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# A BILL FOR AN ACT

RELATING TO INSURANCE OF LAST RESORT.

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

1           SECTION 1. The legislature finds that fair access to  
2 insurance requirements programs, which are commonly called "FAIR  
3 plans", are state-mandated property insurance programs that fill  
4 a critical insurance market gap by offering coverage to  
5 individuals and businesses who are unable to obtain property  
6 insurance on the regular market. Often used as an insurer of  
7 last resort, FAIR plans are especially important for properties  
8 that are considered high-risk or difficult to insure due to  
9 their location, age, or type of construction.

10           The legislature further finds that state governments have  
11 experienced significant challenges in establishing and operating  
12 FAIR plans, including financial instability, administrative  
13 inefficiencies, and limited access to essential reinsurance  
14 markets. These limitations have placed undue burdens on state  
15 resources and policyholders, leading to higher premiums, reduced  
16 coverage options, and delays in claims processing.



1           The legislature also finds that Hawaii's unique geographic  
2 location and natural risk profile necessitate a specialized  
3 approach to FAIR insurance. Hawaii's insurance market benefits  
4 from the presence of insurance companies that are primarily  
5 domiciled within the State. These companies possess an inherent  
6 understanding of Hawaii's unique risk landscape and housing  
7 market. Unlike state-run programs, these local insurers already  
8 maintain the operational infrastructure, including experienced  
9 adjusters, claims processors, and support staff required to  
10 manage complex insurance needs effectively and efficiently.

11           Additionally, local insurance companies have greater  
12 capacity to access and establish lines of reinsurance and other  
13 risk-sharing guarantees. This advantage allows these companies  
14 to respond rapidly to catastrophic events and stabilize premiums  
15 in high-risk areas. The State, while capable of providing some  
16 financial support, cannot always capitalize on reinsurance  
17 markets with the same agility as private entities having  
18 established industry relationships and networks.

19           Accordingly, the purpose of this Act is to establish the  
20 fair access to insurance requirements program, which shall be  
21 administered by a private insurer and overseen by the department



1 of commerce and consumer affairs, to give residents in high-risk  
2 areas an opportunity to purchase affordable and comprehensive  
3 property insurance coverage.

4 SECTION 2. The Hawaii Revised Statutes is amended by  
5 adding a new chapter to be appropriately designated and to read  
6 as follows:

7 **"CHAPTER**

8 **FAIR ACCESS TO INSURANCE REQUIREMENTS PROGRAM**

9 **PART I. GENERAL PROVISIONS**

10 § -1 **Short title.** This chapter shall be known and may  
11 be cited as the Hawaii Insurance of Last Resort Act.

12 § -2 **Definitions.** As used in this chapter:

13 "Director" means the director of commerce and consumer  
14 affairs, or the director's designee.

15 "High-risk areas" means geographic zones identified by the  
16 director as having historical incidences of fire or heightened  
17 exposure to catastrophic risks, based on historical data, risk  
18 mapping, and consultation with local emergency management  
19 authorities.



1 "Residential property" includes single-family homes,  
2 condominiums, and apartment units used as primary dwellings, but  
3 does not include commercial and industrial properties.

4 "Primarily domiciled Hawaii insurance company" means an  
5 insurer with its principal operations and regulatory domicile in  
6 the State, maintaining a significant local presence and  
7 infrastructure.

8 "Program" means the fair access to insurance requirements  
9 program or FAIR program established by this chapter to provide  
10 last-resort insurance for high-risk residential properties  
11 within the State.

12 "Selected insurer" means the primarily domiciled Hawaii  
13 insurance company contracted by the director to offer policies  
14 under the fair access to insurance requirements program.

15 **§ -3 FAIR Program; established.** There is established  
16 the fair access to insurance requirements program, which shall  
17 offer residents living in high-risk areas the opportunity to  
18 purchase affordable and comprehensive property insurance  
19 coverage for their residential properties.

20 **§ -4 Implementation by director.** (a) The director shall  
21 oversee the implementation of the program, ensuring compliance



1 with this chapter, and adopting and enforcing applicable  
2 regulations. The implementation process shall include:

- 3 (1) Establishing the program;
- 4 (2) Adopting rules pursuant to chapter 91 and any policies  
5 and procedures necessary to establish, implement, and  
6 operate the program, including coverage requirements  
7 and options, eligibility requirements for  
8 policyholders, and premium calculation methodologies;  
9 and
- 10 (3) Selecting a selected insurer to offer and administer  
11 policies under the program; provided that the selected  
12 insurer shall be a primarily domiciled Hawaii  
13 insurance company.
- 14 (b) The director shall:
- 15 (1) Monitor the selected insurer's compliance with this  
16 chapter, including any rules adopted under this  
17 chapter;
- 18 (2) Ensure that the selected insurer complies with the  
19 consumer protection and affordability requirements of  
20 this chapter and other applicable laws and rules; and



1 (3) Conduct periodic reviews and audits of the selected  
2 insurer's operations.

3 § -5 **Reinsurance mechanisms.** (a) The selected insurer  
4 shall utilize a combination of state-supported and private  
5 reinsurance mechanisms to mitigate risk exposure and stabilize  
6 premiums, including:

7 (1) Access to the Hawaii hurricane relief fund, as  
8 authorized under state law, for reinsurance support;

9 (2) Participation in private reinsurance arrangements to  
10 ensure additional coverage for catastrophic risks; and

11 (3) Any other reinsurance or risk-sharing mechanisms  
12 approved by the director.

13 (b) The director shall provide guidance to the selected  
14 insurer on leveraging reinsurance markets effectively and may  
15 facilitate access to additional state-supported programs to  
16 enhance the program's stability.

17 § -6 **Collaboration with reinsurance providers.** (a)  
18 Contracts between the selected insurer and reinsurance providers  
19 shall recognize the unique risks faced by policyholders in  
20 high-risk areas.



1 (b) The director may engage with third-party consultants  
2 to assist the selected insurer in evaluating and securing  
3 reinsurance contracts.

4 **§ -7 Collaboration with state agencies.** (a) The  
5 director may coordinate with other state agencies, including the  
6 Hawaii emergency management agency and other branches of the  
7 department of commerce and consumer affairs, to ensure the  
8 effective implementation and administration of the program.

9 (b) The Hawaii hurricane relief fund shall collaborate  
10 with the director to provide necessary reinsurance and financial  
11 support for purposes of section -5.

12 **§ -8 Revenue bonds.** (a) The director may issue revenue  
13 bonds in amounts as may be authorized by the legislature for the  
14 purposes of:

- 15 (1) Capitalizing the program;  
16 (2) Ensuring the sustainability of the program during the  
17 program's initial implementation; and  
18 (3) Ensuring the sustainability of the program during  
19 catastrophic events.

20 (b) Proceeds of revenue bonds issued pursuant to  
21 subsection (a) shall be utilized solely to support the program,



1 including administrative costs, reinsurance arrangements, and  
2 premium stabilization.

3 (c) Revenue bonds authorized under this section shall be  
4 issued pursuant to, and shall comply with, chapter 39.

5 (d) The director shall oversee the allocation and use of  
6 revenue bond proceeds to ensure:

7 (1) Alignment with program objectives; and

8 (2) Compliance with this chapter and state financial laws  
9 and rules.

10 § -9 Premium stabilization fund. (a) If revenue bonds  
11 are issued pursuant to section -8, the director shall  
12 establish a premium stabilization fund, into which proceeds from  
13 the revenue bonds shall be deposited.

14 (b) Moneys in the premium stabilization fund shall be used  
15 to:

16 (1) Provide subsidies or premium adjustments to ensure  
17 affordability for policyholders in high-risk areas;

18 and

19 (2) Pay expenses related to the administration of the  
20 program.



1 (c) The director shall provide oversight over the premium  
2 stabilization fund to ensure transparency and fiscal  
3 responsibility. If established by the director, the fund shall  
4 be audited at least annually by an independent certified public  
5 accountant selected by the director.

6 § -10 **Incentive program.** (a) The director shall  
7 establish an incentive program to promote environmentally  
8 resilient construction practices for policyholders participating  
9 in the program.

10 (b) The program shall include:

11 (1) Premium discounts or rebates for policyholders who  
12 have installed or implemented resilient construction  
13 measures approved by the director, such as:

14 (A) Hurricane-resistant roofing materials;

15 (B) Elevated foundations to mitigate flooding; and

16 (C) Fire-resistant building materials in high-risk  
17 fire zones; and

18 (2) Educational resources to inform policyholders of  
19 available incentives pursuant to paragraph (1) and the  
20 benefits of resilient construction practices.



1 (c) The director shall collaborate with industry experts  
2 and environmental organizations to develop guidelines for  
3 eligible construction measures and ensure compliance with  
4 applicable building codes.

5 § -11 **Consumer protection standards.** (a) The selected  
6 insurer shall:

7 (1) Transparently communicate all applicable policy terms,  
8 rates, and claims procedures to policyholders;

9 (2) Establish and maintain fair claims handling practices,  
10 including the timely processing of all claims; and

11 (3) Ensure accessible customer service to address  
12 policyholders' concerns.

13 (b) The director shall ensure that policyholders have  
14 access to an appeals process to resolve disputes regarding  
15 claims or coverage decisions.

16 (c) Any dispute arising from the dispossession of a  
17 dispute under subsection (b) shall be resolved by the director.  
18 The decision of the director shall be final; provided that a  
19 party to the dispute may file a petition requesting review of  
20 the decision in a court of competent jurisdiction within sixty  
21 days of the date the director renders a final decision.



1           §   **-12 Penalties.** (a) The director may impose penalties  
2 for non-compliance with this chapter or any rules adopted under  
3 this chapter, including:

- 4           (1) Failure to meet program guidelines; and  
5           (2) Failure to meet consumer protection standards pursuant  
6 to section       -11.

7           (b) Penalties may include the imposition of a fine of not  
8 more than \$       per violation, requiring corrective measures as  
9 deemed necessary by the director, or both.

10          (c) If the selected insurer commits repeated violations of  
11 this chapter or any rules adopted under this chapter, the  
12 director may terminate the selected insurer's contract to  
13 administer the program.

14          §   **-13 Annual reports.** (a) The selected insurer shall  
15 submit annual reports to the director, which shall include:

- 16           (1) A detailed summary of the program's financial  
17 performance, including the total amount of premiums  
18 collected and claims paid during the preceding year;  
19           (2) An analysis of policyholder participation and  
20 feedback;

- 1 (3) Details of the selected insurer's reinsurance  
2 arrangements and financial performance pursuant to  
3 sections -5 and -6;
- 4 (4) Any recommendations to improve the program; and
- 5 (5) Any other information required by the director.
- 6 (b) No later than twenty days prior the convening of each  
7 regular session, the director shall submit an annual report to  
8 the legislature that includes:
- 9 (1) A summary of the information provided to the director  
10 under subsection (a);
- 11 (2) An assessment of the program's performance;
- 12 (3) An assessment of the selected insurer's compliance  
13 with this chapter;
- 14 (4) A summary of the program's reinsurance performance;
- 15 (5) A summary of the director's use of revenue bond  
16 authority pursuant to section -8;
- 17 (6) A summary of the premium stabilization fund moneys,  
18 including revenues, expenditures, the number of  
19 premium subsidies or adjustments that were made using  
20 moneys from the fund, and the results of the annual  
21 audit required pursuant to section -9;



1 (7) Any other findings and recommendations, including  
2 proposed legislation.

3 § -14 Rules. The director may adopt rules pursuant to  
4 chapter 91 to effectuate the purposes of this chapter."

5 SECTION 2. (a) The director of commerce and consumer  
6 affairs shall adopt administrative rules pursuant to chapter 91,  
7 Hawaii Revised Statutes, necessary to establish, implement, and  
8 operate the fair access to insurance requirements program,  
9 including eligibility requirements for policyholders, coverage  
10 options, and premium calculation methodologies, no later than  
11 January 1, 2026.

12 (b) The selected insurer contracted by the director of  
13 commerce and consumer affairs to offer and administer programs  
14 under this Act shall begin offering policies under the fair  
15 access to insurance requirements program no later than December  
16 31, 2025.

17 SECTION 3. If any provision of this Act, or the  
18 application thereof to any person or circumstance, is held  
19 invalid, the invalidity does not affect other provisions or  
20 applications of the Act that can be given effect without the

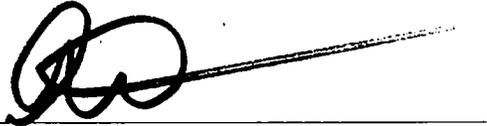


1 invalid provision or application, and to this end the provisions  
2 of this Act are severable.

3 SECTION 4. This Act shall take effect on July 1, 2025.

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

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# S.B. NO. 1140

**Report Title:**

Residential Property Insurance; DCCA; High-Risk Areas; Insurer of Last Resort

**Description:**

Establishes the Fair Access to Insurance Requirements (FAIR) program, which shall be administered under the Department of Commerce and Consumer Affairs to ensure that residents in high-risk areas can purchase affordable and comprehensive property insurance coverage for their residential properties.

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

