THE SENATE
THIRTY-THIRD LEGISLATURE, 2025
STATE OF HAWAII

S.B. NO. 1140 S.D. 1

A BILL FOR AN ACT

RELATING TO INSURANCE OF LAST RESORT.

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

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

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

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

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

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

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

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

"CHAPTER

FAIR ACCESS TO INSURANCE REQUIREMENTS PROGRAM

PART I. GENERAL PROVISIONS

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

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

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

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

"Primarily domiciled Hawaii insurance company" means an insurer with its principal operations and regulatory domicile in

the State, maintaining a significant local presence and infrastructure.

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

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

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

§ **-3 FAIR Program; established.** There is established within the department of commerce and consumer affairs the fair access to insurance requirements program, which shall offer residents living in high-risk areas the opportunity to purchase affordable and comprehensive property insurance coverage for their residential properties.

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

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

(1) Establishing the program;

(2) Adopting rules pursuant to chapter 91 and any policies and procedures necessary to establish, implement, and operate the program, including coverage requirements and options, eligibility requirements for policyholders, and premium calculation methodologies; and

(3) Selecting a selected insurer to offer and administer policies under the program; provided that the selected insurer shall be a primarily domiciled Hawaii insurance company.

(b) The director shall:

(1) Monitor the selected insurer's compliance with this chapter, including any rules adopted under this chapter;

(2) Ensure that the selected insurer complies with the consumer protection and affordability requirements of this chapter and other applicable laws and rules; and

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

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

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

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

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

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

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

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

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

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

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

(1) Capitalizing the program;

(2) Ensuring the sustainability of the program during the program's initial implementation; and

(3) Ensuring the sustainability of the program during catastrophic events.

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

including administrative costs, reinsurance arrangements, and premium stabilization.

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

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

(1) Alignment with program objectives; and

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

§ -9 **Premium stabilization fund.** (a) If revenue bonds are issued pursuant to section -8, the director shall establish in the state treasury a premium stabilization fund, into which proceeds from the revenue bonds shall be deposited.

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

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

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

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

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

(b) The incentive program shall include:

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

(A) Hurricane-resistant roofing materials;

(B) Elevated foundations to mitigate flooding; and

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

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

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

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

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

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

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

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

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

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

(1) Failure to meet program guidelines; and

(2) Failure to meet consumer protection standards pursuant to section -11.

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

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

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

(1) A detailed summary of the program's financial performance, including the total amount of premiums collected and claims paid during the preceding year;

(2) An analysis of policyholder participation and feedback;

(3) Details of the selected insurer's reinsurance arrangements and financial performance pursuant to sections -5 and -6;

(4) Any recommendations to improve the program; and

(5) Any other information required by the director.

(b) No later than twenty days prior the convening of each regular session, the director shall submit an annual report to the legislature that includes:

(1) A summary of the information provided to the director under subsection (a);

(2) An assessment of the program's performance;

(3) An assessment of the selected insurer's compliance with this chapter;

(4) A summary of the program's reinsurance performance;

(5) A summary of the director's use of revenue bond authority pursuant to section -8;

(6) A summary of the premium stabilization fund moneys, including revenues, expenditures, the number of premium subsidies or adjustments that were made using moneys from the fund, and the results of the annual audit required pursuant to section -9; and

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

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

SECTION 3. (a) The director of commerce and consumer affairs shall adopt administrative rules pursuant to chapter 91, Hawaii Revised Statutes, necessary to establish, implement, and operate the fair access to insurance requirements program, including eligibility requirements for policyholders, coverage options, and premium calculation methodologies, no later than January 1, 2026.

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

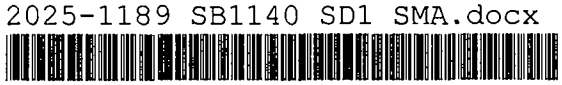
SECTION 4. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the

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

SECTION 5. This Act shall take effect on July 1, 2050.

S.B. NO. 1140 S.D. 1

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

Description:
Establishes the Fair Access to Insurance Requirements (FAIR) Program, which shall be established in and administered by 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. Authorizes the Director of Commerce and Consumer Affairs to issue revenue bonds in amounts authorized by the Legislature, in which case the Premium Stabilization Fund shall be established by the Director. Effective 7/1/2050. (SD1)

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