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## A BILL FOR AN ACT

RELATING TO CONDOMINIUM INSURANCE.

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

1           SECTION 1. The legislature finds that before the Maui  
2 wildfires on August 8, 2023, the availability of condominium  
3 building master property insurance policy options within the  
4 condominium insurance marketplace was already shrinking. Due in  
5 part to the shrinking condominium insurance marketplace, the  
6 cost of condominium building master insurance policies has  
7 increased exponentially, with insurers increasing deductible  
8 amounts from approximately \$10,000 to \$25,000 per unit, per  
9 occurrence, to as much as \$250,000. These increased deductibles  
10 are also due to consistent and high-cost losses.

11           The legislature also finds that while the State has not  
12 experienced a direct, major impact from a major hurricane since  
13 hurricane Iniki devastated Kauai and damaged homes along Oahu's  
14 leeward coast more than thirty years ago, mortgage lenders  
15 continue to require Hawaii homeowners to carry hurricane  
16 insurance that can cost two to three times the amount of annual  
17 premiums of a conventional homeowner policy. The governor's



1 emergency proclamation dated August 7, 2024, enabled the  
2 executive branch to provide additional options for condominium  
3 associations to purchase hurricane and property insurance for  
4 their buildings by authorizing:

5 (1) Loans to the Hawaii hurricane relief fund and the  
6 Hawaii property insurance association to facilitate  
7 the issuance of hurricane and property insurance  
8 policies to condominium associations; and

9 (2) The Hawaii hurricane relief fund to issue hurricane  
10 insurance policies for large condominium buildings and  
11 set policy limits.

12 The legislature also acknowledges that although insurance  
13 coverage, excluding hurricane coverage, for condominium  
14 buildings is available in the standard insurance market, the  
15 availability of this coverage is not guaranteed.

16 The legislature further acknowledges that the city and  
17 county of Honolulu's requirement for mandatory fire sprinkler  
18 retrofits or alternative fire safety upgrades in older  
19 condominium properties covered by ordinance 18-14, as amended by  
20 ordinance 22-2, has resulted in insurance premium increases of  
21 one hundred per cent or more since 2022, and substantial



1 expenses to comply with the ordinance for more than three  
2 hundred high-rise properties on Oahu.

3 The purpose of this Act is to establish a mutual insurance  
4 program to provide coverage to stabilize the insurance market  
5 serving Hawaii high-rise residential condominium properties.

6 SECTION 2. Chapter 431, Hawaii Revised Statutes, is  
7 amended by adding a new article to be appropriately designated  
8 and to read as follows:

9 **"ARTICLE**

10 **HAWAII CONDOMINIUM MUTUAL INSURANCE COMPANY**

11 **§431: -101 Purpose.** There is established the Hawaii  
12 condominium mutual insurance company to provide property and  
13 casualty insurance coverage to high-rise residential  
14 condominiums and the owners of units within those condominiums  
15 at the highest level of service with the lowest possible cost,  
16 consistent with reasonable and applicable actuarial standards  
17 and the sound financial integrity of each residential  
18 condominium property association.

19 **§431: -102 Definitions.** As used in this article:

20 "Administrator" means the chief executive officer of the  
21 Hawaii condominium mutual insurance company.



1 "Association" shall have the same meaning as in section  
2 514B-3.

3 "Board" means the board of directors of the Hawaii  
4 condominium mutual insurance company.

5 "Company" means the Hawaii condominium mutual insurance  
6 company established by this article.

7 "Council" means the Hawaii condominium mutual insurance  
8 company oversight council.

9 "High-rise residential condominium property" means a  
10 residential building having or more stories of  
11 residential units.

12 "Investment manager" means any fiduciary, who has been  
13 designated by the board to manage, acquire, or dispose of the  
14 company's assets, a bank as defined by law, or an insurance  
15 company qualified to perform services under the laws of more  
16 than one state.

17 "Qualified actuary" means a member of the American Academy  
18 of Actuaries who is either a fellow of the Casualty Actuarial  
19 Society or an Associate of the Casualty Actuarial Society who  
20 has five or more years of experience.



1           **§431: -103 Hawaii condominium mutual insurance company;**  
2 **established.** (a) The Hawaii condominium mutual insurance  
3 company is established as an independent corporation to provide  
4 condominium insurance and related services to Hawaii  
5 condominiums and the owners of the units within those  
6 condominiums. The company may be reorganized as a nonprofit  
7 corporation under chapter 414D.

8           (b) The company shall be organized and operated as a  
9 domestic mutual insurance company. The company shall comply  
10 with, unless specifically excluded, all requirements of the  
11 insurance code regarding a domestic mutual insurance company.  
12 The company shall not be an agency of the State. The company or  
13 its liabilities shall not be deemed to constitute debts or  
14 liabilities of the State of Hawaii or pledges of the full faith  
15 and credit of the State. The company shall write property and  
16 casualty insurance policies for high-rise residential  
17 condominiums and its residential unit owners as required or  
18 authorized by law to the same extent as any other private  
19 insurer. The company shall not write other lines of insurance,  
20 reinsurance, or excess insurance.



1           (c) The company's assets shall consist of real and  
2 personal property and shall include all premiums and other  
3 moneys paid to the company, all property, and other income  
4 acquired, earned, or otherwise gained by the use of premiums and  
5 other moneys paid to the company by deposits, investments,  
6 exchanges, and other transactions. The company's assets shall  
7 be the sole property of the company and shall be used  
8 exclusively by the company for the operation and obligations of  
9 the company.

10           (d) The company is exempt from participation, and shall  
11 not join, contribute financially to, nor be entitled to the  
12 protection of, any plan, association, guaranty, insolvency fund,  
13 or education and training fund authorized or required by this  
14 chapter. Notwithstanding the foregoing exemptions, beginning  
15 January 1, 2027, the company shall participate in the property  
16 and liability insurance guaranty association, pursuant to  
17 sections 431:16-101 to 431:16-117; provided that the company  
18 shall meet the surplus requirements applicable to all other  
19 domestic insurers under chapter 431 effective January 1, 2027.

20           (e) On or after January 1, 2027, the company shall provide  
21 property and casualty insurance coverage to Hawaii condominiums



1 and their unit owners otherwise entitled to coverage but not  
2 able to or not electing to purchase coverage in the voluntary  
3 insurance market, and not authorized, either individually or as  
4 a part of a group, to self-insure. An authorized self-insured  
5 is eligible for coverage upon termination of self-insurance.

6       **§431: -104 Incorporation of article 14A sections.**

7 Unless the context otherwise requires, sections 431:14A-106,  
8 431:14A-107, 431:14A-108, 431:14A-109, 431:14A-110, 431:14A-111,  
9 431:14A-112, 431:14A-113, 431:14A-115, and 431:14A-116 are  
10 incorporated by reference into this article; provided that the  
11 definitions set forth in section 431: -102 shall apply when a  
12 defined term is used.

13       **§431: -105 Company divisions.** The company may add one  
14 or more divisions for purpose of this article.

15       **§431: -106 Board of directors, established.** (a) The  
16 board of directors of the company shall be responsible for the  
17 organization, management, policies, and activities of the  
18 company. The board shall consist of nine voting members and one  
19 nonvoting member. The voting members shall consist of the  
20 following:



1 (1) Eight directors who shall be owners, officers, or  
2 employees of policyholders of the company; and

3 (2) One director who shall be a public, at-large member  
4 elected by the board of directors.

5 The administrator shall be the nonvoting member of the board.

6 (b) The initial eight directors shall be appointed by the  
7 governor and shall serve for terms of one year each.

8 The public, at-large member initially elected by the board  
9 shall serve for a term of one year.

10 The initial board of directors shall determine the  
11 staggering and length of future directors' terms; provided that  
12 no term shall exceed three years. Each director shall serve for  
13 terms as specified by the board unless sooner removed for cause  
14 pursuant to rules adopted by the board. Each director shall  
15 hold office until a successor is appointed. No person shall  
16 serve more than two consecutive full terms as director. Any  
17 other law to the contrary notwithstanding, the election and  
18 composition of the board of directors as provided in this  
19 section shall be deemed adequate to qualify the company as a  
20 mutual insurer under chapter 431.





1 (c) A vacancy on the board shall be filled by appointment  
2 of the governor in the case of appointed directors, or by  
3 election by the board of directors in the case of the at-large  
4 member. The person appointed to fill a vacancy shall serve for  
5 the remainder of the term of the person's predecessor.

6 (d) Within one year after appointment, each director shall  
7 be a member or an employee of a policyholder of the company and  
8 shall continue in such status during the director's term of  
9 office. Any director representing a member that fails to  
10 maintain workers' compensation insurance from the company shall  
11 be disqualified from serving on the board.

12 (e) Each director shall receive necessary traveling and  
13 board expenses incurred in the performance of duty as director  
14 and a fee commensurate with the duties expected of actual  
15 attendance at board meetings.

16 (f) No person shall be a director who has a direct and  
17 substantial interest in a competing insurer as:

18 (1) A stockholder (excluding the holding of less than one  
19 per cent of the outstanding shares in a publicly  
20 traded insurer);

21 (2) An employee;



1 (3) An attorney; or

2 (4) A contracting party (excluding an independent  
3 contractor or business owner who does less than  
4 twenty-five per cent of its total annual volume of  
5 business per year with competing insurers).

6 **§431: -107 Oversight council.** (a) There is established  
7 the Hawaii condominium mutual insurance company oversight  
8 council which shall meet at least once annually. For  
9 administrative purposes only, the council shall be assigned to  
10 the department of commerce and consumer affairs. The council  
11 shall oversee the activities of the company to ensure that the  
12 company fulfills its purpose as set forth in this article.

13 (b) The council shall consist of five members who shall  
14 include:

15 (1) A member of the senate appointed by the president of  
16 the senate;

17 (2) A member of the house of representatives appointed by  
18 the speaker of the house of representatives;

19 (3) The director of the department of commerce and  
20 consumer affairs; and



1           (4) Two at-large members who are an owner, officer, or  
2           employee of the company policyholder appointed by the  
3           governor;

4 provided that if any designee under paragraphs (1) or (2) does  
5 not meet the test in subsection (c), the president of the  
6 senate, speaker of the house, or governor, as applicable, shall  
7 designate an appropriate representative. Section 26-34 shall  
8 not apply to appointments under this section.

9           (c) No person shall serve on the council who within the  
10          second degree of consanguinity or affinity has a direct and  
11          substantial interest in an insurer that competes with the  
12          company, including but not limited to:

13          (1) A stockholder of a competing company (excluding a  
14          holder of less than one per cent of the outstanding  
15          shares in a publicly traded company);

16          (2) An employee of a competing company;

17          (3) An attorney who represents a competing company; or

18          (4) A party who contracts with a competing company  
19          (excluding an independent contractor or business owner  
20          who does less than twenty-five per cent of its total



1           annual volume of business per year with competing  
2           insurers).

3           (d) Members of the council shall serve without  
4           compensation, but shall be reimbursed for reasonable expenses  
5           necessary for the performance of their duties.

6           (e) The administrator shall serve as liaison officer to  
7           the council. Not later than sixty days after July 20, 2027, and  
8           every June 15 thereafter, the board shall provide to the council  
9           any and all data and information the council may require,  
10          including but not limited to:

11          (1) The company's statutorily required annual financial  
12          statement;

13          (2) Copies of any reports issued by the insurance division  
14          in connection with the triennial examination of the  
15          company; and

16          (3) Actuarial certification of loss reserves.

17          (f) After receipt of the data and information required  
18          pursuant to subsection (e), the council shall review the  
19          activities of the company and determine whether the company is  
20          fulfilling its purpose as set forth in this article. The  
21          council shall promptly, but in no event later than October 15,



1 2027, and every October 15 thereafter, submit a report to the  
2 governor with a copy to the board of directors, stating whether  
3 the company is fulfilling its purpose as set forth in this  
4 article. If the council determines that there are any  
5 deficiencies in the company's fulfillment of its purposes as set  
6 forth in this article, it shall include in its report a detailed  
7 description of any deficiencies. Within a time frame  
8 established by the council, but in no event later than six  
9 months after delivery of the council's report in accordance with  
10 this section, the company shall respond in writing to any  
11 deficiencies identified in the council's report. The Hawaii  
12 condominium mutual insurance company shall provide staff support  
13 to the council.

14 (g) If the governor determines that corrective action is  
15 appropriate after reviewing the council's report and the  
16 company's response, the governor shall inform the legislature,  
17 and the legislature shall consider what action is needed.

18 **§431: -108 Audits.** (a) For casualty and property  
19 insurance policies issued to an association, the administrator,  
20 or designated representative, shall have reasonable access to  
21 association records and property during regular working hours to



1 carry out audits and obtain other information necessary for the  
2 administration of this article.

3 (b) For each casualty and property insurance policy issued  
4 to a unit owner, the administrator, or designated  
5 representative, shall have reasonable access to the unit and  
6 association records and property during regular working hours to  
7 carry out audits and obtain other information necessary for the  
8 administration of this article.

9 **§431: -109 Building safety and management programs. (a)**

10 The company shall work with policyholders to develop, implement,  
11 and monitor building safety and management programs. The  
12 programs shall include the development of a loss reduction plan  
13 that promotes safe building conditions.

14 (b) The company shall promote safety programs to  
15 policyholders through programs and activities, which may  
16 include:

17 (1) Analyzing reports of accidents to help determine the  
18 cause of those accidents;

19 (2) Conducting studies for risk and hazard identification  
20 and assessments by professionals;



1 (3) Conducting educational programs designed to prevent  
2 frequently recurring accidents; and

3 (4) Inspecting properties and investigating unsafe  
4 conditions to promote safety and eliminate hazards.

5 (c) Company representatives shall have reasonable access  
6 to the premises of any policyholder or applicant during regular  
7 working hours to carry out evaluations.

8 (d) Where the company finds, upon the completion of a  
9 detailed inspection, that an insured has policies and practices  
10 in place that demonstrate a high regard for safety, the company  
11 may apply a deviation to the insured's rate structure, noting  
12 special recognition of those efforts.

13 (e) The company shall not incur additional legal liability  
14 toward its members or beneficiaries as a result of any action  
15 taken or not taken pursuant to this chapter beyond that  
16 explicitly created by this chapter or common law and generally  
17 applicable to the acts or omissions of all issuers of property  
18 and casualty insurance in this State."

19 SECTION 3. Chapter 514B, Hawaii Revised Statutes, is  
20 amended by adding a new section to part I to be appropriately  
21 designated and to read as follows:



1        "§514B-        Condominium loan fund. (a) There is  
2 established the condominium loan fund into which shall be  
3 deposited all moneys appropriated by the legislature to the  
4 fund, contributed or transferred to the fund, and received as  
5 repayment of loans and interest payments as provided in this  
6 section.

7        (b) The director of commerce and consumer affairs may make  
8 loans to associations that have been subject to increased  
9 insurance premium costs of        per cent or more since  
10 January 1,        , and for which the increased insurance premium  
11 costs have resulted in increased maintenance fees for unit  
12 owners of the condominium.

13        (c) The director of commerce and consumer affairs may  
14 delegate the authority to make loans under subsection (b) to the  
15 Hawaii condominium mutual insurance company.

16        (d) All unexpended and unencumbered moneys remaining in  
17 the state disaster revolving loan fund at the close of each  
18 fiscal year, which are deemed by the director of finance to be  
19 in excess of the moneys necessary to carry out the purposes of  
20 this section over the next following fiscal year, shall lapse to  
21 the credit of the general fund."





1 SECTION 4. There is appropriated out of the hurricane  
2 reserve trust fund established under section 431P-16, Hawaii  
3 Revised Statutes, the sum of \$ or so much thereof as  
4 may be necessary for fiscal year 2025-2026 and the same sum or  
5 so much thereof as may be necessary for fiscal year 2026-2027  
6 for the Hawaii condominium mutual insurance company to provide  
7 property and casualty insurance coverage to high-rise  
8 residential condominiums, and the owners of units within those  
9 condominiums, as provided under this Act, including start-up  
10 costs.

11 The sums appropriated shall be expended by the Hawaii  
12 condominium mutual insurance company for the purposes of this  
13 Act.

14 SECTION 5. There is appropriated out of the general  
15 revenues of the State of Hawaii the sum of \$ or so much  
16 thereof as may be necessary for fiscal year 2025-2026 and the  
17 same sum or so much thereof as may be necessary for fiscal year  
18 2026-2027 to be deposited into the condominium loan fund.

19 SECTION 6. There is appropriated out of the condominium  
20 loan fund the sum of \$ or so much thereof as may be  
21 necessary for fiscal year 2025-2026 and the same sum or so much



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1 thereof as may be necessary for fiscal year 2026-2027 for loans  
 2 to associations of apartment owners under section 514B- ,  
 3 Hawaii Revised Statutes.

4 The sums appropriated shall be expended by the department  
 5 of commerce and consumer affairs for the purposes of this Act.

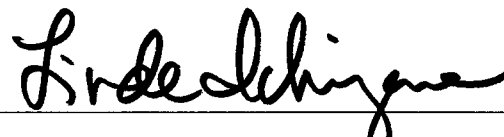
6 SECTION 7. If any provision of this Act, or the  
 7 application thereof to any person or circumstance is held  
 8 invalid, the invalidity does not affect other provisions or  
 9 applications of this Act which can be given effect without the  
 10 invalid provision or application, and to this end the provisions  
 11 of this Act are severable.

12 SECTION 8. Statutory material to be repealed is bracketed.  
 13 New statutory material is underscored.

14 SECTION 9. This Act shall take effect upon its approval;  
 15 provided that sections 4, 5, and 6 shall take effect on July 1,  
 16 2025.

17

INTRODUCED BY:



JAN 17 2025



# H.B. NO. 589

**Report Title:**

Condominium Insurance; Mutual Insurance Company; Appropriation

**Description:**

Establishes the Hawaii Condominium Mutual Insurance Company to provide property and casualty insurance to high-rise residential condominium properties and the owners of those units.

Establishes a loan fund to assist associations of apartment owners experiencing increased insurance costs. Appropriates moneys.

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