and any accounts thereunder or any other trust



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

14 (10) Receive moneys for deposit into a trust fund or
15 account from the revenues received from sources of
16 revenue available to the board of directors; and

17 ~~[-9-]~~ (11) Perform all other acts as are necessary or
18 proper to effectuate the purpose of this article."

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

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



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

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

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

15 (1) [~~Establish~~] Shall establish procedures for performance
16 of all the powers and duties of the association under
17 section 431:21-105;

18 (2) [~~Establish~~] Shall establish maximum limits of
19 liability to be placed through the association;

20 (3) [~~Establish~~] Shall establish reasonable underwriting
21 standards for determining insurability of a risk



1 ~~[which]~~ that are comparable to the standards used to
2 determine insurability of a risk located outside the
3 area designated by the commissioner as eligible for
4 association coverage;

5 (4) ~~[Establish]~~ Shall establish a schedule of deductibles,
6 if appropriate;

7 (5) Shall establish a maximum period of time during which
8 a high-rise condominium may be eligible to be insured
9 by the association, which shall not exceed sixty
10 months;

11 ~~[-(5) Establish]~~ (6) Shall establish the commission to be
12 paid to licensed producers;

13 ~~[-(6) Establish]~~ (7) Shall establish the rates to be
14 charged for the insurance coverages, so that the total
15 premium income from all association policies, when
16 combined with the investment income, shall annually
17 fund the administration of the association. The
18 administration of the association shall include the
19 expenses incurred in processing applications,
20 conducting inspections, issuing and servicing
21 policies, paying commissions, and paying claims, but



1 shall not include assessments approved by the
2 commissioner;

3 ~~[(7) Establish]~~ (8) Shall establish the manner and scope
4 of the inspection and the form of the inspection
5 report. The inspection guidelines may include setting
6 minimum conditions the property must meet before an
7 inspection is required;

8 ~~[(8) Establish]~~ (9) Shall establish procedures whereby
9 selections for the board of directors will be
10 submitted to the commissioner for the commissioner's
11 information;

12 ~~[(9) Establish]~~ (10) Shall establish procedures for
13 records to be kept of all financial transactions of
14 the association, its producers, and its board of
15 directors;

16 ~~[(10) Establish]~~ (11) Shall establish procedures by which
17 applications will be received and serviced by the
18 association;

19 ~~[(11) Establish]~~ (12) Shall establish guidelines for the
20 investigation and payment of claims; ~~[and~~



1 ~~(12) Establish]~~ (13) Shall establish procedures whereby
2 the association may assume and cede reinsurance on
3 risks written through the association~~[-]~~;

4 (14) Shall include the following:

5 (A) Coverage forms, endorsements, limits, and
6 deductibles for the covered condominium; provided
7 that the association may categorize these forms,
8 endorsements, limits, and deductibles by the type
9 of peril being covered;

10 (B) Rate tiers, including potential high deductible
11 options and surcharges for condominiums that
12 remain in the plan of operation;

13 (C) Provisions authorizing the association to decline
14 providing coverage;

15 (D) Potential annual premium rate increases; and

16 (E) Establishment of adequate rates to avoid
17 assessment of the voluntary market;

18 (15) Shall require, prior to issuance or renewal of
19 coverage, the applicant for condominium property
20 insurance coverage or renewal to:

21 (A) Provide the following to the association:



1 (i) The condominium association's declarations,
2 bylaws, or other documents that describe the
3 condominium association's process for paying
4 claims, including the portion of the claim
5 to be paid by the condominium association
6 and the portion to be paid by each unit
7 owner; and

8 (ii) The condominium association's declarations,
9 bylaws, or other documents that describe the
10 condominium association's process for
11 handling losses both pursuant to the
12 applicable master policy and by the
13 applicable condominium association;

14 (B) Cause to be completed an inspection of the
15 applicable condominium; provided that the
16 inspection shall be consistent with any
17 inspection and reporting standards established by
18 the board of directors of the association and
19 incorporated into the plan of operation pursuant
20 to paragraph (8); and



1 (C) Satisfy any relevant requirements established by
2 the board of directors of the association and
3 incorporated into the plan of operation;

4 (16) May prohibit coverage under this article for any
5 high-rise condominium for which the association or its
6 servicing entities or any agents thereof have
7 identified maintenance issues that materially affect
8 the insurability of the high-rise condominium for the
9 type of coverage being sought; and

10 (17) Shall adopt procedures, guidelines, installment
11 amounts, and a timetable for the repayment of any
12 general fund moneys that are loaned to sufficiently
13 capitalize the reserve trust fund established pursuant
14 to section 431:21-105(b) (9) and deposited into the
15 separate account within the reserve trust fund;
16 provided that the repayment shall not commence until
17 the reserve trust fund is sufficiently capitalized as
18 determined by the board of directors."

19 SECTION 5. Section 431:21-107, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "~~[§431:21-107] Designation of area.~~ Coverage

2 eligibility. (a) After consultation with representatives of
3 the United States Geological Survey, the state department of
4 defense, and the county in which the area is located, the
5 commissioner shall designate the geographical area eligible for
6 coverage in lava zones 1 and 2 through the association. Those
7 properties in the designated area that meet the standards set
8 forth in the plan of operation shall be provided insurance
9 through the association.

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

15 (b) A condominium association registered under chapter
16 514B, part VI, having an insurable interest in real or tangible
17 property that is a condominium that is subject to this chapter,
18 located within the State, and that meets the criteria and
19 requirements set forth in the plan of operation, may be provided
20 property insurance through the association.



1 (c) Additional insurance coverages may be provided
2 statewide, including but not limited to single-family
3 residences, townhouses, or any other categories of property for
4 which the insurance market is experiencing a failure of the
5 casualty and property insurance market, as determined by the
6 association and approved by the commissioner."

7 SECTION 6. Section 431:21-109, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§431:21-109 Insurance coverages available under plan.**

10 ~~[(a)]~~ All properties qualifying for coverage under the plan of
11 operation shall be eligible for the standard fire policy and
12 extended coverage endorsement. The association shall provide
13 additional coverages when directed by the commissioner or when
14 approved by the commissioner. Nothing in this section shall be
15 construed as authorizing the association to provide hurricane
16 coverage.

17 ~~[(b) At the written request of any person who is, or is~~
18 ~~attempting to become, a mortgagor on real property that~~
19 ~~qualifies for coverage under the plan of operation, the~~
20 ~~association shall provide coverage for an amount not less than~~
21 ~~the amount of the mortgage obligation, but no greater than the~~



~~value of the property being insured; provided that it does not exceed the limits of the plan. The policy shall name the intended mortgagee as the beneficiary for the amount equal to the outstanding balance on the mortgage.~~

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

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

"~~[§]§431:21-115[§]~~ **Credits for Recoupment of assessments**

~~paid. [A member insurer may offset against its premium tax liability to this State an assessment made with the commissioner's approval to the extent of twenty per cent of the amount of the assessment for each of the five calendar years following the year in which the assessment was paid. In the event a member insurer should cease doing business in this State, all uncredited assessments may be credited against its premium tax liability for the year it ceases doing business.]~~

(a) Each member insurer shall annually recoup assessments paid by the member insurer under section 431:21-105(b) (6). The recoupment shall be recovered by means of a surcharge on premiums charged by the member insurer for property and casualty



1 insurance, not including motor vehicle insurance. Any excess
2 recovery by a member insurer shall be credited pro rata to that
3 member insurer's policyholders' premiums in the succeeding year
4 unless there has been a subsequent assessment, in which case the
5 excess shall be used to pay the amount of the subsequent
6 assessment. A member insurer may continue to surcharge premiums
7 until the full assessments are recouped.

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

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

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



PART III

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

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

(b) The surcharge required under subsection (a) shall be the same percentage of the total premiums charged for each



1 policy assessed under sections 431P-5(b)(8)(A) and (B) and 431P-
2 16(d).

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

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

13 **§431P-B Temporary recording fee; establishment, reduction,**
14 **and cessation by board.** (a) The board may activate, reduce, or
15 terminate the collection of a temporary recording fee as
16 provided in this section.

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



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

3 (1) Set the amount of the fee; provided that the amount
4 shall not exceed \$ per document recorded
5 with the bureau of conveyances or filed with the
6 assistant registrar of the land court of the State;
7 and

8 (2) Establish the period of time during which the fee
9 shall be collected; provided that the time period
10 shall not exceed months.

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

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

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

19 (f) The temporary recording fee shall be submitted to and
20 collected by the bureau of conveyances or the assistant
21 registrar of the land court of the State. All proceeds realized



1 from the collection of the fee shall be deposited into a
2 separate account of the hurricane reserve trust fund.

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

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

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

9 "Condominium" means real property that:

10 (1) Has an association registered with the real estate

11 commission in accordance with chapter 514B, part VI;

12 (2) Consists of units as defined in section 514B-3;

13 (3) Is used for residential purposes; and

14 (4) Is in insurable condition as determined by the board.

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

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

20 "Eligible property" means:



- 1 (1) Real property [~~of one to four units~~] used for
2 residential purposes and [~~which~~] that is in insurable
3 condition, and [~~which~~] that may include tangible
4 personal property located therein or thereon and other
5 structures at the insured location, as provided in the
6 plan of operation or any manual of rules and rates
7 adopted under the plan of operation;
- 8 (2) Real property used for business, commercial, or
9 industrial purposes [~~which~~] that is in insurable
10 condition, and [~~which~~] that may include tangible
11 personal property located therein or thereon, as
12 provided in the plan of operation or any manual of
13 rules and rates adopted under the plan of operation;
- 14 (3) Tangible personal property owned by an occupant of and
15 located in or on real property of the types described
16 in paragraph (1), as provided in the plan of operation
17 or any manual of rules and rates adopted under the
18 plan of operation; provided that the owner of the
19 tangible personal property does not own the real
20 property in or [~~on~~] upon which the tangible personal
21 property is located; [~~and~~]



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

9 (5) A condominium that is used for residential purposes
10 and that may include tangible personal property
11 located therein or thereon and other structures at the
12 insured location, as provided in the plan of operation
13 or any manual of rules and rates adopted under the
14 plan of operation."

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

17 ""Licensed property and casualty insurer" means~~[+]~~

18 ~~(1) Any~~ any insurer licensed to transact any one or more
19 classes of insurance authorized in section 431:3-204
20 where premiums written within ~~[such]~~ the authority are
21 required to be reported in the "Exhibit of Premiums



1 and Losses" for this State in the National Association
2 of Insurance Commissioners fire and casualty annual
3 statement convention blank that is required to be
4 filed with the commissioner under section 431:3-302[+
5 and

6 ~~-(2) The Hawaii Property Insurance Association created in~~
7 ~~article 21 of chapter 431]."~~

8 4. By amending the definition of "policy of hurricane
9 property insurance" to read:

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

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



1 ~~(2) \$500,000 per risk on real and personal property used~~
2 ~~for business, commercial, or industrial purposes,~~
3 ~~subject to the limits defined by the plan of operation~~
4 ~~or any manual of rules and rates adopted under the~~
5 ~~plan of operation; provided that the board may~~
6 ~~designate an association of property owners or~~
7 ~~cooperative housing corporation to be a commercial~~
8 ~~risk; provided that this policy or endorsement shall~~
9 ~~not include coverage for business interruption and~~
10 ~~other similar coverages.]~~ subject to the limits and
11 deductibles allowed by the plan of operation or any
12 manual of rules and rates adopted under the plan of
13 operation."

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

16 "**[{]}\$431P-2[{]}** **Establishment of Hawaii hurricane relief**
17 **fund.** There shall be a Hawaii hurricane relief fund to be
18 placed within the department of commerce and consumer affairs
19 for administrative purposes. The fund shall be a public body
20 and a body corporate and politic. Any applicant for insurance
21 from the fund shall provide proof, to the satisfaction of the



1 board, of the inability to obtain hurricane property insurance
2 from insurers licensed to transact business in the State."

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

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

7 (1) To sue and be sued;

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

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

12 (4) To borrow moneys, including but not limited to moneys
13 from [~~state or~~] federal or state sources and to issue
14 notes or other obligations of the fund for the
15 purposes of providing funds for any of its purposes as
16 authorized by the legislature from time to time;

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



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

10 (A) Transfer possession of collateral to its secured
11 parties; or

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



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

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

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

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

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

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



1 commissioner pursuant to article 14 of chapter 431.

2 Rates adopted shall provide for classification of
3 risks and shall include past and prospective losses
4 and expense experience in this State;

5 (4) Adopt procedures, guidelines, and surcharges
6 applicable to policies of hurricane property insurance
7 issued in connection with an underlying property
8 policy issued by an unauthorized insurer;

9 (5) Adopt any form of insurance policy necessary for
10 providing policies of hurricane property insurance by
11 the fund, with the approval of the commissioner;

12 (6) Issue policies of hurricane property insurance and pay
13 claims for coverage over the mandatory deductible or
14 other deductible provided in the plan of operation or
15 any manual of rules and rates adopted under the plan
16 of operation;

17 (7) [~~Require every~~] Contract with one or more licensed
18 property and casualty [~~insurer~~] insurers transacting
19 direct property insurance business in this State to
20 act as a servicing facility, and by contract with that
21 insurer authorize the insurer to inspect eligible



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

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



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

15 (B) ~~[In the event of]~~ If a loss occurs from a covered
16 event the fund, in addition to the assessment in
17 subparagraph (A), ~~[shall]~~ may assess those
18 insurers ~~[which]~~ that acted as servicing
19 facilities during the twelve months ending at the
20 start of the month preceding the month in which
21 the covered event occurs. The total assessment



1 shall be a fixed percentage of the total coverage
2 provided by the fund under its policies of
3 hurricane property insurance during the month
4 preceding the month in which the covered event
5 occurs. The percentage to be used in calculating
6 the total assessment shall be ~~[as follows]:~~

7 ~~(i) For calendar year 1998, a percentage as~~
8 ~~fixed by the board in the plan of operation,~~
9 ~~but in no event shall the total assessment~~
10 ~~exceed \$500,000,000;~~

11 ~~(ii) For calendar year 1999, 1.125 per cent;~~

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

13 ~~(iv)] (i) For calendar year 2001, [and each~~
14 ~~calendar year thereafter,] 1.5 per cent[.];~~
15 ~~and~~

16 (ii) Beginning January 1, 2026, a percentage not
17 to exceed 1.5 per cent as determined by the
18 board.

19 A separate total assessment shall be made for
20 each covered event. The total assessment shall
21 be allocated to each servicing facility based on



1 the proportion of the total amount of the fund's
2 gross direct written premiums for policies of
3 hurricane property insurance serviced by each
4 servicing facility to the total amount of the
5 fund's gross direct written premiums for policies
6 of hurricane property insurance, in each case,
7 during the twelve months ending at the start of
8 the month preceding the month in which the
9 covered event occurs. Assessments made under
10 this subparagraph and those under subparagraph
11 (A) in a year in which a covered event has
12 occurred are due from each insurer based on
13 assessment procedures established by the fund to
14 meet its obligations to policyholders in a timely
15 manner; and

16 (C) [~~The fund may exempt~~] Exempt or defer, in whole
17 or in part, the assessment of any insurer if the
18 assessment would cause the insurer's financial
19 statement to reflect amounts of capital or
20 surplus less than the minimum amounts required
21 for a certificate of authority in this State;



- 1 (9) Develop a program of incentives to encourage insurers
2 to provide policies of hurricane property insurance
3 ~~[in the event]~~ if the commissioner authorizes the
4 provision of comparable insurance pursuant to section
5 431P-10(b) ~~[which]~~ that may include but are not
6 limited to exemption of the insurer's gross direct
7 written premium for property insurance from the
8 assessment pursuant to paragraph (8) (A);
- 9 ~~[(10)]~~ ~~Develop a credit based on the difference between~~
10 ~~premiums written in 1993 and the premiums written in~~
11 ~~1992 by each property insurer against the assessment~~
12 ~~for gross direct written premiums written in 1993;~~
- 13 ~~[(11)]~~ (10) Develop procedures regarding policies written by
14 unauthorized insurers comparable to the assessments,
15 surcharges, and other contributions made by insurers
16 authorized to do business in this State;
- 17 ~~[(12)]~~ (11) Accumulate reserves or funds, including the
18 investment income thereon, to be used for paying
19 expenses, making or repaying loans or other
20 obligations of the fund, providing loss mitigation



1 incentives, and paying valid claims for covered events
2 insured by the fund;

3 ~~[(13)]~~ (12) Collect and maintain statistical and other data
4 as may be required by the commissioner;

5 ~~[(14)]~~ ~~Exempt mortgage transactions from payments of the~~
6 ~~special mortgage recording fee and provide for maximum~~
7 ~~limits on or, uniform reduction of the special~~
8 ~~mortgage recording fee, pursuant to rules adopted by~~
9 ~~the board;~~

10 ~~-(15)-~~ ~~Suspend or reactivate the special mortgage recording~~
11 ~~fee pursuant to resolution of the board;~~

12 ~~-(16)-~~ (13) Impose fines for each incident of nonpayment of
13 amounts due to the fund under this chapter; provided
14 that the fines shall not exceed twenty-five per cent
15 of the amount then due;

16 ~~[(17)]~~ (14) Create loss mitigation incentives, including but
17 not limited to premium credits, premium rebates,
18 loans, or cash payments;

19 ~~[(18)]~~ (15) Enter into claims financing transactions,
20 including but not limited to reinsurance transactions,
21 debt transactions, and other transactions



1 incorporating elements of reinsurance, insurance,
2 debt, or equity;

3 ~~[-(19)]~~ (16) Establish business and corporate entities or
4 organizations pursuant to the purposes of this
5 chapter; ~~[and]~~

6 (17) Receive for deposit into separate accounts within the
7 hurricane reserve trust fund established pursuant to
8 section 431P-16 revenues received from any fee revenue
9 authorized by the legislature for deposit into the
10 hurricane relief trust fund, and any other source of
11 revenue available to the board;

12 (18) Notwithstanding any law to the contrary, loan funds to
13 the Hawaii property insurance association established
14 under section 431:21-103; and

15 ~~[-(20)]~~ (19) Perform any and all acts reasonably necessary to
16 carry out the purposes of this chapter."

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

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



1 "(a) Upon written confirmation from the [~~insurance~~]
2 commissioner that the director [~~of finance~~] has secured
3 \$500,000,000, in the aggregate, in the form of:

4 (1) Commitments from either the federal government or an
5 agency of the federal government or a financial
6 institution;

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

9 (3) A combination of the commitments or bonds[+],
10 the Hawaii hurricane relief fund shall[+]

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

12 ~~(2) Continue~~ continue accumulating premiums from policies
13 of hurricane property insurance [~~and the special~~
14 ~~mortgage recording fee~~], net of any reinsurance
15 payments, operating expenses, and funds necessary for
16 the development of a comprehensive loss reduction
17 plan."

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

19 "(c) [~~In the event of~~] If a loss from a covered event[+]
20 occurs, the net moneys accumulated shall be used to settle
21 claims and pay current and ongoing expenses of the Hawaii



hurricane relief fund. The net accumulated moneys, commitments, and bonds described in subsection (a) ~~[(2)]~~ shall be used only ~~[in the event]~~ if losses from a covered event exceed the assessment pursuant to section 431P-5(b)(8)(B).

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

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

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

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

(2) ~~[Establish]~~ Shall establish procedures for providing notice to all persons with interests insurable by the fund in the State of the type of insurance available



1 from the fund [~~in the event~~] if the fund offers
2 insurance;

3 (3) [~~Provide~~] Shall provide for and adopt all necessary
4 forms, including insurance policies to be used by and
5 on behalf of the fund, for use by the fund and
6 servicing facilities;

7 (4) [~~Adopt~~] Shall adopt actuarially sound rates, based on
8 reasonable assumptions relative to expectations of
9 hurricane frequency and severity, to be charged for
10 insurance provided by the fund, in accordance with
11 article 14 of chapter 431;

12 (5) [~~Publish~~] Shall publish manuals of rules, rates, and
13 rating and classification plans, which shall address
14 mandatory deductibles, limits of coverage, and the
15 classification of risks and rate modifications based
16 on the exposure of insureds[+], subject to the
17 approval of the commissioner;

18 (6) [~~Establish~~] Shall establish procedures for receiving
19 and servicing applications to the fund;

20 (7) [~~Establish~~] Shall establish procedures for processing
21 and maintaining records of the fund relating to its



1 financial transactions, its agents, its employees, its
2 operations, and all transactions with any servicing
3 facility;

4 (8) [~~Establish~~] Shall establish procedures for the
5 collection and remittance of the premiums and return
6 of unearned premiums where applicable;

7 (9) [~~Establish~~] Shall establish procedures for the payment
8 of valid claims;

9 (10) [~~Establish~~] Shall establish procedures for prorating
10 available funds pursuant to section 431P-15;

11 (11) [~~Establish~~] Shall establish procedures for obtaining
12 reinsurance;

13 (12) [~~Establish~~] Shall establish procedures to borrow
14 funds; [~~and~~]

15 (13) [~~Develop~~] Shall develop a plan for the investment of
16 moneys held by the fund [~~subject to the limitations in~~
17 ~~article 6 of chapter 431.~~];

18 (14) Shall require, prior to issuance or renewal of
19 coverage, the applicant for condominium insurance
20 coverage or renewal to:



1 (A) Cause to be completed an inspection of the
2 applicable condominium; provided that the
3 inspection shall be consistent with any
4 inspection and reporting standards established by
5 the board and incorporated into the plan of
6 operation; and

7 (B) Satisfy any relevant requirements established by
8 the board and incorporated into the plan of
9 operation; and

10 (15) May prohibit coverage under this chapter for any
11 high-rise condominium for which the fund or its
12 servicing entities or any agents thereof have
13 identified maintenance issues materially affecting the
14 insurability of the high-rise condominium for
15 hurricane property insurance."

16 SECTION 14. Section 431P-10, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**\$431P-10 Coverage available from the fund; deductible.**
19 ~~[-(a) Policies]~~ Coverage limits and deductibles for policies
20 issued by the fund covering eligible property shall ~~[provide a~~
21 ~~maximum aggregate coverage of up to \$750,000 per risk on real~~



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

~~(b) Insurers seeking to provide multi-peril coverage for residential property, including multi-peril coverage of the hurricane peril, subject to the fund's program for incentives and credits, shall submit to the commissioner a written request for permission to write the coverage; provided that in the absence of such authorization, no other policy of residential property insurance or endorsement to a policy of residential property insurance on eligible residential property located in this State shall be issued to provide insurance for damages or~~



~~losses caused by a covered event if such coverage is less than that offered by the fund. If multi-peril coverage on commercial property is no longer being offered by the fund, any multi-peril coverage on commercial property offered by an insurer shall qualify as a comparable coverage under section 431P-5(b)(8)(A). Multi-peril coverage on residential property which [includes] coverage for hurricane losses offered by an insurer shall qualify as a comparable coverage under section 431P-5(b)(8)(A).]~~
be established in the plan of operation, subject to approval by the commissioner."

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

"(b) [The] Except for:

(1) Applicants who are otherwise able to procure hurricane property insurance from insurers authorized to transact business in the State; and

(2) Properties that are deemed ineligible pursuant to the plan of operation,

the fund shall not deny any application for hurricane property insurance on any property eligible under subsection (a)."



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

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

~~[(b) The hurricane reserve trust fund shall receive deposits of the special mortgage recording fee established by this chapter. Except as determined by board order, the special mortgage recording fee shall be imposed on each mortgage and~~



~~each amendment to a mortgage which, in each case, increases the principal amount of the secured debt and which is recorded in the bureau of conveyances of the State under chapter 502 or filed with the assistant registrar of the land court of the State under chapter 501.~~

~~The special mortgage recording fee shall be an amount equal to one-tenth of one per cent of the stated principal amount of the debt secured by the mortgage or, in the case of an amendment or refinancing of a mortgage, an amount equal to one-tenth of one per cent of the amount of the increase of the stated principal amount of the secured debt; provided that the board may establish a lower special mortgage recording fee amount pursuant to section 431P-5(b)(14). With respect to an open end revolving loan, the principal amount of the debt on which the special mortgage recording fee is calculated shall be the maximum amount which may be outstanding under the loan at any one time. With respect to a mortgage securing a nonmonetary or inchoate obligation, the principal amount of the debt on which the special mortgage recording fee is calculated shall be the monetary amount which the mortgagee attributes to the obligation. If the debt is stated in a foreign currency, it~~



~~shall be converted to U.S. dollars using an exchange rate published in a newspaper of general circulation in this State within one week prior to recordation of the mortgage or amendment of mortgage.~~

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

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



1 fund[-]; provided that after December 31, 2025, all proceeds
2 realized from the collection of the assessments shall be
3 deposited into a separate trust account within the hurricane
4 reserve trust fund.

5 Property and casualty insurers shall annually recoup
6 assessments paid pursuant to section 431P-A.

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

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



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

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

18 ~~[(+g)]~~ (f) Any proceeds from loans or other moneys from the
19 federal government, any proceeds from bonds issued pursuant to
20 this chapter loaned by the director to the Hawaii hurricane
21 relief fund, any revenues derived from the temporary recording



1 fee pursuant to section 431P-B, and other moneys as the State
2 may make available from time to time shall be deposited into
3 separate accounts of the hurricane reserve trust fund.

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

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

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

19 (2) If ~~[such]~~ the moneys are paid on behalf of licensed
20 property and casualty insurers, payment shall be made
21 in proportion to the premiums from policies of



1 hurricane property insurance serviced by the insurers
2 in the twelve months prior to dissolution of the
3 fund[÷
4 ~~provided that all interest earned from the principal in the~~
5 ~~hurricane reserve trust fund shall be transferred and deposited~~
6 ~~into the general fund each year that the hurricane reserve trust~~
7 ~~fund remains in existence]."~~

8 SECTION 17. Section 501-23.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§501-23.5 Disposition of fees received at the bureau of**
11 **conveyances.** Notwithstanding any other law to the contrary, of
12 the fees received at the bureau of conveyances, the registrar of
13 conveyances shall deposit to the credit of the state general
14 fund \$18 for each document recorded and shall deposit the
15 remaining balance and all fees other than the [~~special mortgage~~
16 ~~recording fee established pursuant to section 431P-16]~~ temporary
17 recording fee established pursuant to section 431P-B and
18 conveyance tax collected pursuant to section 247-1 to the credit
19 of the bureau of conveyances special fund established under
20 section 502-8."



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

"(b) Notwithstanding any other law to the contrary, of the fees received at the bureau of conveyances, the registrar of conveyances shall deposit to the credit of the state general fund \$18 for each document recorded and shall deposit the remaining balance and all fees other than the ~~[special mortgage recording fee established pursuant to section 431P-16]~~ temporary recording fee established pursuant to section 431P-B and conveyance tax collected pursuant to section 247-1 to the credit of the bureau of conveyances special fund established under section 502-8."

PART IV

SECTION 19. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2025-2026 to provide a loan to the Hawaii property insurance association for administrative and startup costs, minimum solvency costs, and the purchase of reinsurance. The moneys shall be deposited into the Hawaii property insurance association's reserve trust fund



1 established pursuant to section 431:21-105(b) (9), Hawaii Revised
2 Statutes.

3 The sum appropriated shall be expended by the insurance
4 commissioner for the purposes of part II of this Act until such
5 time as the Hawaii property insurance association board of
6 directors convenes its first meeting after the effective date of
7 this Act. Thereafter, any remaining moneys appropriated
8 pursuant to this section shall be expended by the Hawaii
9 property insurance association board of directors for the
10 purposes of part II of this Act. Any moneys appropriated to the
11 Hawaii property insurance association shall be repaid to the
12 general fund in accordance with the procedures, guidelines,
13 installment amounts, and timetable established for the repayment
14 of any general fund moneys pursuant to section
15 431:21-106(c) (17), Hawaii Revised Statutes.

16 SECTION 20. The director of finance is authorized to issue
17 general obligation bonds in the sum of \$ or so much
18 thereof as may be necessary and the same sum or so much thereof
19 as may be necessary is appropriated for fiscal year 2025-2026
20 for deposit into the hurricane reserve trust fund for the
21 purpose of providing working capital to finance any permitted



1 purpose under this Act. The insurance commissioner, upon the
2 insurance commissioner's determination that it is advisable to
3 transfer funds from the hurricane reserve trust fund, shall
4 reimburse the general fund for payment of debt service on
5 general obligation bonds authorized and issued under this
6 section.

7 PART V

8 SECTION 21. (a) The insurance commissioner shall conduct
9 a study to identify or develop a long-term solution to stabilize
10 the property insurance market in the State. The insurance
11 commissioner shall include in the study:

- 12 (1) Recommendations for capitalizing the Hawaii property
13 insurance association and Hawaii hurricane relief
14 fund;
- 15 (2) Recommendations for monitoring the stability of the
16 property insurance market in the State;
- 17 (3) A determination of the efficacy of the changes
18 implemented pursuant to this Act;
- 19 (4) An evaluation of the feasibility of establishing a
20 mutual or captive insurance model to address the
21 affordability and availability of property insurance



1 in the State, including solutions to address the needs
2 of condominium associations and individual residential
3 condominium property owners; and

4 (5) Recommendations on a mechanism to ensure that
5 condominium properties are maintained and repaired in
6 a timely manner to ensure that the condominium
7 properties remain in insurable condition.

8 (b) The insurance commissioner shall submit reports of the
9 insurance commissioner's findings and recommendations, including
10 any proposed legislation, to the legislature no later than
11 twenty days prior to the convening of the regular sessions of
12 2026 and 2027.

13 SECTION 22. There is appropriated out of the general
14 revenues of the State of Hawaii the sum of \$100,000 or so much
15 thereof as may be necessary for fiscal year 2025-2026 for the
16 insurance commissioner to conduct a study pursuant to this part.

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

20 PART VI



1 SECTION 23. In codifying the new sections added by section
2 8, and referenced in sections 16, 17, and 18 of this Act, the
3 revisor of statutes shall substitute appropriate section numbers
4 for the letters used in designating the new sections in this
5 Act.

6 SECTION 24. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 25. This Act shall take effect on July 1, 3000.



Report Title:

HPIA; HHRF; Property Insurance; Hurricane; Condominiums; Report;
General Obligation Bonds; Appropriation

Description:

Expands the powers of the Hawaii Property Insurance Association and reactivates the Hawaii Hurricane Relief Fund to help to stabilize the property insurance market in the State. Requires the Insurance Commissioner to conduct a study and appropriates funds for this purpose. Appropriates funds as a loan to the Hawaii Property Insurance Association. Authorizes the issuance of general obligation bonds to facilitate the initial issuance of policies to condominium associations. Effective 7/1/3000.
(HD1)

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

