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## A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1           SECTION 1. The legislature finds that the community rating  
2 system of the National Flood Insurance Program, administered by  
3 the Federal Emergency Management Agency, is a voluntary  
4 incentive program. The goals of the community rating system are  
5 to reduce flood losses, facilitate accurate insurance rating,  
6 and promote awareness of flood insurance. Participation in the  
7 community rating system may result in discounts in flood  
8 insurance premiums of up to forty-five per cent; presently  
9 however, only the county of Maui is participating in the system.

10           The purpose of this Act is to require each of the counties  
11 to participate in the community rating system.

12           SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended  
13 by adding a new section to be appropriately designated and to  
14 read as follows:

15           "§46-A Flood insurance program; county coordinator. Each  
16 county shall adopt an ordinance designating a county official to  
17 be a full-time coordinator to work with the National Flood



1 Insurance Program in the program's community rating system. The  
 2 designated county official shall submit any necessary  
 3 documentation to participate in the community rating system and  
 4 ensure that the county is in full compliance with the  
 5 regulations of the National Flood Insurance Program."

6 SECTION 3. Chapter 126, Hawaii Revised Statutes, is  
 7 amended by adding a new section to be appropriated designated  
 8 and to read as follows:

9 **"§126- County authorization.** Each county shall adopt an  
 10 ordinance designating a county official to be a full-time  
 11 coordinator to work with the National Flood Insurance Program in  
 12 the program's community rating system and to ensure that the  
 13 county is in full compliance with the regulations of the  
 14 National Flood Insurance Program as provided in section 46-A."

15 SECTION 4. Section 46-1.5, HRS, is amended to read as  
 16 follows:

17 **"§46-1.5 General powers and limitation of the counties.**

18 Subject to general law, each county shall have the following  
 19 powers and shall be subject to the following liabilities and  
 20 limitations:

21 (1) Each county shall have the power to frame and adopt a  
 22 charter for its own self-government, which shall



1           establish the county executive, administrative, and  
2           legislative structure and organization, including, but  
3           not limited to, the method of appointment or election  
4           of officials, their duties, responsibilities, and  
5           compensation, and the terms of their office;

6           (2) Each county shall have the power to provide for and  
7           regulate the marking and lighting of all buildings and  
8           other structures that may be obstructions or hazards  
9           to aerial navigation, so far as may be necessary or  
10          proper for the protection and safeguarding of life,  
11          health, and property;

12          (3) Each county shall have the power to enforce all claims  
13          on behalf of the county and approve all lawful claims  
14          against the county, but shall be prohibited from  
15          entering into, granting, or making in any manner any  
16          contract, authorization, allowance payment, or  
17          liability contrary to the provisions of any county  
18          charter or general law;

19          (4) Each county shall have the power to make contracts and  
20          to do all things necessary and proper to carry into  
21          execution all powers vested in the county or any  
22          county officer;



1           (5) Each county shall have the power to maintain channels,  
2           whether natural or artificial, including their exits  
3           to the ocean, in suitable condition to carry off storm  
4           waters; and to remove from the channels, and from the  
5           shores and beaches, any debris that is likely to  
6           create an unsanitary condition or become a public  
7           nuisance; provided that, to the extent any of the  
8           foregoing work is a private responsibility, the  
9           responsibility may be enforced by the county in lieu  
10          of the work being done at public expense. Counties  
11          also shall have the power to construct, acquire by  
12          gift, purchase, or by the exercise of eminent domain,  
13          reconstruct, improve, better, extend, and maintain  
14          projects or undertakings for the control of and  
15          protection against floods and flood waters, including  
16          the power to drain and rehabilitate lands already  
17          flooded, and to enact zoning ordinances providing that  
18          lands deemed subject to seasonable, periodic, or  
19          occasional flooding shall not be used for residence or  
20          other purposes in a manner as to endanger the health  
21          or safety of the occupants thereof, as required by the  
22          Federal Flood Insurance Act of 1956 (chapter 1025,



1           Public Law 1016). Each county shall participate in  
2           the community rating system of the National Flood  
3           Insurance Program as provided in section 46-A;

4           (6) Each county shall have the power to exercise the power  
5           of condemnation by eminent domain when it is in the  
6           public interest to do so;

7           (7) Each county shall have the power to exercise  
8           regulatory powers over business activity as are  
9           assigned to them by chapter 445 or other general law;

10          (8) Each county shall have the power to fix the fees and  
11          charges for all official services not otherwise  
12          provided for;

13          (9) Each county shall have the power to provide by  
14          ordinance assessments for the improvement or  
15          maintenance of districts within the county;

16          (10) Except as otherwise provided, no county shall have the  
17          power to give or loan credit to, or in aid of, any  
18          person or corporation, directly or indirectly, except  
19          for a public purpose;

20          (11) Where not within the jurisdiction of the public  
21          utilities commission, each county shall have the power  
22          to regulate by ordinance the operation of motor



1           vehicle common carriers transporting passengers within  
2           the county and adopt and amend rules the county deems  
3           necessary for the public convenience and necessity;  
4       (12) Each county shall have the power to enact and enforce  
5           ordinances necessary to prevent or summarily remove  
6           public nuisances and to compel the clearing or removal  
7           of any public nuisance, refuse, and uncultivated  
8           undergrowth from streets, sidewalks, public places,  
9           and unoccupied lots, and in these connections, to  
10          impose and enforce liens upon the property for the  
11          cost to the county of removing and completing the  
12          necessary work where the owners fail, after reasonable  
13          notice, to comply with the ordinances. The authority  
14          provided by this paragraph shall not be self-  
15          executing, but shall become fully effective within a  
16          county only upon the enactment or adoption by the  
17          county of appropriate and particular laws, ordinances,  
18          or rules defining "public nuisances" with respect to  
19          each county's respective circumstances. The counties  
20          shall provide the property owner with the opportunity  
21          to contest the summary action and to recover the  
22          owner's property;



- 1           (13) Each county shall have the power to enact ordinances  
2           deemed necessary to protect health, life, and  
3           property, and to preserve the order and security of  
4           the county and its inhabitants on any subject or  
5           matter not inconsistent with, or tending to defeat,  
6           the intent of any state statute, provided also that  
7           the statute does not disclose an express or implied  
8           intent that the statute shall be exclusive or uniform  
9           throughout the State;
- 10          (14) Each county shall have the power to make and enforce  
11          within the limits of the county all necessary  
12          ordinances covering: all local police matters; all  
13          matters of sanitation; all matters of inspection of  
14          buildings; all matters of condemnation of unsafe  
15          structures, plumbing, sewers, dairies, milk, fish, and  
16          morgues; all matters of the collection and disposition  
17          of rubbish and garbage; and to provide exemptions for  
18          homeless facilities and any other program for the  
19          homeless authorized by chapter 201G, for all matters  
20          under this paragraph; and to appoint county physicians  
21          and sanitary and other inspectors as necessary to  
22          carry into effect ordinances made under this



1 paragraph, who shall have the same power as given by  
2 law to agents of the department of health, subject  
3 only to limitations placed on them by the terms and  
4 conditions of their appointments; and to fix a penalty  
5 for the violation of any ordinance, which penalty may  
6 be a misdemeanor, petty misdemeanor, or violation as  
7 defined by general law;

8 (15) Each county shall have the power to provide public  
9 pounds, to regulate the impounding of stray animals  
10 and fowl, and their disposition, and to provide for  
11 the appointment, powers, duties, and fees of animal  
12 control officers;

13 (16) Each county shall have the power to purchase and  
14 otherwise acquire, lease, and hold real and personal  
15 property within the defined boundaries of the county  
16 and to dispose of the real and personal property as  
17 the interests of the inhabitants of the county may  
18 require, except that: any property held for school  
19 purposes may not be disposed of without the consent of  
20 the superintendent of education; no property bordering  
21 the ocean shall be sold or otherwise disposed of; and  
22 all proceeds from the sale of park lands shall be



1           expended only for the acquisition of property for park  
2           or recreational purposes;

3           (17) Each county shall have the power to provide by charter  
4           for the prosecution of all offenses and to prosecute  
5           for offenses against the laws of the State under the  
6           authority of the attorney general of the State;

7           (18) Each county shall have the power to make  
8           appropriations in amounts deemed appropriate from any  
9           moneys in the treasury, for the purpose of community  
10          promotion and public celebrations, the entertainment  
11          of distinguished persons as may from time to time  
12          visit the county, for the entertainment of other  
13          distinguished persons as well as public officials when  
14          deemed to be in the best interest of the community,  
15          and the rendering of civic tribute to individuals who,  
16          by virtue of their accomplishments and community  
17          service, merit civic commendations, recognition, or  
18          remembrance;

19          (19) Each county shall have the power to:

20                (A) Construct, purchase, take on lease, lease,  
21                sublease, or in any other manner acquire, manage,  
22                maintain, or dispose of buildings for county



1 purposes, sewers, sewer systems, pumping  
2 stations, waterworks, including reservoirs,  
3 wells, pipelines, and other conduits for  
4 distributing water to the public, lighting  
5 plants, and apparatus and appliances for lighting  
6 streets and public buildings and manage,  
7 regulate, and control the same;

8 (B) Regulate and control the location and quality of  
9 all appliances necessary to the furnishing of  
10 water, heat, light, power, telephonic, and  
11 geographic service to the county;

12 (C) Acquire, regulate, and control any and all  
13 appliances for the sprinkling and cleaning of the  
14 streets and the public ways and for flushing the  
15 sewers; and

16 (D) Open, close, construct, or maintain county  
17 highways or charge toll on county highways;  
18 provided that all revenues received from a toll  
19 charge shall be used for the construction or  
20 maintenance of county highways;



- 1           (20) Each county shall have the power to regulate the  
2                   renting, subletting, and rental conditions of property  
3                   for places of abode by ordinance;
- 4           (21) Unless otherwise provided by law, each county shall  
5                   have the power to establish by ordinance the order of  
6                   succession of county officials in the event of a  
7                   military or civil disaster;
- 8           (22) Each county shall have the power to sue and be sued in  
9                   its corporate name;
- 10          (23) Each county shall have the power to establish and  
11               maintain waterworks and sewer works; to collect rates  
12               for water supplied to consumers and for the use of  
13               sewers; to install water meters whenever deemed  
14               expedient; provided that owners of premises having  
15               vested water rights under existing laws appurtenant to  
16               the premises shall not be charged for the installation  
17               or use of the water meters on the premises; to take  
18               over from the State existing waterworks systems,  
19               including water rights, pipelines, and other  
20               appurtenances belonging thereto, and sewer systems,  
21               and to enlarge, develop, and improve the same;



1           (24) (A) Each county may impose civil fines, in addition  
2                           to criminal penalties, for any violation of  
3                           county ordinances or rules after reasonable  
4                           notice and requests to correct or cease the  
5                           violation have been made upon the violator. Any  
6                           administratively imposed civil fine shall not be  
7                           collected until after an opportunity for a  
8                           hearing under chapter 91. Any appeal shall be  
9                           filed within thirty days from the date of the  
10                          final written decision. These proceedings shall  
11                          not be a prerequisite for any civil fine or  
12                          injunctive relief ordered by the circuit court;  
13           (B) Each county by ordinance may provide for the  
14                          addition of any unpaid civil fines, ordered by  
15                          any court of competent jurisdiction, to any  
16                          taxes, fees, or charges, with the exception of  
17                          fees or charges for water for residential use and  
18                          sewer charges collected by the county. Each  
19                          county by ordinance may also provide for the  
20                          addition of any unpaid administratively imposed  
21                          civil fines, which remain due after all judicial  
22                          review rights under section 91-14 are exhausted,



1 to any taxes, fees, or charges, with the  
2 exception of water for residential use and sewer  
3 charges, collected by the county. The ordinance  
4 shall specify the administrative procedures for  
5 the addition of the unpaid civil fines to the  
6 eligible taxes, fees, or charges and may require  
7 hearings or other proceedings. After addition of  
8 the unpaid civil fines to the taxes, fees, or  
9 charges, the unpaid civil fines shall not become  
10 a part of any taxes, fees, or charges. The  
11 county by ordinance may condition the issuance or  
12 renewal of a license, approval, or permit for  
13 which a fee or charge is assessed, except for  
14 water for residential use and sewer charges, on  
15 payment of the unpaid civil fines. Upon  
16 recordation of a notice of unpaid civil fines in  
17 the bureau of conveyances, the amount of the  
18 civil fines, including any increase in the amount  
19 of the fine which the county may assess, shall  
20 constitute a lien upon all real property or  
21 rights to real property belonging to any person  
22 liable for the unpaid civil fines. The lien in



1 favor of the county shall be subordinate to any  
2 lien in favor of any person recorded or  
3 registered prior to the recordation of the notice  
4 of unpaid civil fines and senior to any lien  
5 recorded or registered after the recordation of  
6 the notice. The lien shall continue until the  
7 unpaid civil fines are paid in full or until a  
8 certificate of release or partial release of the  
9 lien, prepared by the county at the owner's  
10 expense, is recorded. The notice of unpaid civil  
11 fines shall state the amount of the fine as of  
12 the date of the notice and maximum permissible  
13 daily increase of the fine. The county shall not  
14 be required to include a social security number,  
15 state general excise taxpayer identification  
16 number, or federal employer identification number  
17 on the notice. Recordation of the notice in the  
18 bureau of conveyances shall be deemed, at such  
19 time, for all purposes and without any further  
20 action, to procure a lien on land registered in  
21 land court under chapter 501. After the unpaid  
22 civil fines are added to the taxes, fees, or



1 charges as specified by county ordinance, the  
2 unpaid civil fines shall be deemed immediately  
3 due, owing and delinquent and may be collected in  
4 any lawful manner. The procedure for collection  
5 of unpaid civil fines authorized in this  
6 paragraph shall be in addition to any other  
7 procedures for collection available to the State  
8 and county by law or rules of the courts;

9 (C) Each county may impose civil fines upon any  
10 person who places graffiti on any real or  
11 personal property owned, managed, or maintained  
12 by the county. The fine may be up to \$1,000 or  
13 may be equal to the actual cost of having the  
14 damaged property repaired or replaced. The  
15 parent or guardian having custody of a minor who  
16 places graffiti on any real or personal property  
17 owned, managed, or maintained by the county shall  
18 be jointly and severally liable with the minor  
19 for any civil fines imposed hereunder. Any such  
20 fine may be administratively imposed after an  
21 opportunity for a hearing under chapter 91, but  
22 such a proceeding shall not be a prerequisite for



1           any civil fine ordered by any court. As used in  
2           this subparagraph, "graffiti" means any  
3           unauthorized drawing, inscription, figure, or  
4           mark of any type intentionally created by paint,  
5           ink, chalk, dye, or similar substances;

6           (D) At the completion of an appeal in which the  
7           county's enforcement action is affirmed and upon  
8           correction of the violation if requested by the  
9           violation, the case will be reviewed by the county  
10          agency that imposed the civil fines to determine  
11          the appropriateness of the amount of the civil  
12          fines that accrued while the appeal proceedings  
13          were pending. In its review of the amount of the  
14          accrued fines, the county agency may consider the  
15          following: nature and egregiousness of the  
16          violation, duration of the violation, number of  
17          recurring and other similar violations, effort  
18          taken by the violator to correct the violation,  
19          degree of involvement in causing or continuing  
20          the violation, reasons for any delay in the  
21          completion of the appeal, and other extenuating  
22          circumstances. The civil fine which is imposed



1 by administrative order after this review is  
2 completed and the violation is corrected is  
3 subject to only judicial review, notwithstanding  
4 any provisions for administrative review in  
5 county charters;

6 (E) After completion of a review of the amount of  
7 accrued civil fine by the county agency which  
8 imposed the fine, the amount of the civil fine  
9 determined appropriate, including both the  
10 initial civil fine and any accrued daily civil  
11 fine, shall immediately become due and  
12 collectible following reasonable notice to the  
13 violator. If no review of the accrued civil fine  
14 is requested, the amount of the civil fine, not  
15 to exceed the total accrual of civil fine prior  
16 to correcting the violation, shall immediately  
17 become due and collectible following reasonable  
18 notice to the violator, at the completion of all  
19 appeal proceedings;

20 (F) If no county agency exists to conduct appeal  
21 proceedings for a particular civil fine action  
22 taken by the county, then one shall be



1                    established by ordinance before the county shall  
2                    impose that civil fine;

3        (25) Any law to the contrary notwithstanding, any county  
4                    mayor may exempt by executive order donors, provider  
5                    agencies, homeless facilities, and any other program  
6                    for the homeless under chapter 201G from real property  
7                    taxes, water and sewer development fees, rates  
8                    collected for water supplied to consumers and for use  
9                    of sewers, and any other county taxes, charges, or  
10                    fees; provided that any county may enact ordinances to  
11                    regulate and grant the exemptions granted by this  
12                    paragraph;

13        (26) Any county may establish a captive insurance company  
14                    pursuant to article 19, chapter 431; and

15        (27) Each county shall have the power to enact and enforce  
16                    ordinances regulating towing operations."

17        SECTION 5. Section 46-11, HRS, is amended to read as  
18 follows:

19        "**§46-11 Federal flood insurance.** (a) The Hawaii tourism  
20 authority in regard to the convention center district and the  
21 mayor or executive officer and the council of the various  
22 counties, in regard to the respective counties, may participate



1 and apply on behalf of their respective district and counties  
 2 for flood insurance coverage pursuant to any applicable  
 3 provisions of Public Law 1016, Eighty-fourth Congress, Second  
 4 Session, (70 Stat. 1078). The Hawaii tourism authority, in  
 5 regard to the convention center district, and the mayor or  
 6 executive officer and the council of the various counties, in  
 7 regard to the respective counties, shall be vested with the  
 8 functions, powers, and duties which are necessary to enable  
 9 their respective district and counties to qualify, participate,  
 10 and apply for the flood insurance coverage.

11 (b) Each county shall participate in the community rating  
 12 system of the National Flood Insurance Program as provided in  
 13 section 46-A."

14 SECTION 6. There is appropriated out of the general  
 15 revenues of the State of Hawaii the following sums, or so much  
 16 thereof as may be necessary for fiscal year 2007-2008, to assist  
 17 the counties in implementing this Act:

18	City and county of Honolulu	\$
19	County of Kauai	\$
20	County of Maui	\$
21	County of Hawaii	\$
22	Total	\$



1 SECTION 7. The sum appropriated shall be expended by the  
2 respective counties for the purposes of this Act.

3 SECTION 8. The sums appropriated shall constitute the  
4 State's share of the cost of mandated programs under Article  
5 VIII, section 5, of the State Constitution.

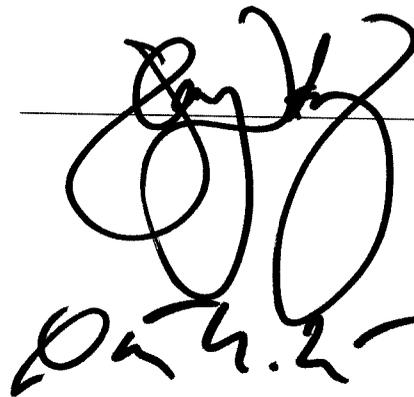
6 SECTION 9. In codifying the new section added by section 2  
7 of this Act, the revisor of statutes shall substitute  
8 appropriate section number for the letter used in designating  
9 the new section in this Act.

10 SECTION 10. New statutory material is underscored.

11 SECTION 11. This Act shall take effect on July 1, 2007.

12

INTRODUCED BY: \_\_\_\_\_



Handwritten signature of Dan Claitor, with the name 'Dan Claitor' written below it.

JAN 19 2007



**Report Title:**

Insurance; National Flood Insurance Program

**Description:**

Requires each county to adopt an ordinance to participate in the community rating system of the National Flood Insurance Program. Appropriate funds to the counties to implement the Act.

