

JAN 17 2025

A BILL FOR AN ACT

RELATING TO THE HAWAII HURRICANE RELIEF FUND.

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

1 SECTION 1. The legislature finds that climate disasters,
2 extreme weather attributable to climate change, and harms
3 resulting from long-term changes to the climate system pose a
4 threat to the health, safety, and security of all residents of,
5 and visitors to, Hawaii.

6 For residents, climate change risks include an increase in
7 precipitation and intense tropical storms, hotter temperatures,
8 rising sea level, and intensified drought. Accordingly, Hawaii
9 has a compelling state interest in protecting its citizens from
10 climate disasters, extreme weather attributable to climate
11 change, and harms resulting from long-term changes to the
12 climate system. This protection includes affordable access to a
13 functioning insurance market in the State.

14 The legislature further finds there is also a compelling
15 state interest in preserving public resources for traditional
16 public purposes, which does not include subsidizing the
17 continued operation of the insurance industry. The insurance



1 industry has been destabilized and harmed by the deception of
2 people and entities who have engaged in misleading and deceptive
3 practices about the connection between fossil fuel products and
4 climate change. The State's insurance industry, particularly
5 the property and casualty insurance sector, has been
6 destabilized by large and frequent payouts to policyholders for
7 a variety of events caused by or attributable to the deception
8 of these responsible parties. This instability has led to
9 increased nonrenewal rates and premiums on all islands and for
10 multiple types of insurance policies. Between 2018 and 2023,
11 insurance nonrenewal rates increased by ninety-one per cent in
12 the county of Kauai, two hundred ninety-six per cent in the city
13 and county of Honolulu, one hundred eighty-four per cent in the
14 county of Maui, and seventy per cent in the county of Hawaii.

15 The legislature further finds that the area burned by
16 wildfires in Hawaii has increased fourfold. Most recently,
17 climate change exacerbated the Maui wildfires, which destroyed
18 the town of Lahaina and killed at least one hundred two people.
19 In the aftermath of this tragic and horrific event, insurance
20 companies operating in Hawaii have already paid out over
21 \$2,300,000,000 across more than ten thousand wildfire claims to



1 fire victims, with another \$1,000,000,000 of additional insured
2 losses yet to be paid. The scope and scale of damage has led to
3 difficult settlement negotiations in which parties have tried to
4 address how to meet the needs of fire victims, maintain a
5 solvent market for insurance, and keep vital public utilities
6 and educational institutions operating in our communities.
7 Hawaii has a compelling state interest in protecting the
8 integrity of these institutions as they seek to provide relief
9 to harmed and impacted parties.

10 Climate change has also impacted the amount of water
11 available in key watersheds across the islands. Ongoing drought
12 has created water security issues that are exacerbated by the
13 growing water demand, which may increase up to thirty-six per
14 cent by the end of the century. For example, rainfall in the
15 Nuuanu watershed is projected to decrease by as much as
16 twenty-seven per cent, and both the Heeia and Na Wai Eha
17 watershed are also experiencing decreases in rainfall,
18 threatening groundwater supplies and drinking water
19 availability.

20 At Hawaii's shorelines, sea level has risen ten inches on
21 average compared to 1950, and the mean number of days that cause



1 high tide flooding in Honolulu has almost doubled from six to
2 eleven days per year since the 1960s. Almost all the shorelines
3 in Hawaii, approximately ninety-two per cent, are predicted to
4 retreat between one and twenty-four meters by 2050. Researchers
5 predict that shoreline retreat rates have doubled from the
6 historical rate due to sea level rise.

7 Climate change is also causing more extreme temperatures in
8 Hawaii. The average annual temperature in Hawaii in 2016 was
9 about 1.7 degrees Fahrenheit warmer than the one hundred-year
10 mean from 1917 to 2016. Similarly, global mean sea surface
11 temperature has increased by about 1.8 degrees Fahrenheit over
12 the past century and waters around Hawaii have followed this
13 trend.

14 The legislature finds that insurance companies operating in
15 the State need to redress the harm that responsible parties have
16 caused through climate disasters, extreme weather attributable
17 to climate change, and harms resulting from long-term changes to
18 the climate system. Hawaii has a compelling state interest in
19 ensuring that the Hawaii hurricane relief fund and the Hawaii
20 property insurance association, which are both state entities,
21 exercise their subrogation rights to recover from responsible



1 parties that have caused damages due to climate disasters,
2 extreme weather attributable to climate change, and harms
3 resulting from long-term changes to the climate system. The
4 courts of this State are the appropriate venue to provide this
5 relief. The legislature further declares that these harms
6 related or attributable to climate change should not be deemed
7 acts of God, unforeseeable, or otherwise classified as a force
8 majeure event eligible for litigation limitations or defenses,
9 except as otherwise explicitly and unambiguously provided.

10 The legislature further finds that for decades, certain
11 people and entities have spread intentional lies, misinformation
12 and disinformation, and misrepresentations about the connection
13 between climate change and fossil fuel-based products, as well
14 as how climate change has directly contributed injuries in this
15 State. Continued lies, misinformation and disinformation, and
16 misrepresentations by these responsible parties pose a threat to
17 the health, safety, and security of Hawaii's residents and
18 visitors. These parties have long known the dangers of fossil
19 fuel-based products; however, they have continued to deny and
20 lie for profit. Hiding, obfuscating, and denying information to
21 consumers, elected officials, and regulators alike has harmed



1 and continues to harm Hawaii. Hawaii has a compelling interest
2 in protecting consumers from these lies and misleading
3 information, while also encouraging factual and truthful
4 information on how climate disasters and other harms can be
5 attributed to the responsible parties who have spread those
6 falsehoods.

7 The legislature further finds and declares that:

8 (1) Individuals and entities involved in the production of
9 fossil fuel products have engaged in a decades-long
10 project to protect their bottom lines with a
11 coordinated effort to deceive the public about the
12 reality of the climate crisis;

13 (2) Documents unveiled by litigation and investigative
14 journalists demonstrate that those parties were aware
15 of the potentially catastrophic impact of their
16 products from as early as the 1950s. Even though
17 research conducted by their own scientists affirmed
18 the impacts of their business, these parties outright
19 denied that climate change was real, spread
20 disinformation to cast doubt on the science, and



1 fought regulatory action against fossil fuel and
2 fossil fuel products;

3 (3) The 1970s and 1980s saw the development of a clear
4 scientific consensus that increasing carbon dioxide
5 concentration in the atmosphere would contribute to
6 global warming, and that the heightened carbon dioxide
7 emissions were attributable to fossil fuels. These
8 facts were supported by several fossil fuel industry
9 scientists from different companies such as Exxon and
10 Shell, who presented these findings to their
11 management with warnings that the "present trend of
12 fossil fuel consumption will cause dramatic
13 environmental effects before the year 2050;"

14 (4) Despite acknowledging that increased carbon dioxide
15 concentrations due to fossil-fuel combustion posed a
16 considerable threat, responsible parties decided not
17 to take steps to prevent the risks of climate change.
18 Instead, they stopped funding major climate research
19 and launched campaigns to discredit climate science
20 and delay actions perceived as contrary to their



1 business interests. These corporations carried out
2 these campaigns by:

3 (A) Developing public relations strategies that were
4 contradictory to their knowledge and scientific
5 insights;

6 (B) Engaging in public communications campaigns to
7 promote doubt and downplay the threats of climate
8 change; and

9 (C) Funding individuals, organizations, and research
10 aimed at discrediting the growing body of
11 publicly available climate science;

12 (5) From 1970 to 2020, the oil and gas industry
13 responsible parties made nearly \$2,800,000,000 a day
14 and \$1,000,000,000,000 dollars a year in profit;

15 (6) Responsible parties currently advertise "green"
16 efforts to the public that mask the lack of real
17 investment in resiliency and energy-source transition
18 and the continued prioritization of the extraction,
19 refinement, and distribution of fossil fuel products;

20 (7) A December 2022 report by a congressional oversight
21 committee revealed internal documents from senior



1 leaders from the fossil fuel industry that explicitly
2 reject taking accountability for the greenhouse gas
3 emissions associated with their products; and

4 (8) By conduct and impact, these responsible parties have
5 intentionally obfuscated the truth about climate
6 change and outright deceived the public to continue
7 dependence on fossil fuel products.

8 The legislature further finds that the intentional lies,
9 misinformation, and disinformation, and misrepresentations by
10 responsible parties about the connection between the products
11 they sell is not political speech, but fundamentally commercial
12 activity with incidental political impact. The legislature
13 finds that these parties must be accountable to those harmed by
14 climate disasters, extreme weather attribute to climate change,
15 and long-term changes to the climate system.

16 The legislature finds that the Hawaii hurricane relief fund
17 and the Hawaii property insurance association have not exercised
18 their right of subrogation against responsible parties who
19 should be held accountable for substantially contributing to
20 losses associated with climate change due to their misleading
21 and deceptive practices.



1 It is the intent of this State to provide a judicial forum
2 for the efficient, just, and equitable resolution of insurers'
3 subrogation claims stemming from climate disasters, extreme
4 weather attributable to climate change, and harms resulting from
5 long-term changes to the climate system.

6 The purpose of this Act is to:

7 (1) Require the plan of operation for the Hawaii hurricane
8 relief fund to include the filing and litigation of
9 subrogation claims against responsible parties for
10 claims paid by the fund for losses attributable to
11 climate change; and

12 (2) Require insurance rates for the fund to account for
13 proceeds paid to the fund from subrogation claims.

14 SECTION 2. Section 431P-7, Hawaii Revised Statutes, is
15 amended by amending subsection (c) to read as follows:

16 "(c) The plan of operation shall:

17 (1) Establish procedures for performance of all powers and
18 duties of the fund;

19 (2) Establish procedures for providing notice to all
20 persons with interests insurable by the fund in the



S.B. NO. 1167

- 1 State of the type of insurance available from the fund
- 2 in the event the fund offers insurance;
- 3 (3) Provide for and adopt all necessary forms, including
- 4 insurance policies to be used by and on behalf of the
- 5 fund, for use by the fund and servicing facilities;
- 6 (4) Adopt actuarially sound rates, based on reasonable
- 7 assumptions relative to expectations of hurricane
- 8 frequency and severity and accounting for proceeds
- 9 paid to the fund from subrogation claims, to be
- 10 charged for insurance provided by the fund, in
- 11 accordance with article 14 of chapter 431;
- 12 (5) Publish manuals of rules, rates, and rating and
- 13 classification plans, which shall address mandatory
- 14 deductibles, limits of coverage, and the
- 15 classification of risks and rate modifications based
- 16 on the exposure of insureds;
- 17 (6) Establish procedures for receiving and servicing
- 18 applications to the fund;
- 19 (7) Establish procedures for processing and maintaining
- 20 records of the fund relating to its financial
- 21 transactions, its agents, its employees, its



operations, and all transactions with any servicing facility;

(8) Establish procedures for the collection and remittance of the premiums and return of unearned premiums where applicable;

(9) Establish procedures for the payment of valid claims;

(10) Establish procedures for prorating available funds pursuant to section 431P-15;

(11) Establish procedures for obtaining reinsurance;

(12) Establish procedures to borrow funds; ~~and~~

(13) Develop a plan for the investment of moneys held by the fund subject to the limitations in article 6 of chapter 431[-]; and

(14) Require the fund to file and litigate subrogation claims against responsible parties for claims paid by the fund for losses from climate disasters or extreme weather attributable to climate change."

SECTION 3. Nothing in this Act shall be construed to limit in any way the enforceability of existing laws concerning insurance, consumer protection, climate, environment, energy, or



1 natural resources, by either the government or other private
2 plaintiffs.

3 SECTION 4. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 5. This Act shall take effect upon its approval.

6

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "C. Liu", is written over a horizontal line.

S.B. NO. 1167

Report Title:

Hawaii Hurricane Relief Fund; Insurance Rates; Subrogation Claims

Description:

Requires the plan of operation for the Hawaii hurricane relief fund to include the filing and litigation of subrogation claims against responsible parties for claims paid by the fund for losses attributable to climate change. Requires insurance rates for the fund to account for proceeds paid to the fund from subrogation claims.

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