

OFFICE OF THE GOVERNOR
STATE OF HAWAII

**PROCLAMATION RELATING TO
CONDOMINIUM INSURANCE STABILIZATION**

By the authority vested in me by the Constitution and laws of the State of Hawai'i, to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, JOSH GREEN, M.D., Governor of the State of Hawai'i, hereby determine, designate and proclaim as follows:

WHEREAS, under chapter 127A, Hawaii Revised Statutes (HRS), emergency powers are conferred on the Governor of the State of Hawai'i to respond to disasters or emergencies, and generally to protect the public health, safety, and welfare, and to preserve the lives, property, and environment of the State.

WHEREAS, in 2023, the U.S. experienced 28 separate weather or climate disasters that each resulted in at least \$1 billion in damages;

WHEREAS, in 2023, the reinsurance market had over \$100 billion in losses for the 4th consecutive year in a row;

WHEREAS, due to the increase in worldwide climate events, reinsurance has become more expensive and less available. Reinsurance rates have increased 20-50% per year for the past few years. Primary insurers have passed these increased costs on to policyholders;

WHEREAS, in Hawai'i, condominium associations are facing the challenge of limited insurance options for hurricane insurance because of the tightening reinsurance market;

WHEREAS, only 3 insurers are offering master policies, which insure the common areas of the condominium, to condominium associations in Hawaii, often covering just 20-30% of a building's hurricane exposure;

WHEREAS, this has forced associations to use surplus lines insurers to cover the rest of the building's hurricane exposure, at higher rates not approved by the Insurance Commissioner, pushing up master policy premiums and deductibles;

WHEREAS, the State of Hawai'i Insurance Division is not authorized to regulate the rates charged by surplus lines insurers. These rates contribute significantly to the increase in condominium associations' master policy premiums;

WHEREAS, due to the substantial increases in master policy premiums, certain condominium associations have chosen to insure the building for less than full value or not at all;

WHEREAS, if the building is not fully insured, many mortgage lenders will not issue loans on the individual units, preventing purchases or sales of units within that building. Individual unit owners selling their units in these buildings would be forced to find an all-cash buyer. Individual unit buyers would be unable to obtain mortgages to buy units in these buildings. Individual unit owners would also not be able to obtain a home equity loans;

WHEREAS, even before the Maui wildfires, insurance rates in Hawaii and nationwide have started to increase since 2021. The Maui wildfires are starting to have an impact on the insurance market in terms of further increasing the cost of premiums; and

WHEREAS, the current state of the condominium insurance market will likely result in substantial injury or harm to the population, or substantial damage to or loss of property, and therefore constitutes an emergency under section 127A-2, HRS;

WHEREAS, to immediately stabilize the State's condominium insurance market, the Executive and Legislative Condo and Property Insurance Task Force (Task Force) has proposed allowing the Hawaii Hurricane Relief Fund (HHRF) and the Hawaii Property Insurance Association (HPIA) to issue master policies to condominium associations;

WHEREAS, to equip HHRF and HPIA to issue master policies to condominium associations, the Task Force has also proposed the issuing of a loan to HHRF and HPIA for startup administration costs and to obtain reinsurance;

WHEREAS, without the suspension of laws under an emergency proclamation, the stabilization measure cannot be implemented in an efficient and timely manner;

NOW, THEREFORE, I, JOSH GREEN, M.D., Governor of the State of Hawai'i, hereby determine and proclaim that an emergency or disaster contemplated by section 127A-14, HRS, has occurred in the State of Hawai'i. I hereby authorize and invoke the following emergency provisions, if not already effective by virtue of this Proclamation:

I. **State Cooperation**

Under subsection 127A-12(b), HRS, I hereby direct all state agencies and officers to cooperate with and extend services, materials, and facilities as may be required to assist in all efforts to address the objectives of this Proclamation.

II. **Suspension of Laws**

I hereby exercise my authority under paragraph 127A-13(a)(2) and 127A-13(a)(3), HRS, and suspend the following state laws, as allowed by federal law, only to the extent necessary to allow HPIA and HHRF issue master policies to condominium associations:

Section 36-24, HRS, **loans to state and county agencies**, to the extent necessary to allow loans to be issued to the Department of Commerce and Consumer Affairs and HHRF without a requirement that they be bond-issuing agencies;

Section 37-41, HRS, **appropriations to revert to state treasury; exceptions**, to the extent that appropriations lapse at the end of the fiscal year prior to completion of the emergency actions.

Subsection 37-74(d)(1), HRS, **program execution**, to the extent necessary to provide funding to complete the emergency actions.

Chapter 76, HRS, **civil service law**, to the extent necessary to allow qualified personnel to be hired that would be directly involved in the expeditious and efficient execution of emergency actions.

Chapter 89, HRS, **collective bargaining in public employment**, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency actions.

Chapter 89C, HRS, **public officers and employees excluded from collective bargaining**, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency actions.

Section 103-53, HRS, **contracts with the State or counties; tax clearances, assignments**, to the extent that compliance requires additional time detrimental to the expeditious and efficient execution of emergency actions.

Section 103-55, HRS, **wages, hours, and working conditions of employees of contractors performing services**, to the extent that compliance requires additional time detrimental to the expeditious and efficient execution of emergency actions.

Chapter 103D, HRS, **Hawaii public procurement code**, to the extent that compliance might delay the State in quickly obtaining the goods and services needed to address the emergency.

Section 127A-30, HRS, **rental or sale of essential commodities during a state of emergency; prohibition against price increases**, because the automatic statewide invocation of this provision is not needed for this emergency. This Proclamation does not affect the invocation and suspensions of section 127A-30, HRS, contained in the July 19, 2024, Sixteenth Proclamation Relating to Wildfires.

Section 431P-1, HRS, **definitions**, to the extent necessary to eliminate the phrase “of one to four units” from the definition of “Eligible property” to allow HHRF to issue master policies to condominium associations.

Section 431P-1, HRS, **definitions**, to the extent necessary to eliminate the monetary coverage limits and other limitations from the definition of “Policy of hurricane property insurance” to allow HHRF to set its own coverage limits for master policies issued to condominium associations.

Section 431P-10(a), **coverage available from the fund; deductible**, to the extent necessary to eliminate the monetary coverage limits and other limitations to allow HHRF to set its own coverage limits for master policies issued to condominium associations.

III. Severability

If any provision of this Proclamation is rendered or declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be modified or deleted, and the remainder of this Proclamation and the application of such provision to other persons or circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by applicable law.

IV. Enforcement

No provision of this Proclamation, or any rule or regulation hereunder, shall be construed as authorizing any private right of action to enforce any requirement of this

Proclamation, or of any rule or regulation. Unless the Governor, Director of Emergency Management, or their designee issues an express order to a non-judicial public officer, no provision of this Proclamation, or any rule or regulation hereunder, shall be construed as imposing any ministerial duty upon any non-judicial public officer and shall not bind the officer to any specific course of action or planning in response to the emergency or interfere with the officer's authority to utilize his or her discretion.

I FURTHER DECLARE that this Proclamation is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or enforceable at law or in equity, against the State of Hawai'i, the counties of this State, or any State or County agencies, departments, entities, officers, employees, or any other person.

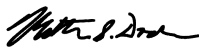
I FURTHER DECLARE that the disaster emergency relief period shall commence immediately and continue through October 6, 2024, unless terminated or superseded by separate proclamation, whichever shall occur first. Notwithstanding the termination of a disaster emergency relief period, any contracts, agreements, procurements, programs, or employment of personnel entered into, started, amended, or continued by reason of the provisions of the proclamation relating to this emergency shall continue in full force and effect.

Done at the State Capitol, this 7th day of August, 2024



Josh Green, M.D.
Governor of Hawai'i

APPROVED:



Matthew S. Dvonch
Acting Attorney General
State of Hawai'i