
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 S.C.R. No. 198,
17 S.D. 1, (2025), the legislature affirmed its belief that the
18 fossil fuel industry's actions have caused significant harm to
19 the residents of the State and the stability of the State's
20 insurance market.



1 "Affiliated entity" means any parent or subsidiary
2 corporation, as well as any other business entity that is
3 related through common ownership or control, where the
4 relationship is established for financial purposes, including
5 but not limited to consolidated financial reporting or the
6 enhancement of profitability for the parent entity.

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

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

15 "Fossil fuel product" means crude petroleum oil and all
16 other hydrocarbons, regardless of gravity, that are produced at
17 the wellhead in liquid form by ordinary production methods,
18 including natural, manufactured, mixed, and byproduct
19 hydrocarbon gas, refined crude oil, crude tops, topped crude,
20 processed crude, processed crude petroleum, residue from crude
21 petroleum, cracking stock, uncracked fuel oil, fuel oil, treated



1 crude oil, residuum, gas oil, casinghead gasoline, natural-gas
2 gasoline, kerosene, benzine, wash oil, waste oil, blended
3 gasoline, lubricating oil, and blends or mixtures of oil with
4 one or more liquid products or byproducts derived from oil or
5 gas.

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

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

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

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

20 "Responsible party" shall not include the federal government,
21 tribal governments or bodies, the State, a political subdivision



1 of the federal, tribal, or state government, or an employee of
2 the federal, tribal, or state government or body on the basis of
3 acts or omissions in the course of the employee's official
4 duties.

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

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

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

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

19 (B) An increased premium;

20 (C) A higher cost of coverage through a non-admitted
21 insurer;



- 1 (D) An insurer withdrawal;
- 2 (E) A reduction in coverage availability; or
- 3 (F) Cessation of the insurance of new residential
- 4 property insurance policies.

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

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

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

20 (d) In any civil action against a responsible party under
21 this section, the Hawaii Property Insurance Association, Hawaii



1 hurricane relief fund, or any private insurer may recover or
2 obtain any of the following relief:

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

4 (2) Restitution;

5 (3) Disgorgement;

6 (4) Court costs, litigation expenses, and reasonable
7 attorneys' fees; and

8 (5) Any other relief that the court or a jury deems
9 proper.

10 (e) In the case of multiple concurrent civil actions
11 brought by different parties against the same responsible party
12 under this section, a court shall determine how to proceed
13 pursuant to any relevant state or federal laws or court rules of
14 procedure.

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

19 (g) In any action brought under this section, the court
20 shall offset any restitution award by amounts already reimbursed
21 to the Hawaii Property Insurance Association and its member



1 insurers, or the Hawaii hurricane relief fund, to avoid
2 duplicative recovery. The attorney general shall require each
3 claimant seeking restitution to certify, under penalty of
4 perjury, any amounts received from an insurer for the same loss.

5 (h) Any action brought under this section shall be
6 commenced within two years of the relevant climate disaster;
7 provided that if an insurer or any affiliated entity fails to
8 commence an action under this section, the insurer shall give
9 notice to the attorney general within thirty days after the date
10 on which the climate attributable harm occurred.

11 (i) Insurers shall not assign or transfer rights under
12 this section.

13 (j) Responsible parties shall be strictly liable for any
14 damages, restitution, or disgorgement of profits afforded under
15 this section.

16 (k) The rights assigned in this section shall not be
17 waived.

18 (l) This section shall not be construed to:

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



- 1 (2) Create a defense to liability under, or enforcement
2 of, any other law;
- 3 (3) Replace legally mandated disaster recovery funds,
4 designated disaster recovery funds established by
5 legislation or administrative rule, or legally
6 mandated insurance claim payouts;
- 7 (4) Modify any equitable statutory right of subrogation or
8 indemnification, or any contractual right or
9 obligation, except as expressly provided in this
10 section;
- 11 (5) Alter the Hawaii supreme court's precedent,
12 interpretation, or application of section 663-10
13 relating to insurer subrogation claims;
- 14 (6) Impair, expand, or otherwise modify the powers and
15 duties of the insurance commissioner under the
16 insurance code; or
- 17 (7) Impose liability on speech or conduct protected by:
18 (A) The First Amendment to the Constitution of the
19 United States; or
20 (B) Article I, section 4, of the Hawaii State
21 Constitution.



1 § -3 **Climate disaster special fund.** (a) There is
2 established in the state treasury the climate disaster special
3 fund, which shall be administered by the department of the
4 attorney general, and into which shall be deposited any monetary
5 relief as provided by section -2 recovered by the attorney
6 general, except restitution or recoveries subject to section
7 28-16.

8 (b) Monetary relief recovered pursuant to this chapter and
9 deposited into the climate disaster special fund shall be
10 distributed in the following order of priority:

11 (1) Sums necessary to pay restitution to a policyholder or
12 insured, and to cover claims-administrations costs, as
13 ordered by the court, including a court-appointed
14 claims administrator;

15 (2) Payments to the Hawaii hurricane relief fund for
16 climate attributable harm; provided that,
17 notwithstanding any other law, an amount allocated and
18 paid exclusively to the Hawaii hurricane relief fund
19 shall be limited to the amount that the insurance
20 commissioner and governing bodies determine is
21 reasonably necessary to:



- 1 (A) Meet the Hawaii hurricane relief fund's claim
- 2 obligations;
- 3 (B) Restore or maintain operating funds, surplus, or
- 4 reserves; or
- 5 (C) Replenish any deficit that, absent the
- 6 allocation, would require or has required an
- 7 assessment or surcharge under section 431P-5;
- 8 (3) Court costs and attorneys' fees awarded in an action
- 9 brought under section -2; and
- 10 (4) Payments to reimburse eligible landscape, community,
- 11 and property-level mitigation and adaptation projects
- 12 in response to climate attributable harm.
- 13 (c) Funds in the climate disaster special fund shall be
- 14 used exclusively for the purposes described in this section and
- 15 shall not be subject to appropriation or transfer by the
- 16 legislature for any other purpose."

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

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



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

3 (2) Due consideration shall be given to:

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

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

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

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

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



- 1 ~~[(E)]~~ (F) Past and prospective expenses both
2 country-wide and those specially applicable to
3 this State;
- 4 ~~[(F)]~~ (G) Investment income from unearned premium and
5 loss reserve funds; and
- 6 ~~[(G)]~~ (H) All other relevant factors within and
7 outside this State.
- 8 (3) In the case of fire insurance rates, consideration
9 shall be given to the experience of the fire insurance
10 business during a period of not less than the most
11 recent five-year period for which that experience is
12 available.
- 13 (4) The systems of expense provisions included in the
14 rates for use by any insurer or group of insurers may
15 differ from those of other insurers or groups of
16 insurers to reflect the requirements of the operating
17 methods of any insurer or group with respect to any
18 class of insurance, or with respect to any subdivision
19 or combination thereof for which subdivision or
20 combination separate expense provisions are
21 applicable.



- 1 (5) Risks may be grouped by classifications for the
2 establishment of rates and minimum premiums.
3 Classification rates may be modified to produce rates
4 for individual risks in accordance with rating plans
5 that establish standards for measuring variations in
6 hazards or expense provisions, or both. These
7 standards may measure any differences among risks that
8 can be demonstrated to have a probable effect upon
9 losses or expenses. No risk classification may be
10 based upon race, creed, national origin, or the
11 religion of the insured.
- 12 (6) Manual, minimum, class rates, rating schedules, or
13 rating plans shall be made and adopted, except in the
14 case of:
- 15 (A) Special rates where manual, minimum, class rates,
16 rating schedules, or rating plans are not
17 applicable; and
- 18 (B) Specifically rated inland marine risks.
- 19 (7) No insurer authorized to do business in this State
20 shall issue any policy that provides or makes
21 available to any risks preferred rates based upon any



1 grouping of persons, firms, or corporations by way of
2 membership, license, franchise, contract, agreement,
3 or any other means, other than common majority
4 ownership of the risks, or except where:

5 (A) A common stock ownership in and management
6 control of the risks are held by the same person,
7 corporation, or firm;

8 (B) Permitted or authorized by filings in existence
9 as of January 1, 1988, under the casualty rating
10 law and the fire rating law, as these filings may
11 be amended from time to time;

12 (C) Health care providers, as defined in section
13 671-1 that could have joined the patients'
14 compensation fund as it existed in chapter 671,
15 part III, prior to May 31, 1984, joined together
16 with one or more groups of related or unrelated
17 health care providers;

18 (D) Permitted under article 12; or

19 (E) Otherwise expressly provided by law."

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



- 1 "(c) The plan of operation:
- 2 (1) Shall establish procedures for performance of all the
- 3 powers and duties of the association under section
- 4 431:21-105;
- 5 (2) Shall establish maximum limits of liability to be
- 6 placed through the association;
- 7 (3) Shall establish reasonable underwriting standards for
- 8 determining insurability of a risk that are comparable
- 9 to the standards used to determine insurability of a
- 10 risk located outside the area designated by the
- 11 commissioner as eligible for association coverage;
- 12 (4) Shall establish a schedule of deductibles, if
- 13 appropriate;
- 14 (5) Shall establish a maximum period of time during which
- 15 a high-rise condominium may be eligible to be insured
- 16 by the association, which shall not exceed sixty
- 17 months;
- 18 (6) Shall establish the commission to be paid to licensed
- 19 producers;
- 20 (7) Shall establish the rates to be charged for the
- 21 insurance coverages, so that the total premium income



1 from all association policies, when combined with the
2 investment income, shall annually fund the
3 administration of the association. The administration
4 of the association shall include the expenses incurred
5 in processing applications, conducting inspections,
6 issuing and servicing policies, paying commissions,
7 and paying claims, but shall not include assessments
8 approved by the commissioner[+]. Rates shall account
9 for any proceeds obtained by the association from any
10 civil actions against a responsible party for costs
11 and losses resulting from climate attributable harm
12 pursuant to section -2. For the purposes of this
13 paragraph:

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

- 17 (8) Shall establish the manner and scope of the inspection
18 and the form of the inspection report. The inspection
19 guidelines may include setting minimum conditions the
20 property must meet before an inspection is required;



- 1 (9) Shall establish procedures whereby selections for the
- 2 board of directors will be submitted to the
- 3 commissioner for the commissioner's information;
- 4 (10) Shall establish procedures for records to be kept of
- 5 all financial transactions of the association, its
- 6 producers, and its board of directors;
- 7 (11) Shall establish procedures by which applications will
- 8 be received and serviced by the association;
- 9 (12) Shall establish guidelines for the investigation and
- 10 payment of claims;
- 11 (13) Shall establish procedures whereby the association may
- 12 assume and cede reinsurance on risks written through
- 13 the association;
- 14 (14) Shall include the following:
- 15 (A) Coverage forms, endorsements, limits, and
- 16 deductibles for the covered condominium; provided
- 17 that the association may categorize these forms,
- 18 endorsements, limits, and deductibles by the type
- 19 of peril being covered;



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



1 condominium association's process for
2 handling losses both pursuant to the
3 applicable master policy and by the
4 applicable condominium association;

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

12 (C) Satisfy any relevant requirements established by
13 the board of directors of the association and
14 incorporated into the plan of operation;

15 (16) May prohibit coverage under this article for any
16 high-rise condominium for which the association or its
17 servicing entities or any agents thereof have
18 identified maintenance issues that materially affect
19 the insurability of the high-rise condominium for the
20 type of coverage being sought; and



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

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

12 "(c) The plan of operation:

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

15 (2) Shall establish procedures for providing notice to all
16 persons with interests insurable by the fund in the
17 State of the type of insurance available from the fund
18 if the fund offers insurance;

19 (3) Shall provide for and adopt all necessary forms,
20 including insurance policies to be used by and on



1 behalf of the fund, for use by the fund and servicing
2 facilities;

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

12 "Climate attributable harm" and "responsible
13 party" shall have the same meanings as defined in
14 section -1;

15 (5) Shall publish manuals of rules, rates, and rating and
16 classification plans, which shall address mandatory
17 deductibles, limits of coverage, and the
18 classification of risks and rate modifications based
19 on the exposure of insureds, subject to the approval
20 of the commissioner;



- 1 (6) Shall establish procedures for receiving and servicing
2 applications to the fund;
- 3 (7) Shall establish procedures for processing and
4 maintaining records of the fund relating to its
5 financial transactions, its agents, its employees, its
6 operations, and all transactions with any servicing
7 facility;
- 8 (8) Shall establish procedures for the collection and
9 remittance of the premiums and return of unearned
10 premiums where applicable;
- 11 (9) Shall establish procedures for the payment of valid
12 claims;
- 13 (10) Shall establish procedures for prorating available
14 funds pursuant to section 431P-15;
- 15 (11) Shall establish procedures for obtaining reinsurance;
- 16 (12) Shall establish procedures to borrow funds;
- 17 (13) Shall develop a plan for the investment of moneys held
18 by the fund;
- 19 (14) Shall require, prior to issuance or renewal of
20 coverage, the applicant for condominium insurance
21 coverage or renewal to:



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

7 (B) Satisfy any relevant requirements established by
8 the board and incorporated into the plan of
9 operation; and

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

16 SECTION 6. If any provision of this Act, or the
17 application thereof to any person or circumstance, is held
18 invalid, the invalidity does not affect other provisions or
19 applications of the Act that can be given effect without the
20 invalid provision or application, and to this end the provisions
21 of this Act are severable.



1 SECTION 7. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

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

6 SECTION 9. This Act shall take effect on July 1, 2050.



Report Title:

AG; HPIA; HHRF; Property Insurance; Subrogation; Climate Change; Climate Disasters; Climate Attributable Harm; Civil Actions; Climate Disaster Special Fund; 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 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. Establishes the Climate Disaster Special Fund to collect and disperse funds collected from certain civil actions to be distributed in a certain order of priority. Effective 7/1/2050. (SD1)

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

