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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. Chapter 431, Hawaii Revised Statutes, is  
2 amended by adding a new part to article 14 to be appropriately  
3 designated and to read as follows:

4                           **"PART       .    WILDFIRE RISK MODELS**

5           **§431:14-A Applicability.** (a) This part shall apply to  
6 any insurer that applies or uses a rate that is developed with,  
7 determined by, or relies upon, in whole or in part, a rating  
8 plan that segments, creates a rate differential, or surcharges  
9 the premium based upon a policyholder or applicant's wildfire  
10 risk.

11           (b) If a rate that is developed with, determined by, or  
12 relies upon a rating plan that complies with this part is  
13 approved, in whole or in part, and thereafter the rating plan is  
14 replaced, or modified in any manner, including the inclusion of  
15 new factors, or different criteria or algorithms, the insurer,  
16 prior to implementing the new or modified rating plan, shall  
17 file a new rate application, which shall include the new or



1 modified rating plan. No new or modified rating plan shall be  
2 used unless and until the new rate application is approved.

3 **§431:14-B Definitions.** As used in this part:

4 "Building being evaluated" includes decks that are attached  
5 to or abutting the structure.

6 "Class-A fire rated roof" means a roof that has been tested  
7 in accordance with Underwriters' Laboratories Inc. standard 790  
8 and achieved a class-A rating.

9 "Enclosed eaves" are roof eaves that have either boxed-in  
10 roof eave soffits with a horizontal underside or an exterior  
11 covering applied to the underside of the rafter tails supporting  
12 the eaves, which covering is sloped corresponding to the slope  
13 of the rafter tails.

14 "Firewise USA site in good standing" is a community that,  
15 at the time the building being evaluated is rated, is recognized  
16 as a Firewise USA site in good standing by the National Fire  
17 Protection Association.

18 "Wildfire risk model" means any tool, instrumentality,  
19 means, or product, including but not limited to a map-based  
20 tool, a computer-based tool, or a simulation, that is used by an  
21 insurer, in whole or in part, to measure or assess the wildfire



1 risk associated with a residential or commercial structure for  
2 purposes of:

3 (1) Classifying individual structures according to their  
4 wildfire risk; or

5 (2) Estimating losses corresponding to such wildfire risk  
6 classifications.

7 **§431:14-C Wildfire risk models to be provided to the**  
8 **insurance commissioner; availability for public inspection.** (a)

9 Any wildfire risk model that is used, in whole or in part, in an  
10 insurer's rating plan shall be provided to the insurance  
11 commissioner as part of an insurer's complete rate application.

12 (b) Any risk model described in subsection (a) and any  
13 additional documentation requested by the insurance commissioner  
14 during the review of any applicable rate application, including  
15 any records, data, algorithms, computer programs, or any other  
16 information used in connection with the rating plan or wildfire  
17 risk model used by the insurer and provided to the insurance  
18 commissioner, shall be made available for public inspection,  
19 regardless of the source of the information or whether the  
20 insurer or the developer of the rating plan or wildfire risk



1 model claims that the rating plan or wildfire risk model is  
2 confidential, proprietary, or a trade secret.

3       **§431:14-D Rating plans; requirements.** Any rating plan  
4 that is developed using a wildfire risk model, whether in whole  
5 or in part, shall reflect, and the rate offered to the applicant  
6 or insured shall be based in part on, the reduced wildfire risk:

7       (1) Associated with a community-level mitigation  
8 designation, including a Firewise USA site in good  
9 standing and any fire risk reduction communities  
10 identified by the insurance commission, that applies  
11 to the community in which the building being evaluated  
12 is located; and

13       (2) Resulting from each property-level wildfire risk  
14 mitigation effort that is undertaken with respect to  
15 an individual property being assessed for risk,  
16 including:

17       (A) Measures addressing the immediate surroundings of  
18 the building being evaluated, including:

19       (i) Clearing of vegetation and debris from under  
20 decks;





- 1                   much of such area as is under the control of  
2                   the applicant or policyholder; and
- 3                   (v) Whether the property upon which the building  
4                   being evaluated is situated complies with  
5                   Section 4291 of the Public Resources Code,  
6                   and any applicable local ordinances,  
7                   governing defensible space; and
- 8                   (B) Building hardening measures, including the  
9                   provision of:
- 10                   (i) A class-A fire rated roof;
- 11                   (ii) Enclosed eaves;
- 12                   (iii) Fire-resistant vents;
- 13                   (iv) Multipane windows, including dual pane  
14                   windows, or functional shutters, which when  
15                   closed, cover the entire window and do not  
16                   have openings; and
- 17                   (v) At least six inches of noncombustible  
18                   vertical clearance at the bottom of the  
19                   exterior surface of the building, measured  
20                   from the ground up.



1           **§431:14-E Wildfire risk score or other wildfire risk**  
2 **classification.** (a) Each insurer utilizing a wildfire risk  
3 model, or rating factor, to segment, create a rate differential,  
4 or surcharge the premium based upon the policyholder or  
5 applicant's wildfire risk shall:

6           (1) Within one hundred eighty days after the effective  
7 date of Act       , Session Laws of Hawaii 2024,  
8 implement a written procedure to provide, in writing,  
9 to each applicable policyholder or applicant for  
10 property insurance the wildfire risk score or other  
11 wildfire risk classification used by the insurer to  
12 segment, create a rate differential, or surcharge the  
13 premium based upon the policyholder or applicant's  
14 wildfire risk; and

15           (2) Provide to the policyholder or applicant the wildfire  
16 risk score or classification at the following times:

17           (A) No later than fifteen days following the  
18 submission to the insurer of the applicant's  
19 completed application;

20           (B) At least forty-five days prior to each renewal;



- 1 (C) At least seventy-five days prior to any  
2 nonrenewal; and
- 3 (D) If the policyholder or applicant has completed a  
4 mitigation measure on the subject property since  
5 the time of the last application to or renewal by  
6 the insurer, no later than thirty days following  
7 the submission to the insurer of the policyholder  
8 or applicant's request that the insurer provide a  
9 revised wildfire risk score or wildfire risk  
10 classification.

11 (b) The procedure described in subsection (a) shall  
12 provide that a policyholder under, or applicant for, a policy of  
13 property insurance who disagrees with the assignment of the  
14 wildfire risk score, or other wildfire risk classification,  
15 provided to the policyholder or applicant pursuant to subsection  
16 (a):

- 17 (1) If the policyholder or applicant is not represented by  
18 a broker, or the insurer is not represented by an  
19 insurance agent with respect to the policyholder's  
20 policy or the applicant's application, the  
21 policyholder or applicant may appeal orally or in



1 writing that assignment directly to the insurer;  
2 provided that the insurer shall notify the  
3 policyholder or applicant in writing of this right to  
4 appeal the wildfire risk score or other wildfire risk  
5 classification whenever the wildfire risk score or  
6 other wildfire risk classification is provided to the  
7 policyholder or applicant as set forth in subsection  
8 (a). If the policyholder or applicant appeals the  
9 wildfire risk score or other wildfire risk  
10 classification in accordance with this paragraph, the  
11 insurer shall:

12 (A) Acknowledge receipt of the appeal in writing  
13 within ten calendar days of receipt of the  
14 appeal; and

15 (B) Respond to the appeal in writing with a  
16 reconsideration and decision within thirty  
17 calendar days after receiving the appeal; or

18 (2) If the policyholder or applicant is represented by a  
19 broker, or the insurer is represented by an insurance  
20 agent with respect to the policyholder's policy or the  
21 applicant's application, the policyholder or applicant



1           may appeal orally or in writing to the agent or broker  
2           the assignment of wildfire risk score or other  
3           wildfire risk classification, who shall then forward  
4           that appeal to the insurer no later than five calendar  
5           days after receiving the appeal from the policyholder  
6           or applicant. The insurer shall:

7           (A) Acknowledge receipt of the appeal in writing to  
8           the policyholder or applicant and the agent or  
9           broker no later than five calendar days after  
10          receipt of the appeal from the broker or agent;  
11          and

12          (B) Respond to the appeal to the policyholder or  
13          applicant and the agent or broker with a written  
14          reconsideration and decision of the appeal within  
15          thirty calendar days after receiving the appeal  
16          from the broker or agent.

17 If the appeal is denied, the insurer, upon request by the  
18 insurance division of the department of commerce and consumer  
19 affairs, shall forward a copy of the appeal, and the insurer's  
20 response, to the insurance division of the department of  
21 commerce and consumer affairs; provided that the insurer shall



1 notify the policyholder or applicant in writing that the  
2 policyholder or applicant may contact the insurance division of  
3 the department of commerce and consumer affairs for assistance  
4 if the policyholder or applicant disagrees with the insurer's  
5 written reconsideration and decision.

6       **§431:14-F Explanation of wildfire risk score or other**  
7 **wildfire risk classification.** (a) If a wildfire risk score, or  
8 other wildfire risk classification used by the insurer to  
9 segment, create a risk differential, or surcharge the premium  
10 for a particular policyholder or applicant, is identified or  
11 provided to the policyholder or applicant pursuant to section  
12 431:14-E, the insurer shall also provide in writing:

- 13       (1) The range of scores or classifications that may be  
14       assigned to any policyholder or applicant;
- 15       (2) The relative position of the score or classification  
16       assigned to the policyholder or applicant in question  
17       within that range of possible scores or  
18       classifications, and the impact of the score or  
19       classification on the rate or premium;
- 20       (3) A detailed written explanation of why the policyholder  
21       or applicant received the assigned score or



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1 classification; provided that the explanation shall  
 2 make specific reference to the features of the  
 3 property in question that influenced the assignment of  
 4 the score or classification;

5 (4) Identification of the mitigation measure or measures  
 6 that may be taken by the policyholder or applicant to  
 7 lower the wildfire risk score or classification; and

8 (5) The amount of premium reduction under the insurer's  
 9 rating plan that is in effect at the time that the  
 10 policyholder or applicant would realize as a result of  
 11 performing each mitigation measure identified under  
 12 paragraph (4)."

13 SECTION 2. This Act shall take effect upon its approval.

14 INTRODUCED BY:

*Jeremy Amato*  
 \_\_\_\_\_  
 JAN 22 2024



# H.B. NO. 2189

**Report Title:**

Insurance; Ratemaking; Regulations; Wildfire Risk

**Description:**

Establishes ratemaking regulations for insurers who base their rates on a policyholder or applicant's wildfire risk.

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

