

STAND. COM. REP. NO.

666

Honolulu, Hawaii

FEB 14 2025

RE: S.B. No. 1166
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 1166 entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require property and casualty insurance rates that incorporate historical or projected losses from fire or catastrophe hazards to be conditioned on agreement by the insurer to file and litigate subrogation claims against responsible parties; and
- (2) Require the Hawaii Property Insurance Association to file and litigate subrogation claims against certain responsible parties for claims paid by the insurer for losses attributable to climate change.

Your Committee received testimony in support of this measure from the Center for Climate Integrity.

Your Committee received testimony in opposition to this measure from the Department of Commerce and Consumer Affairs and National Association of Mutual Insurance Companies.



Your Committee received comments on this measure from the Department of the Attorney General, Hawaii Property Insurance Association (HPIA), and Hawaii Insurers Council.

Your Committee finds that residents, businesses, and insurers in the State are suffering vast harms as a result of the fossil fuel industry increasing the risk of disasters attributable to climate change. This measure would allow insurers in the State to recover losses attributable to climate change and extreme weather by holding fossil fuel companies accountable, rather than the policyholders via increased rates.

Your Committee acknowledges the testimony of the HPIA expressing concerns that mandating private insurers and the HPIA to file subrogation claims against responsible parties could have the unintended consequence of increasing premiums for policyholders. Because each decision regarding subrogation involves a careful consideration of various business factors, subrogation is evaluated on a case-by-case basis, and actions related to climate change or extreme weather events can be particularly challenging and extremely costly to pursue. Amendments to this measure are therefore necessary to address these concerns.

Prior to decision making on this measure, your Committee circulated a draft proposed S.D. 1 that incorporates language that makes the subrogation claims voluntary and addresses a number of other concerns raised in testimony. Accordingly, your Committee finds this language preferable and has amended this measure as follows:

- (1) Inserting language establishing a private cause of action against responsible parties and authorizing insurers to bring actions under certain conditions;
- (2) Inserting definitions for "climate disasters", "extreme event attribution science", "extreme weather or other event attributable to climate change", "fossil fuel products", "impact attribution science", and "responsible party";



- (3) Deleting language that would have required insurers to bring claims against responsible parties and condition rates upon their agreement to bring claims;
- (4) Inserting language that encourages, rather than requires, insurers to bring claims against responsible parties and use the proceeds from the lawsuits to establish rates;
- (5) Inserting language that requires the HPIA to submit a report to the Insurance Commissioner that includes an explanation of why it may not have chosen to exercise its direct action rights against responsible parties and a comparison of rates;
- (6) Clarifying the limitations on the applicability of this measure;
- (7) Modifying its legislative findings;
- (8) Amending section 1 to reflect its amended purpose;
- (9) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (10) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1166, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1166, S.D. 1, and be referred to your Committees on Ways and Means and Judiciary.



Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



JARRETT KEOHOKALOLE, Chair



The Senate
Thirty-Third Legislature
State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* SB1166	Committee Referral: CPN, WAM/JDC	Date: 2/12/25		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEOHOKALOLE, Jarrett (C)	✓			
FUKUNAGA, Carol (VC)	✓			
MCKELVEY, Angus L.K.				✓
RICHARDS, III, Herbert M. "Tim"	✓			
AWA, Brenton			✓	
TOTAL	3	0	1	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes