

1 file a new rate application, which shall include the new or
2 modified rating plan. No new or modified rating plan shall be
3 used unless and until the new rate application is approved.

4 **§431:14-B Definitions.** As used in this part:

5 "Building being evaluated" includes decks that are attached
6 to or abutting the structure.

7 "Class-A fire rated roof" means a roof that has been tested
8 in accordance with Underwriters' Laboratories Inc. standard 790
9 and achieved a class-A rating.

10 "Enclosed eaves" are roof eaves that have either boxed-in
11 roof eave soffits with a horizontal underside or an exterior
12 covering applied to the underside of the rafter tails supporting
13 the eaves, which covering is sloped corresponding to the slope
14 of the rafter tails.

15 "Firewise USA site in good standing" is a community that,
16 at the time the building being evaluated is rated, is recognized
17 as a Firewise USA site in good standing by the National Fire
18 Protection Association.

19 "Wildfire risk model" means any tool, instrumentality,
20 means, or product, including a map-based tool, a computer-based
21 tool, or a simulation, that is used by an insurer, in whole or



1 in part, to measure or assess the wildfire risk associated with
2 a residential or commercial structure for purposes of:

- 3 (1) Classifying individual structures according to their
4 wildfire risk; or
5 (2) Estimating losses corresponding to such wildfire risk
6 classifications.

7 **§431:14-C Wildfire risk models to be provided to the**
8 **insurance commissioner; availability for public inspection.** (a)
9 Any wildfire risk model that is used, in whole or in part, in an
10 insurer's rating plan shall be provided to the insurance
11 commissioner as part of an insurer's complete rate application.

12 (b) Any risk model described in subsection (a) and any
13 additional documentation requested by the insurance commissioner
14 during the review of any applicable rate application, including
15 any records, data, algorithms, computer programs, or any other
16 information used in connection with the rating plan or wildfire
17 risk model used by the insurer and provided to the insurance
18 commissioner, shall be made available for public inspection,
19 regardless of the source of the information or whether the
20 insurer or the developer of the rating plan or wildfire risk



1 model claims that the rating plan or wildfire risk model is
2 confidential, proprietary, or a trade secret.

3 **§431:14-D Rating plans; requirements.** Any rating plan
4 that is developed using a wildfire risk model, whether in whole
5 or in part, shall reflect, and the rate offered to the applicant
6 or insured shall be based in part on, the reduced wildfire risk:

7 (1) Associated with a community-level mitigation
8 designation, including a Firewise USA site in good
9 standing and any fire risk reduction communities
10 identified by the insurance commission, that applies
11 to the community in which the building being evaluated
12 is located; and

13 (2) Resulting from each property-level wildfire risk
14 mitigation effort that is undertaken with respect to
15 an individual property being assessed for risk,
16 including:

17 (A) Measures addressing the immediate surroundings of
18 the building being evaluated, including:

19 (i) Clearing of vegetation and debris from under
20 decks;



- 1 (ii) Clearing of vegetation, debris, mulch,
2 stored combustible materials, and any
3 movable combustible objects, from the area
4 within five feet of the building being
5 evaluated;
- 6 (iii) Incorporation of only noncombustible
7 materials into that portion of any
8 improvements to the property on which the
9 building being evaluated is located,
10 including fences and gates, that is situated
11 within five feet of the building being
12 evaluated;
- 13 (iv) Removal or absence of combustible
14 structures, including sheds and other
15 outbuildings, from the area within thirty
16 feet of the building being evaluated or, if
17 the applicant or insured does not control
18 the entirety of the area extending thirty
19 feet from the building being evaluated,
20 removal of combustible structures from as



1 much of the area as is under the control of
2 the applicant or policyholder; and

3 (v) Whether the property upon which the building
4 being evaluated is situated complies with
5 any applicable state or federal laws or
6 county ordinances governing defensible
7 space; and

8 (B) Building hardening measures, including the
9 provision of:

10 (i) A class-A fire rated roof;

11 (ii) Enclosed eaves;

12 (iii) Fire-resistant vents;

13 (iv) Multipane windows, including dual pane
14 windows, or functional shutters, which when
15 closed, cover the entire window and do not
16 have openings; and

17 (v) At least six inches of noncombustible
18 vertical clearance at the bottom of the
19 exterior surface of the building, measured
20 from the ground up.



1 **§431:14-E Wildfire risk score or other wildfire risk**
2 **classification.** (a) Each insurer utilizing a wildfire risk
3 model, or rating factor, to segment, create a rate differential,
4 or surcharge the premium based upon the policyholder or
5 applicant's wildfire risk shall:

6 (1) Within one hundred eighty days after the effective
7 date of Act , Session Laws of Hawaii 2024,
8 implement a written procedure to provide, in writing,
9 to each applicable policyholder or applicant for
10 property insurance the wildfire risk score or other
11 wildfire risk classification used by the insurer to
12 segment, create a rate differential, or surcharge the
13 premium based upon the policyholder or applicant's
14 wildfire risk; and

15 (2) Provide to the policyholder or applicant the wildfire
16 risk score or classification at the following times:

17 (A) No later than fifteen days following the
18 submission to the insurer of the applicant's
19 completed application;

20 (B) At least forty-five days prior to each renewal;



- 1 (C) At least seventy-five days prior to any
- 2 nonrenewal; and
- 3 (D) If the policyholder or applicant has completed a
- 4 mitigation measure on the subject property since
- 5 the time of the last application to or renewal by
- 6 the insurer, no later than thirty days following
- 7 the submission to the insurer of the policyholder
- 8 or applicant's request that the insurer provide a
- 9 revised wildfire risk score or wildfire risk
- 10 classification.

11 (b) The procedure described in subsection (a) shall
12 provide that a policyholder under, or applicant for, a policy of
13 property insurance who disagrees with the assignment of the
14 wildfire risk score, or other wildfire risk classification,
15 provided to the policyholder or applicant pursuant to
16 subsection (a):

- 17 (1) If the policyholder or applicant is not represented by
- 18 a broker, or the insurer is not represented by an
- 19 insurance agent with respect to the policyholder's
- 20 policy or the applicant's application, the
- 21 policyholder or applicant may appeal orally or in



1 writing that assignment directly to the insurer;
2 provided that the insurer shall notify the
3 policyholder or applicant in writing of this right to
4 appeal the wildfire risk score or other wildfire risk
5 classification whenever the wildfire risk score or
6 other wildfire risk classification is provided to the
7 policyholder or applicant as set forth in
8 subsection (a). If the policyholder or applicant
9 appeals the wildfire risk score or other wildfire risk
10 classification in accordance with this paragraph, the
11 insurer shall:

12 (A) Acknowledge receipt of the appeal in writing
13 within ten calendar days of receipt of the
14 appeal; and

15 (B) Respond to the appeal in writing with a
16 reconsideration and decision within thirty
17 calendar days after receiving the appeal; or

18 (2) If the policyholder or applicant is represented by a
19 broker, or the insurer is represented by an insurance
20 agent with respect to the policyholder's policy or the
21 applicant's application, the policyholder or applicant



1 may appeal orally or in writing to the agent or broker
2 the assignment of wildfire risk score or other
3 wildfire risk classification, who shall then forward
4 that appeal to the insurer no later than five calendar
5 days after receiving the appeal from the policyholder
6 or applicant. The insurer shall:

7 (A) Acknowledge receipt of the appeal in writing to
8 the policyholder or applicant and the agent or
9 broker no later than five calendar days after
10 receipt of the appeal from the broker or agent;
11 and

12 (B) Respond to the appeal to the policyholder or
13 applicant and the agent or broker with a written
14 reconsideration and decision of the appeal within
15 thirty calendar days after receiving the appeal
16 from the broker or agent.

17 If the appeal is denied, the insurer, upon request by the
18 insurance division of the department of commerce and consumer
19 affairs, shall forward a copy of the appeal, and the insurer's
20 response, to the insurance division of the department of
21 commerce and consumer affairs; provided that the insurer shall



1 notify the policyholder or applicant in writing that the
2 policyholder or applicant may contact the insurance division of
3 the department of commerce and consumer affairs for assistance
4 if the policyholder or applicant disagrees with the insurer's
5 written reconsideration and decision.

6 **§431:14-F Explanation of wildfire risk score or other**
7 **wildfire risk classification.** (a) If a wildfire risk score, or
8 other wildfire risk classification used by the insurer to
9 segment, create a risk differential, or surcharge the premium
10 for a particular policyholder or applicant, is identified or
11 provided to the policyholder or applicant pursuant to section
12 431:14-E, the insurer shall also provide in writing:

- 13 (1) The range of scores or classifications that may be
14 assigned to any policyholder or applicant;
- 15 (2) The relative position of the score or classification
16 assigned to the policyholder or applicant in question
17 within that range of possible scores or
18 classifications, and the impact of the score or
19 classification on the rate or premium;
- 20 (3) A detailed written explanation of why the policyholder
21 or applicant received the assigned score or



1 classification; provided that the explanation shall
2 make specific reference to the features of the
3 property in question that influenced the assignment of
4 the score or classification;

5 (4) Identification of the mitigation measure or measures
6 that may be taken by the policyholder or applicant to
7 lower the wildfire risk score or classification; and

8 (5) The amount of premium reduction under the insurer's
9 rating plan that is in effect at the time that the
10 policyholder or applicant would realize as a result of
11 performing each mitigation measure identified under
12 paragraph (4)."

13 PART II

14 SECTION 2. Section 431:14-101.5, Hawaii Revised Statutes,
15 is amended by amending the definition of "prospective loss
16 costs" to read as follows:

17 "Prospective loss costs" means that portion of a rate that
18 does not include provisions for expenses (other than loss
19 adjustment expenses) or profit, and are based on [~~historical~~
20 ~~aggregate losses~~] catastrophe modeling and loss adjustment



1 expenses adjusted through development to their ultimate value
2 and projected through trending to a future point in time."

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

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

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

9 (2) Due consideration shall be given to:

10 (A) [~~Past and prospective~~] Prospective loss
11 experience within and outside this State;
12 provided that if the claim does not exceed the
13 selected deductible amount pursuant to section
14 386-100, and the employer reimburses the insurer
15 for the amount, the claims shall not be
16 calculated in the employer's experience rating or
17 risk category;

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

20 (C) A reasonable margin for underwriting profit and
21 contingencies;



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



1 combination separate expense provisions are
2 applicable.

3 (5) Risks may be grouped by classifications for the
4 establishment of rates and minimum premiums.
5 Classification rates may be modified to produce rates
6 for individual risks in accordance with rating plans
7 that establish standards for measuring variations in
8 hazards or expense provisions, or both. These
9 standards may measure any differences among risks that
10 can be demonstrated to have a probable effect upon
11 losses or expenses. No risk classification may be
12 based upon race, creed, national origin, or the
13 religion of the insured.

14 (6) Manual, minimum, class rates, rating schedules, or
15 rating plans shall be made and adopted, except in the
16 case of:

17 (A) Special rates where manual, minimum, class rates,
18 rating schedules, or rating plans are not
19 applicable; and

20 (B) Specifically rated inland marine risks.



- 1 (7) No insurer authorized to do business in this State
2 shall issue any policy that provides or makes
3 available to any risks preferred rates based upon any
4 grouping of persons, firms, or corporations by way of
5 membership, license, franchise, contract, agreement,
6 or any other means, other than common majority
7 ownership of the risks, or except where:
- 8 (A) A common stock ownership in and management
9 control of the risks are held by the same person,
10 corporation, or firm;
- 11 (B) Permitted or authorized by filings in existence
12 as of January 1, 1988, under the casualty rating
13 law and the fire rating law, as these filings may
14 be amended from time to time;
- 15 (C) Health care providers, as defined in section
16 671-1 that could have joined the patients'
17 compensation fund as it existed in chapter 671,
18 part III, prior to May 31, 1984, joined together
19 with one or more groups of related or unrelated
20 health care providers;
- 21 (D) Permitted under article 12; or



1 (E) Otherwise expressly provided by law.

2 (8) No insurer shall base any rates on past loss
3 experience within or outside this State."

4 PART III

5 SECTION 4. Chapter 431, Hawaii Revised Statutes, is
6 amended by adding two new sections to article 10E to be
7 appropriately designated and to read as follows:

8 "§431:10E- Claims for additional living expenses under
9 homeowners insurance policies; states of emergency. (a) In the
10 event of a loss under a homeowners insurance policy issued or
11 renewed on or after January 1, 2025, for which the insured has
12 made a claim for additional living expenses, the insurer shall
13 provide the insured with a list of items that the insurer
14 believes may be covered under the policy as additional living
15 expenses. The list may include a statement that the list is not
16 intended to include all items covered under the policy, but only
17 those that are commonly claimed. Each insurer may use a list
18 developed by the insurance commissioner.

19 (b) If a covered loss occurs during a state of emergency
20 declared pursuant to section 127A-14, coverage for additional
21 living expenses shall be for a period of not less than



1 twenty-four months from the inception of the loss; provided that
2 the coverage for additional living expenses shall be subject to
3 other policy provisions. An insurer shall grant an extension of
4 up to twelve additional months, for a total of thirty-six
5 months, if an insured acts in good faith and is reasonably
6 delayed due to a lack of necessary construction materials or
7 available contractors to perform the necessary work. Additional
8 six-month extensions shall be provided to policyholders for good
9 cause.

10 (c) No policy that provides coverage for additional living
11 expenses shall limit the policyholder's right to recovery if the
12 insured home is rendered uninhabitable by a covered peril. An
13 insurer may, in lieu of making living expense payments, provide
14 a reasonable alternative remedy that addresses the property
15 condition that precludes reasonable habitation of the insured
16 premises. The additional living expense coverage pursuant to
17 this section shall not apply to any utility's public safety
18 power shutdown event involving the deenergization of a portion
19 of the electrical distribution or transmission system to reduce
20 the risk of wildfire ignition.



1 (d) For a loss that is otherwise not subject to
2 subsections (b) or (c), in the event of a state of emergency
3 declared pursuant to section 127A-14 that is related to a
4 covered peril and accompanied by an order of civil authority
5 restricting access to the applicable home, additional living
6 expenses coverage shall be provided for at least two weeks.
7 Additional two-week extensions shall be provided to a
8 policyholder for good cause; provided that each extension shall
9 be subject to any other applicable policy provision.

10 **§431:10E- Replacement cost value; homeowners insurance**
11 **policies.** (a) Beginning on January 1, 2025, each newly issued
12 or renewed homeowners insurance policy that covers a property
13 within the State shall provide for the replacement cost value of
14 the insured property.

15 (b) As used in this section, "replacement cost value"
16 means the full insurable replacement cost of the insured
17 property, including coverage for increased costs of construction
18 due to inflation or building code requirements at the time the
19 policy is issued and at each renewal date, less deductibles."



1 SECTION 5. Section 431:10E-102, Hawaii Revised Statutes,
2 is amended by amending subsections (a) and (b) to read as
3 follows:

4 "(a) Over-insurance shall be deemed to exist if property
5 or an insurable interest in the property is insured by one or
6 more insurance contracts against the same hazard in any amount
7 in excess of the [~~actual-cash~~] replacement cost value of the
8 property or of such interest, as determined as of the effective
9 date of the insurance or of any renewal thereof.

10 (b) For the purposes of this section [~~only, the term~~
11 ~~actual-cash value means the cost of replacement less such~~
12 ~~depreciation as is properly applicable to the subject insured~~],
13 "replacement cost value" means the full insurable replacement
14 cost of the insured property, including coverage for increased
15 costs of construction due to inflation or building code
16 requirements at the time the policy is issued and at each
17 renewal date, less deductibles."

18 PART IV

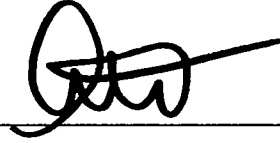
19 SECTION 6. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 7. This Act shall take effect upon its approval.

2

INTRODUCED BY: _____

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Report Title:

Insurance; Ratemaking; Homeowners Insurance; Regulations; Wildfire Risk; Past Loss Experience; Catastrophe Modeling; State of Emergency; Additional Living Expenses Coverage; Replacement Cost Value; Policies; Over-Insurance

Description:

Establishes ratemaking regulations for insurers who base their rates on a policyholder or applicant's wildfire risk. Amends the definition of "prospective loss costs" to incorporate catastrophe modeling instead of historical aggregate losses. Prohibits insurers from basing certain insurance rates on past loss experience within or outside the State. Requires insurers to provide a list of items that may be covered under a homeowners insurance policy issued or renewed on or after 1/1/2025, as additional living expenses when a claim for additional living expenses is made. If a loss relating to a state of emergency occurs, requires coverage for additional living expenses for a period of not less than 24 months from the loss, subject to other policy provisions. Requires that coverage for additional living expenses not limit a policyholder's right to recovery if the insured home is made uninhabitable by a covered peril and allows an insurer to provide a reasonable alternative remedy that addresses the property condition that precludes reasonable habitation of the insured premises. Requires additional living expenses coverage for at least 2 weeks for certain losses incurred if a state of emergency is accompanied by an order of civil authority restricting access to the home. Beginning on 1/1/2025, requires each newly issued or renewed homeowners insurance policy that covers a property within the State to provide for the replacement cost value of the insured property. Amends the determination of over-insurance under section 431:10E-102, HRS.

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

