
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 climate disasters
2 have caused widespread harm to the State and its residents,
3 including the destruction of homes and property, loss of wages,
4 escalating insurance costs and losses, depletion of public
5 resources, and injuries to the health, safety, and livelihoods
6 of residents of the State.

7 The legislature further finds that climate disasters pose
8 many costly risks to the residents of the State, including the
9 destabilization and potential collapse of insurance
10 infrastructure in the State. Climate disasters threaten the
11 functionality of the regular insurance market and the residual
12 market, or "insurers of last resort", like the Hawaii Property
13 Insurance Association, as well as taxpayer resources in the
14 state-funded Hawaii hurricane relief fund, which was reactivated
15 by Act 296, Session Laws of Hawaii 2025, to provide insurance
16 coverage in scenarios where the private market fails to do so.



1 The legislature believes that access to affordable
2 insurance is necessary for the stability and financial health of
3 residents of the State, but is threatened by increasing
4 nonrenewal rates and rapidly rising premiums. Therefore, the
5 legislature further believes there is a compelling state
6 interest in preserving insurance market stability, essential
7 coverage for property owners and lenders, and affordable housing
8 for the State's residents.

9 The legislature further finds that property and casualty
10 insurance providers have been destabilized by increasingly
11 severe climate disasters, which has led to increased nonrenewal
12 rates and premiums across the State. Between 2018 and 2023,
13 insurance nonrenewal rates increased by ninety-one per cent in
14 the county of Kauai, two hundred ninety-six per cent in the city
15 and county of Honolulu, one hundred eighty-four per cent in the
16 county of Maui, and seventy per cent in the county of Hawaii.

17 The climate disasters underlying the insurance crisis in
18 the State are the result of a decades-long, coordinated campaign
19 of deception launched and orchestrated by major fossil fuel
20 companies. These companies have known for decades that their
21 products cause global warming and increase the frequency and



1 severity of climate disasters. Despite this knowledge, these
2 companies concealed and misrepresented the associated risks,
3 sowed confusion, and failed to warn the public of the dangers
4 created and exacerbated by their products.

5 The consequence of this deceptive conduct by responsible
6 parties is making insurance coverage harder to obtain and less
7 affordable, which negatively impacts credit and housing markets.
8 The loss or unaffordability of coverage impedes access to
9 mortgage financing, which in turn depresses property values,
10 heightens the risk of defaults and foreclosures, and slows the
11 rate of new housing development, further exacerbating the
12 State's housing shortage.

13 The legislature believes that the costs of climate
14 disasters should be borne by those responsible for causing them,
15 rather than taxpayers, insurance policyholders, and residents
16 harmed by climate disasters. By adopting Senate Concurrent
17 Resolution No. 198, SD1 (2025), the legislature affirmed its
18 belief that the fossil fuel industry's actions have caused
19 significant harm to the residents of the State and the stability
20 of the State's insurance market.



1 Accordingly, this Act serves an important public purpose,
2 which is to:

3 (1) Authorize the attorney general to bring a civil action
4 in the name of the people of the State as parens
5 patriae against any responsible party to recover
6 certain costs or obtain certain relief; and

7 (2) Authorize the Hawaii Property Insurance Association,
8 Hawaii hurricane relief fund, or any private insurer
9 licensed in the State, to bring a civil action against
10 a responsible party to recover its costs and losses
11 resulting from climate attributable harm or other
12 certain relief.

13 SECTION 2. The Hawaii Revised Statutes is amended by
14 adding a new chapter to title 36 to be appropriately designated
15 and to read as follows:

16 **"CHAPTER**

17 **CIVIL LIABILITY FOR CLIMATE ATTRIBUTABLE HARM**

18 **§ -1 Definitions.** As used in this chapter:

19 "Affiliated entity" means any parent or subsidiary
20 corporation, as well as any other business entity that is
21 related through common ownership or control, where the



1 relationship is established for financial purposes, including
2 but not limited to consolidated financial reporting or the
3 enhancement of profitability for the parent entity.

4 "Climate attributable harm" means insurance-related harm in
5 the State to property, tangible assets, or economic interests
6 connected to a climate disaster.

7 "Climate disaster" means an extreme weather event,
8 including a wildfire, heatwave, drought, windstorm, hurricane,
9 flood, tornado, or other storm; provided that climate change was
10 a factor in the event's frequency, severity, location, timing,
11 or extent.

12 "Fossil fuel product" means crude petroleum oil and all
13 other hydrocarbons, regardless of gravity, that are produced at
14 the wellhead in liquid form by ordinary production methods,
15 including natural, manufactured, mixed, and byproduct
16 hydrocarbon gas, refined crude oil, crude tops, topped crude,
17 processed crude, processed crude petroleum, residue from crude
18 petroleum, cracking stock, uncracked fuel oil, fuel oil, treated
19 crude oil, residuum, gas oil, casinghead gasoline, natural-gas
20 gasoline, kerosene, benzine, wash oil, waste oil, blended
21 gasoline, lubricating oil, and blends or mixtures of oil with



one or more liquid products or byproducts derived from oil or gas.

"Responsible party" means a firm, corporation, company, partnership, society, joint stock company, or any other affiliated entity that:

(1) Has an aggregate market capitalization or worldwide annual revenue across the parent entity and all affiliated entities of at least \$500,000,000, determined by an average capitalization or revenue over the preceding three years;

(2) Engaged in the extraction, production, manufacture, marketing, or sale of fossil fuel products; and

(3) Did business in the State, was registered to do business in the State, was appointed an agent of the State, or otherwise had sufficient contacts with the State to be subject to the State's jurisdiction.

"Responsible party" shall not include the federal government, tribal governments or bodies, the State, a political subdivision of the federal, tribal, or state government, or an employee of the federal, tribal, or state government or body on the basis of



1 acts or omissions in the course of the employee's official
2 duties.

3 **§ -2 Civil liability; responsible parties; damages**
4 **related to climate attributable harm.** (a) The attorney general
5 may bring a civil action in the name of the people of the State
6 as parens patriae against any responsible party for any of the
7 following:

8 (1) Recovery of costs and losses incurred by the Hawaii
9 Property Insurance Association for climate
10 attributable harm;

11 (2) Recovery of costs and losses incurred by the Hawaii
12 hurricane relief fund established under chapter 431P,
13 or other state entity, for climate attributable harm;
14 or

15 (3) Recovery of costs and losses resulting from climate
16 attributable harm or risk of future climate
17 attributable harm including:

18 (A) Real property fortification measures necessary to
19 obtain or maintain affordable insurance coverage;

20 (B) An increased premium;



- 1 (C) A higher cost of coverage through a non-admitted
2 insurer;
3 (D) An insurer withdrawal;
4 (E) A reduction in coverage availability; or
5 (F) Cessation of the insurance of new residential
6 property insurance policies.

7 (b) In any civil action against a responsible party under
8 this chapter, the attorney general may recover or obtain any of
9 the following relief:

- 10 (1) The costs and losses of all climate attributable harm;
11 (2) Restitution;
12 (3) Disgorgement;
13 (4) Court costs, litigation expenses, and reasonable
14 attorneys' fees; and
15 (5) Any other relief that the court or a jury deems
16 proper.

17 (c) The Hawaii Property Insurance Association, Hawaii
18 hurricane relief fund, or any private insurer licensed in the
19 State shall also have a civil cause of action against a
20 responsible party to recover its costs and losses resulting from
21 climate attributable harm from a responsible party.



1 (d) In any civil action against a responsible party under
2 this section, the Hawaii Property Insurance Association, Hawaii
3 hurricane relief fund, or any private insurer may recover or
4 obtain any of the following relief:

5 (1) Costs and losses of all climate attributable harm;

6 (2) Restitution;

7 (3) Disgorgement;

8 (4) Court costs, litigation expenses, and reasonable
9 attorneys' fees; and

10 (5) Any other relief that the court or a jury deems
11 proper.

12 (e) In any settlement of claims under this section, the
13 attorney general may intervene and review the proposed terms for
14 the impact on all residents of the State, including upstreaming
15 of recoveries to out-of-state parent companies.

16 (f) In any action brought under this section, the court
17 shall offset any restitution award by amounts already reimbursed
18 to the Hawaii Property Insurance Association and its member
19 insurers, or the Hawaii hurricane relief fund, to avoid
20 duplicative recovery. The attorney general shall require each



1 claimant seeking restitution to certify, under penalty of
2 perjury, any amounts received from an insurer for the same loss.

3 (g) Any action brought under this section shall be
4 commenced within two years of the relevant climate disaster;
5 provided that if an insurer or any affiliated entity fails to
6 commence an action under this section, the insurer shall give
7 notice to the attorney general within thirty days after the date
8 on which the climate attributable harm occurred; provided
9 further that the attorney general, within two years of receiving
10 the notice, may bring a claim to recoup the insurer's costs and
11 losses resulting from climate attributable harm.

12 (h) Insurers shall not assign or transfer rights under
13 this section.

14 (i) An insured in this State may submit a written request
15 to the attorney general to pursue enforcement of an insurer's
16 right of recovery for climate attributable harm under this
17 section.

18 (j) Responsible parties shall be strictly liable for any
19 damages, restitution, or disgorgement of profits afforded under
20 this section.



1 (k) The rights assigned in this section shall not be
2 waived.

3 (1) This section shall not be construed to:

4 (1) Limit the enforceability of any existing right,
5 action, or remedy available under any other law;

6 (2) Create a defense to liability under, or enforcement
7 of, any other law;

8 (3) Replace legally mandated disaster recovery funds,
9 designated disaster recovery funds established by
10 legislation or administrative rule, or legally
11 mandated insurance claim payouts;

12 (4) Modify any equitable statutory right of subrogation or
13 indemnification, or any contractual right or
14 obligation, except as expressly provided in this
15 section;

16 (5) Alter the Hawaii supreme court's precedent,
17 interpretation, or application of section 663-10
18 relating to insurer subrogation claims;

19 (6) Impair, expand, or otherwise modify the powers and
20 duties of the insurance commissioner under the
21 insurance code; or



(7) Impose liability on speech or conduct protected by:

(A) The First Amendment to the Constitution of the
United States; or

(B) Article I, section 4, of the Hawaii State
Constitution."

SECTION 3. Section 431:14-103, Hawaii Revised Statutes, is
amended by amending subsection (a) to read as follows:

"(a) Rates shall be made in accordance with the following
provisions:

(1) Rates shall not be excessive, inadequate, or unfairly
discriminatory.

(2) Due consideration shall be given to:

(A) Past and prospective loss experience within and
outside this State; provided that if the claim
does not exceed the selected deductible amount
pursuant to section 386-100, and the employer
reimburses the insurer for the amount, the claims
shall not be calculated in the employer's
experience rating or risk category;

(B) The conflagration and catastrophe hazards, if
any;



1 (C) Any proceeds recovered through any civil actions
2 filed pursuant to section -2;

3 [~~(C)~~] (D) A reasonable margin for underwriting profit
4 and contingencies;

5 [~~(D)~~] (E) Dividends, savings, or unabsorbed premium
6 deposits allowed or returned by insurers to their
7 policyholders, members, or subscribers;

8 [~~(E)~~] (F) Past and prospective expenses both
9 country-wide and those specially applicable to
10 this State;

11 [~~(F)~~] (G) Investment income from unearned premium and
12 loss reserve funds; and

13 [~~(G)~~] (H) All other relevant factors within and
14 outside this State.

15 (3) In the case of fire insurance rates, consideration
16 shall be given to the experience of the fire insurance
17 business during a period of not less than the most
18 recent five-year period for which that experience is
19 available.

20 (4) The systems of expense provisions included in the
21 rates for use by any insurer or group of insurers may



1 differ from those of other insurers or groups of
2 insurers to reflect the requirements of the operating
3 methods of any insurer or group with respect to any
4 class of insurance, or with respect to any subdivision
5 or combination thereof for which subdivision or
6 combination separate expense provisions are
7 applicable.

8 (5) Risks may be grouped by classifications for the
9 establishment of rates and minimum premiums.

10 Classification rates may be modified to produce rates
11 for individual risks in accordance with rating plans
12 that establish standards for measuring variations in
13 hazards or expense provisions, or both. These
14 standards may measure any differences among risks that
15 can be demonstrated to have a probable effect upon
16 losses or expenses. No risk classification may be
17 based upon race, creed, national origin, or the
18 religion of the insured.

19 (6) Manual, minimum, class rates, rating schedules, or
20 rating plans shall be made and adopted, except in the
21 case of:



- 1 (A) Special rates where manual, minimum, class rates,
2 rating schedules, or rating plans are not
3 applicable; and
- 4 (B) Specifically rated inland marine risks.
- 5 (7) No insurer authorized to do business in this State
6 shall issue any policy that provides or makes
7 available to any risks preferred rates based upon any
8 grouping of persons, firms, or corporations by way of
9 membership, license, franchise, contract, agreement,
10 or any other means, other than common majority
11 ownership of the risks, or except where:
12 (A) A common stock ownership in and management
13 control of the risks are held by the same person,
14 corporation, or firm;
15 (B) Permitted or authorized by filings in existence
16 as of January 1, 1988, under the casualty rating
17 law and the fire rating law, as these filings may
18 be amended from time to time;
19 (C) Health care providers, as defined in section
20 671-1 that could have joined the patients'
21 compensation fund as it existed in chapter 671,



1 part III, prior to May 31, 1984, joined together
2 with one or more groups of related or unrelated
3 health care providers;

4 (D) Permitted under article 12; or

5 (E) Otherwise expressly provided by law."

6 SECTION 4. Section 431:21-106, Hawaii Revised Statutes, is
7 amended by amending subsection (c) to read as follows:

8 "(c) The plan of operation:

9 (1) Shall establish procedures for performance of all the
10 powers and duties of the association under section
11 431:21-105;

12 (2) Shall establish maximum limits of liability to be
13 placed through the association;

14 (3) Shall establish reasonable underwriting standards for
15 determining insurability of a risk that are comparable
16 to the standards used to determine insurability of a
17 risk located outside the area designated by the
18 commissioner as eligible for association coverage;

19 (4) Shall establish a schedule of deductibles, if
20 appropriate;



- 1 (5) Shall establish a maximum period of time during which
2 a high-rise condominium may be eligible to be insured
3 by the association, which shall not exceed sixty
4 months;
- 5 (6) Shall establish the commission to be paid to licensed
6 producers;
- 7 (7) Shall establish the rates to be charged for the
8 insurance coverages, so that the total premium income
9 from all association policies, when combined with the
10 investment income, shall annually fund the
11 administration of the association. The administration
12 of the association shall include the expenses incurred
13 in processing applications, conducting inspections,
14 issuing and servicing policies, paying commissions,
15 and paying claims, but shall not include assessments
16 approved by the commissioner[~~7~~]. Rates shall account
17 for any proceeds obtained by the association from any
18 civil actions against a responsible party for costs
19 and losses resulting from climate attributable harm
20 pursuant to section -2. For the purposes of this
21 paragraph:



1 "Climate attributable harm" and "responsible
2 party" shall have the same meanings as defined in
3 section -1;

4 (8) Shall establish the manner and scope of the inspection
5 and the form of the inspection report. The inspection
6 guidelines may include setting minimum conditions the
7 property must meet before an inspection is required;

8 (9) Shall establish procedures whereby selections for the
9 board of directors will be submitted to the
10 commissioner for the commissioner's information;

11 (10) Shall establish procedures for records to be kept of
12 all financial transactions of the association, its
13 producers, and its board of directors;

14 (11) Shall establish procedures by which applications will
15 be received and serviced by the association;

16 (12) Establish guidelines for the investigation and payment
17 of claims;

18 (13) Shall establish procedures whereby the association may
19 assume and cede reinsurance on risks written through
20 the association;

21 (14) Shall include the following:



- 1 (A) Coverage forms, endorsements, limits, and
- 2 deductibles for the covered condominium; provided
- 3 that the association may categorize these forms,
- 4 endorsements, limits, and deductibles by the type
- 5 of peril being covered;
- 6 (B) Rate tiers, including potential high deductible
- 7 options and surcharges for condominiums that
- 8 remain in the plan of operation;
- 9 (C) Provisions authorizing the association to decline
- 10 providing coverage;
- 11 (D) Potential annual premium rate increases; and
- 12 (E) Establishment of adequate rates to avoid
- 13 assessment of the voluntary market;
- 14 (15) Shall require, prior to issuance or renewal of
- 15 coverage, the applicant for condominium property
- 16 insurance coverage or renewal to:
- 17 (A) Provide the following to the association:
- 18 (i) The condominium association's declarations,
- 19 bylaws, or other documents that describe the
- 20 condominium association's process for paying
- 21 claims, including the portion of the claim



1 to be paid by the condominium association
2 and the portion to be paid by each unit
3 owner; and

4 (ii) The condominium association's declarations,
5 bylaws, or other documents that describe the
6 condominium association's process for
7 handling losses both pursuant to the
8 applicable master policy and by the
9 applicable condominium association;

10 (B) Cause to be completed an inspection of the
11 applicable condominium; provided that the
12 inspection shall be consistent with any
13 inspection and reporting standards established by
14 the board of directors of the association and
15 incorporated into the plan of operation pursuant
16 to paragraph (8); and

17 (C) Satisfy any relevant requirements established by
18 the board of directors of the association and
19 incorporated into the plan of operation;

20 (16) May prohibit coverage under this article for any
21 high-rise condominium for which the association or its



1 servicing entities or any agents thereof have
2 identified maintenance issues that materially affect
3 the insurability of the high-rise condominium for the
4 type of coverage being sought; and

5 (17) Shall adopt procedures, guidelines, installment
6 amounts, and a timetable for the repayment of any
7 general fund moneys that are loaned to sufficiently
8 capitalize the reserve trust fund established pursuant
9 to section 431:21-105(b) (9) and deposited into the
10 separate account within the reserve trust fund;
11 provided that the repayment shall not commence until
12 the reserve trust fund is sufficiently capitalized as
13 determined by the board of directors."

14 SECTION 5. Section 431P-7, Hawaii Revised Statutes, is
15 amended by amending subsection (c) to read as follows:

16 "(c) The plan of operation:

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

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



1 State of the type of insurance available from the fund
2 if the fund offers insurance;

3 (3) Shall provide for and adopt all necessary forms,
4 including insurance policies to be used by and on
5 behalf of the fund, for use by the fund and servicing
6 facilities;

7 (4) Shall adopt actuarially sound rates, based on
8 reasonable assumptions relative to expectations of
9 hurricane frequency and severity, to be charged for
10 insurance provided by the fund, in accordance with
11 article 14 of chapter 431[+], and accounting for and
12 proceeds obtained by the fund from any civil actions
13 against a responsible party for costs and losses
14 resulting from climate attributable harm pursuant to
15 section -2. For the purposes of this paragraph:

16 "Climate attributable harm" and "responsible
17 party" shall have the same meanings as defined in
18 section -1;

19 (5) Shall publish manuals of rules, rates, and rating and
20 classification plans, which shall address mandatory
21 deductibles, limits of coverage, and the



1 classification of risks and rate modifications based
2 on the exposure of insureds, subject to the approval
3 of the commissioner;

4 (6) Shall establish procedures for receiving and servicing
5 applications to the fund;

6 (7) Shall establish procedures for processing and
7 maintaining records of the fund relating to its
8 financial transactions, its agents, its employees, its
9 operations, and all transactions with any servicing
10 facility;

11 (8) Shall establish procedures for the collection and
12 remittance of the premiums and return of unearned
13 premiums where applicable;

14 (9) Shall establish procedures for the payment of valid
15 claims;

16 (10) Shall establish procedures for prorating available
17 funds pursuant to section 431P-15;

18 (11) Shall establish procedures for obtaining reinsurance;

19 (12) Shall establish procedures to borrow funds;

20 (13) Shall develop a plan for the investment of moneys held
21 by the fund;



1 (14) Shall require, prior to issuance or renewal of
2 coverage, the applicant for condominium insurance
3 coverage or renewal to:

4 (A) Cause to be completed an inspection of the
5 applicable condominium; provided that the
6 inspection shall be consistent with any
7 inspection and reporting standards established by
8 the board and incorporated into the plan of
9 operation; and

10 (B) Satisfy any relevant requirements established by
11 the board and incorporated into the plan of
12 operation; and

13 (15) May prohibit coverage under this chapter for any
14 high-rise condominium for which the fund or its
15 servicing entities or any agents thereof have
16 identified maintenance issues materially affecting the
17 insurability of the high-rise condominium for
18 hurricane property insurance."

19 SECTION 6. If any provision of this Act, or the
20 application thereof to any person or circumstance, is held
21 invalid, the invalidity does not affect other provisions or



1 applications of the Act that can be given effect without the
2 invalid provision or application, and to this end the provisions
3 of this Act are severable.

4 SECTION 7. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 8. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 9. This Act shall take effect upon its approval.

10
INTRODUCED BY:


JAN 26 2026



H.B. NO. 2226

Report Title:

AG; HPIA; HHRF; Property Insurance; Subrogation; Climate Change; Climate Disasters; Climate Attributable Harm; Civil Actions; Insurance Rates

Description:

Authorizes the Attorney General to bring a civil action in the name of the people of the State as parens patriae against any responsible party to recover certain costs or obtain certain relief, including costs and losses incurred by the Hawaii Property Insurance Association, Hawaii Hurricane Relief Fund, or other state entities, resulting from climate attributable harm or costs for risk of future climate attributable harm.

Authorizes the Hawaii Property Insurance Association and Hawaii Hurricane Relief Fund, or any private insurer licensed in the State to bring a civil cause of action against a responsible party to recover its costs and losses resulting from climate attributable harm.

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

