

JAN 17 2025

A BILL FOR AN ACT

RELATING TO INSURANCE OF LAST RESORT.

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

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

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



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

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

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



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

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

7 **"CHAPTER**

8 **FAIR ACCESS TO INSURANCE REQUIREMENTS PROGRAM**

9 **PART I. GENERAL PROVISIONS**

10 § -1 **Short title.** This chapter shall be known and may
11 be cited as the Hawaii Insurance of Last Resort Act.

12 § -2 **Definitions.** As used in this chapter:

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

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



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

4 "Primarily domiciled Hawaii insurance company" means an
5 insurer with its principal operations and regulatory domicile in
6 the State, maintaining a significant local presence and
7 infrastructure.

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

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

15 **§ -3 FAIR Program; established.** There is established
16 the fair access to insurance requirements program, which shall
17 offer residents living in high-risk areas the opportunity to
18 purchase affordable and comprehensive property insurance
19 coverage for their residential properties.

20 **§ -4 Implementation by director.** (a) The director shall
21 oversee the implementation of the program, ensuring compliance



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

3 (1) Establishing the program;

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

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

14 (b) The director shall:

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

18 (2) Ensure that the selected insurer complies with the
19 consumer protection and affordability requirements of
20 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,



1 including administrative costs, reinsurance arrangements, and
2 premium stabilization.

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

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

7 (1) Alignment with program objectives; and

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

10 § -9 Premium stabilization fund. (a) If revenue bonds
11 are issued pursuant to section -8, the director shall
12 establish a premium stabilization fund, into which proceeds from
13 the revenue bonds shall be deposited.

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

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

19 (2) Pay expenses related to the administration of the
20 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 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.



1 § **-12 Penalties.** (a) The director may impose penalties
2 for non-compliance with this chapter or any rules adopted under
3 this chapter, including:

4 (1) Failure to meet program guidelines; and

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

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

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

14 § **-13 Annual reports.** (a) The selected insurer shall
15 submit annual reports to the director, which shall include:

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

19 (2) An analysis of policyholder participation and
20 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;



(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 2. (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 3. 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

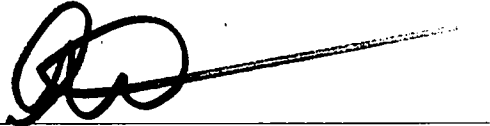


1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 4. This Act shall take effect on July 1, 2025.

4

INTRODUCED BY: _____

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S.B. NO. 1140

Report Title:

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

Description:

Establishes the Fair Access to Insurance Requirements (FAIR) program, which shall be administered under 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.

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

