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# 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 extreme weather attributable to climate change, and harms  
3 resulting from long-term changes to the climate system pose a  
4 threat to the health, safety, and security of all residents of,  
5 and visitors to, the State.

6       For residents, climate change risks include an increase in  
7 precipitation and intense tropical storms, hotter temperatures,  
8 rising sea level, and intensified drought. Accordingly, the  
9 State has a compelling state interest in protecting its citizens  
10 from climate disasters, extreme weather attributable to climate  
11 change, and harms resulting from long-term changes to the  
12 climate system. This protection includes affordable access to a  
13 functioning insurance market in the State.

14       The legislature further finds there is also a compelling  
15 state interest in preserving public resources for traditional  
16 public purposes, which does not include subsidizing the  
17 continued operation of the insurance market. The insurance



1 industry has been destabilized and harmed by the deception of  
2 people and entities who have engaged in misleading and deceptive  
3 practices about the connection between fossil fuel products and  
4 climate change. The State's insurance industry, particularly  
5 the property and casualty insurance sector, has been  
6 destabilized by large and frequent payouts to policyholders for  
7 a variety of events caused by or attributable to the deception  
8 of these responsible parties. This instability has led to  
9 increased nonrenewal rates and premiums on all islands and for  
10 multiple types of insurance policies. Between 2018 and 2023,  
11 insurance nonrenewal rates increased by ninety-one per cent in  
12 the county of Kauai, two hundred ninety-six per cent in the city  
13 and county of Honolulu, one hundred eighty-four per cent in the  
14 county of Maui, and seventy per cent in the county of Hawaii.

15 The legislature further finds that the area burned by  
16 wildfires in the State has increased fourfold. Most recently,  
17 the 2023 Maui wildfires, which were exacerbated by climate  
18 change, destroyed the town of Lahaina and killed at least one  
19 hundred two people. In the aftermath of this tragic and  
20 horrific event, insurance companies operating in Hawaii have  
21 already paid out over \$2.3 billion across more than ten thousand



1 wildfire claims to fire victims, with another one billion  
2 dollars of additional insured losses yet to be paid. The scope  
3 and scale of damage has led to difficult settlement negotiations  
4 in which parties have tried to address how to meet the needs of  
5 fire victims, maintain a solvent market for insurance, and keep  
6 vital public utilities and educational institutions operating in  
7 the State's communities. Hawaii has a compelling state interest  
8 in protecting the integrity of these institutions as they seek  
9 to provide relief to harmed and impacted parties.

10 Climate change has also impacted the amount of water  
11 available in key watersheds across the islands. Ongoing drought  
12 has created water security issues that are exacerbated by the  
13 growing water demand, which may increase up to thirty-six per  
14 cent by the end of the century. For example, rainfall in the  
15 Nuuanu watershed is projected to decrease by as much as  
16 twenty-seven per cent, and both the Heeia and Na Wai Eha  
17 watershed are also experiencing decreases in rainfall,  
18 threatening groundwater supplies and drinking water  
19 availability.

20 At Hawaii's shorelines, sea level has risen ten inches on  
21 average compared to 1950, and the mean number of days that cause



1 high tide flooding in Honolulu has almost doubled from six to  
2 eleven days per year since the 1960s. Almost all the shorelines  
3 in Hawaii, approximately ninety-two per cent, are predicted to  
4 retreat between one and twenty-four meters by 2050. Researchers  
5 predict that shoreline retreat rates have doubled from the  
6 historical rate due to sea level rise.

7 Climate change is also causing more extreme temperatures in  
8 Hawaii. The average annual temperature in Hawaii in 2016 was  
9 about 1.7 degrees Fahrenheit warmer than the one hundred-year  
10 mean from 1917 to 2016. Similarly, global mean sea surface  
11 temperature has increased by about 1.8 degrees Fahrenheit over  
12 the past century and waters around Hawaii have followed this  
13 trend.

14 The legislature finds that for decades, certain people and  
15 entities have spread intentional lies, misinformation and  
16 disinformation, and misrepresentations about the connection  
17 between climate change and fossil fuel products, as well as how  
18 climate change has caused injuries in the State. Continued  
19 lies, misinformation and disinformation, and misrepresentations  
20 by responsible parties pose a threat to the health, safety, and  
21 security of Hawaii's residents and visitors. These parties have



1 long known the dangers of fossil fuel products; however, they  
2 have continued to deny and lie for profit. Hiding, obfuscating,  
3 and denying information to consumers, elected officials, and  
4 regulators alike has harmed and continues to harm the State.  
5 Hawaii has a compelling interest in protecting consumers from  
6 lies and misleading information, while also encouraging factual  
7 and truthful information on how climate disasters and other  
8 harms can be attributed to the responsible parties who have  
9 spread falsehoods.

10 The legislature further finds and declares that:

11 (1) Individuals and entities involved in the production of  
12 fossil fuel products have engaged in a decades-long  
13 project to protect their bottom lines with a  
14 coordinated effort to deceive the public about the  
15 reality of the climate crisis;

16 (2) Documents unveiled by investigative journalists and  
17 cited in current litigation brought by the city and  
18 county of Honolulu and the county of Maui demonstrate  
19 that those parties were aware of the potentially  
20 catastrophic impact of their products from as early as  
21 the 1950s. Even though research conducted by their



1 own scientists affirmed the impacts of their business,  
2 these parties outright denied that climate change was  
3 real, spread disinformation to cast doubt on the  
4 science, and fought regulatory action against fossil  
5 fuel and fossil fuel products;

6 (3) By the 1970s and 1980s, the scientific community  
7 understood that increasing carbon dioxide  
8 concentration in the atmosphere would contribute to  
9 global warming, and that the heightened carbon dioxide  
10 emissions were attributable to fossil fuels. These  
11 facts were supported by several fossil fuel industry  
12 scientists from different companies such as Exxon and  
13 Shell, who presented these findings to their  
14 management with warnings that the "present trend of  
15 fossil fuel consumption will cause dramatic  
16 environmental effects before the year 2050";

17 (4) Despite having internal knowledge that increased  
18 carbon dioxide concentrations due to fossil-fuel  
19 combustion posed a considerable threat, responsible  
20 parties launched a campaign to undermine climate  
21 science and stopped funding major climate research and



1 launched campaigns to discredit climate science and  
2 delay actions perceived as contrary to their business  
3 interests by:

4 (A) Developing public relations strategies that were  
5 contradictory to their scientific knowledge and  
6 insights;

7 (B) Engaging in public communications campaigns to  
8 promote doubt and downplay the threats of climate  
9 change; and

10 (C) Funding individuals, organizations, and research  
11 aimed at discrediting the growing body of  
12 publicly available climate science;

13 (5) From 1970 to 2020, the oil and gas industry made  
14 nearly \$2.8 billion a day and one trillion dollars a  
15 year in profit;

16 (6) Responsible parties currently advertise "green"  
17 efforts to the public that mask the lack of real  
18 investment in resiliency and energy-source transition  
19 and the continued prioritization of the extraction,  
20 refinement, and distribution of fossil fuel products;



1           (7) A December 2022 report by a congressional oversight  
2           committee revealed internal documents from fossil fuel  
3           industry senior leaders that explicitly reject taking  
4           accountability for the greenhouse gas emissions  
5           associated with their products; and

6           (8) By conduct and impact, these responsible parties have  
7           intentionally obfuscated the truth about climate  
8           change and outright deceived the public to continue  
9           dependence on fossil fuel products.

10          The legislature finds that responsible parties must be held  
11          accountable for their deception to those harmed by climate  
12          disasters, extreme weather attributable to climate change, and  
13          long-term changes to the climate system. The legislature  
14          further finds that the intentional lies, misinformation, and  
15          disinformation, and misrepresentations by responsible parties  
16          about the connection between their fossil fuel products was  
17          primarily commercial activity.

18          The legislature finds that insurance companies operating in  
19          the State are well positioned to redress the harm that  
20          responsible parties have caused through their deception. By  
21          exercising their individual and subrogation rights against





1 responsible parties, private parties and the Hawaii property  
2 insurance association have the ability to shift the costs of  
3 climate disasters, extreme weather attributable to climate  
4 change, and other harms resulting from long-term changes to the  
5 climate system onto the responsible parties rather than  
6 policyholders and taxpayers in the State.

7 It is the intent of the State to provide a judicial forum  
8 for the efficient, just, and equitable resolution of claims  
9 under this Act. State courts are the appropriate venue to hear  
10 these claims and provide appropriate relief. The legislature  
11 further declares that the harms related or attributable to  
12 climate change should not be deemed acts of God, unforeseeable,  
13 or otherwise classified as a force majeure event eligible for  
14 litigation limitations or defenses, except as otherwise  
15 explicitly and unambiguously provided.

16 Accordingly, the purpose of this Act is to:

17 (1) Encourage private insurers and the Hawaii property  
18 insurance association to file and litigate subrogation  
19 claims against responsible parties for claims paid by  
20 the insurer for losses resulting from climate



1           disasters, extreme weather attributable to climate  
2           change, and long-term changes to the climate system;

3       (2) Provide a new, specific cause of action for insurers  
4           to seek damages against a responsible party for harms  
5           resulting from climate disasters, extreme weather  
6           attributable to climate change, and long-term changes  
7           in the climate system; and

8       (3) Provide a new, specific cause of action for any harm  
9           other than an officer or employee of a state or local  
10          governmental entity to bring a civil action against a  
11          responsible party for harms resulting from climate  
12          disasters, weather attributable to climate change, and  
13          long-term changes in the climate system.

14       SECTION 2. Chapter 431, Hawaii Revised Statutes, is  
15       amended by adding a new section to article 13 to be  
16       appropriately designated and to read as follows:

17       "§431:13-     Civil liability of responsible parties.   (a)  
18       Any person, other than an officer or employee of a state or  
19       local governmental entity, may bring a civil action against a  
20       responsible party pursuant to this section if the following  
21       conditions are met:



1       (1) The injured party has sustained damages of not less  
2       than \$10,000 as a result of a climate disaster or  
3       extreme weather or other event attributable to climate  
4       change; provided that multiple plaintiffs may  
5       aggregate their claims with a common injury and  
6       connection to a climate disaster or extreme weather or  
7       other events attributable to climate change to reach  
8       this amount in controversy threshold, regardless of  
9       association in a class action;

10       (2) During any time since the year 1965, the responsible  
11       party did business in the State, was registered to do  
12       business in the State, was appointed an agent of the  
13       State or otherwise had sufficient contacts with the  
14       State to give the State jurisdiction over the  
15       responsible party; and

16       (3) Notwithstanding any other applicable statute of  
17       limitations, the action is filed within three years of  
18       the date that the injury was or should have been  
19       discovered.

20       (b) The Hawaii property insurance association or any  
21       private insurer may bring a civil action against a responsible



1 party on its own behalf or on behalf of one or more of its  
2 policyholders when the conditions described in subsection (a)  
3 are met.

4 (c) Any civil action against a responsible party that  
5 meets the conditions described in subsection (a) may be brought  
6 in any of the following applicable counties:

7 (1) The county in which all or a substantial part of the  
8 events giving rise to the action occurred;

9 (2) The county of residence for an individual defendant  
10 who is a natural person;

11 (3) The county of the principal office in the state of any  
12 one of the defendants that is not a natural person; or

13 (4) The county of residence for a plaintiff who is a  
14 natural person residing in the State.

15 (d) All responsible parties in any civil action that is  
16 filed pursuant to this section shall be jointly, severally, and  
17 strictly liable to a plaintiff for damages found to have been  
18 caused by a climate disaster or extreme weather or other event  
19 attributable to climate change.

20 (e) The connection of a climate disaster, extreme weather  
21 or other event attributable to climate change, or harm resulting



1 from long-term changes in the climate system shall be deemed an  
2 injury-in-fact for any person who is harmed by the event. Any  
3 person who suffers an injury-in-fact under this subsection shall  
4 have standing to bring a civil action pursuant to this section.

5 (f) Notwithstanding any other law to the contrary, the  
6 following shall not be considered a defense under this section:

7 (1) A defendant's ignorance or mistake of law;

8 (2) A defendant's belief that the requirements under this  
9 section are unconstitutional;

10 (3) A defendant's reliance on a court decision that has  
11 been overruled on appeal or by a subsequent court,  
12 even if the court decision had not been overruled at  
13 the time the defendant engaged in the conduct giving  
14 rise to the action brought under this section;

15 (4) A defendant's reliance on a state or federal court  
16 decision that is not binding on the court in which the  
17 action has been brought;

18 (5) Nonmutual issue preclusion or nonmutual claim  
19 preclusion;



- 1       (6) A claim that the enforcement of this section or the  
2       imposition of civil liability against the defendant  
3       will violate a constitutional right of a third party;
- 4       (7) A defendant's assertion that this section proscribes  
5       conduct that is separately prohibited by any other law  
6       of the State;
- 7       (8) A claim that the defendant's fossil fuel products were  
8       not misused, or were not intended to be misused, in an  
9       unlawful manner;
- 10       (9) A defendant's assertion that state or federal laws  
11       relating to fossil fuel products and a responsible  
12       party's operations displace, abrogate, or supersede  
13       the actions authorized by this section, the authority  
14       of the courts of the State to provide a forum for the  
15       action, or the authority of the courts of the State to  
16       provide a remedy to plaintiffs;
- 17       (10) A defendant's assertion that a choice-of-law or  
18       choice-of-forum clause governs the action, regardless  
19       of whether the clause applies to a plaintiff on the  
20       basis of consumer transactions;



1       (11) A defendant's assertion that the plaintiff assumed a  
2       risk of harm through the use of their products; and

3       (12) A defendant's assertion that the forum is  
4       inconvenient, if the jurisdictional requirements of  
5       this section are satisfied.

6       (g) No civil or administrative enforcement action pursuant  
7       to this section shall be brought by the State or any of its  
8       political subdivisions or officers or employees thereof.

9       (h) Notwithstanding any other law, the State, a state  
10      official, or a public prosecutor shall not intervene in a civil  
11      action brought pursuant to this section. However, this  
12      subsection shall not prohibit the State, a state official, or a  
13      public prosecutor from filing an amicus curiae brief in the  
14      action.

15      (i) If a plaintiff prevails in an action brought pursuant  
16      to this section, the court shall award all of the following:

17      (1) The full extent of noneconomic, compensatory, and  
18      punitive damages allowable;

19      (2) Compensatory damages in an amount of not less than the  
20      fair market value of recovering, recouping,



1 rebuilding, or remediating the value of lost, damaged,  
2 and destroyed property; and

3 (3) Compensatory damages in an amount not less than the  
4 cost of the natural person's injuries, including  
5 medical care, mental and behavioral health care, past  
6 and present pain and suffering, or emotional distress.

7 (j) Notwithstanding any other law, a court shall not award  
8 attorneys' fees or costs to a defendant in an action brought  
9 pursuant to this section, unless the plaintiff was represented  
10 by counsel in the action and plaintiff's counsel is found by the  
11 court or the Hawaii State Bar Association to be in violation of  
12 applicable rules of professional conduct or rules of civil  
13 procedure.

14 (k) Damages awarded pursuant to this section may be offset  
15 by any of the following:

16 (1) Payments made to a harmed party pursuant to a contract  
17 of insurance. In addition to an action brought  
18 pursuant to this section, an insurer may bring a  
19 subrogation action against a responsible party for  
20 recovery of payments made to insureds harmed by the  
21 responsible party pursuant to a contract of insurance,





1 regardless of whether the insured has been made whole;

2 or

3 (2) Evidence that a plaintiff fully recovered from a  
4 public body for their alleged injuries.

5 (1) For the purposes of this section:

6 "Climate disaster" means an event that meets any of the  
7 following qualifications and is determined by impact attribution  
8 science or extreme event attribution science to be substantially  
9 more probable or materially intensified by climate change from a  
10 responsible party's fossil fuel products:

11 (1) A natural catastrophe, including a hurricane, tornado,  
12 storm, high water, wind-driven water, tidal wave,  
13 tsunami, earthquake, volcanic eruption, landslide,  
14 mudslide, snowstorm, or drought, or, regardless of  
15 cause, a fire, flood, or explosion, that, in the  
16 determination of the President of the United States  
17 causes damage of sufficient severity and magnitude to  
18 warrant major disaster assistance under the federal  
19 Robert T. Stafford Disaster Relief and Emergency  
20 Assistance Act, Public Law 93-288, as amended, to  
21 supplement the efforts and available resources of



1 states, local governments, and disaster relief  
2 organizations in alleviating the damage, loss,  
3 hardship, or suffering caused by the catastrophe;

4 (2) A catastrophic incident that is a natural or manmade  
5 incident that results in extraordinary levels of mass  
6 casualties, damage, or disruption severely affecting  
7 the population, infrastructure, environment, economy,  
8 national morale, or government functions. A  
9 catastrophic incident could result in sustained  
10 national impacts over a prolonged period of time,  
11 almost immediately exceeds resources normally  
12 available to local, state, tribal, and private sector  
13 authorities in the impacted area, and significantly  
14 interrupts governmental operations and emergency  
15 services to such an extent that national security  
16 could be threatened. A catastrophic incident does not  
17 include an event linked to terrorism;

18 (3) An event that qualifies or would have qualified as a  
19 climate disaster according to the National Centers for  
20 Environmental Information's billion-dollar weather and



1 climate disasters program and data list, as it existed  
2 in December 2024;

3 (4) A state of emergency or local state of emergency as  
4 defined in section 127A-2; or

5 (5) An event or occurrence linked to extreme weather or  
6 other events attributable to climate change for which  
7 losses in the aggregate across insurance carriers in  
8 the State exceed one hundred million dollars.

9 "Extreme event attribution science" means research aimed at  
10 understanding how human-induced changes in the global climate  
11 system affect the probability, severity, and other  
12 characteristics of extreme weather events, such as wildfires and  
13 flooding by determining the likelihood of a particular event  
14 happening today compared to how it might have unfolded without  
15 human-caused increase in concentration of greenhouse gases in  
16 the atmosphere.

17 "Extreme weather or other event attributable to climate  
18 change" means weather, climate, or environmental conditions,  
19 including temperature, precipitation, drought, flooding, or  
20 wildfires, that are consistent with impacts or events that are  
21 attributable to climate change and in which the intensity,



1 magnitude, location, timing, or extent of the event are shown by  
2 peer-reviewed studies or assessments using peer-reviewed  
3 methods, to be attributable in part to climate change. These  
4 events include those that extreme event attribution science  
5 determines were made more likely or severe by climate change.

6 "Fossil fuel product" includes crude petroleum oil and all  
7 other hydrocarbons, regardless of gravity, produced at the  
8 wellhead in liquid form by ordinary production methods, natural,  
9 manufactured, mixed, and byproduct hydrocarbon gas, refined  
10 crude oil, crude tops, topped crude, processed crude, processed  
11 crude petroleum, residue from crude petroleum, cracking stock,  
12 uncracked fuel oil, fuel oil, treated crude oil, residuum, gas  
13 oil, casinghead gasoline, natural-gas gasoline, kerosene,  
14 benzine, wash oil, waste oil, blended gasoline, lubricating oil,  
15 and blends or mixtures of oil with one or more liquid products  
16 or byproducts derived from oil or gas.

17 "Impact attribution science" means research aimed at  
18 understanding how global climate change affects human and  
19 natural systems, including localized physical impacts, such as  
20 floods, droughts, and sea level rise, and the corresponding



1 effects on infrastructure, public health, ecosystems,  
2 agriculture, and economies.

3 "Responsible party" means a firm, corporation, company,  
4 partnership, society, joint stock company, or any other entity  
5 or association that engaged in misleading and deceptive  
6 practices, including lies, or the provision of misinformation or  
7 disinformation about the connection between its fossil fuel  
8 products and climate change and extreme weather or other events  
9 attributable to climate change. "Responsible party" does not  
10 include the federal government, tribal governments, the state, a  
11 political subdivision of the federal, tribal, or state  
12 government, or an employee of the federal, tribal, or state  
13 government on the basis of acts or omissions in the course of  
14 official duties."

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

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

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

21 (2) Due consideration shall be given to:



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

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

10 (C) Any proceeds recovered by the insurer through any  
11 legal actions, including subrogation claims and  
12 direct actions filed pursuant to section  
13 431:13- ;

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

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

19 [~~(E)~~] (F) Past and prospective expenses both  
20 country-wide and those specially applicable to  
21 this State;



1           ~~[(F)]~~   (G)   Investment income from unearned premium and  
2                           loss reserve funds; and  
3           ~~[(G)]~~   (H)   All other relevant factors within and  
4                           outside this State.

5           (3)   In the case of fire insurance rates, consideration  
6                   shall be given to the experience of the fire insurance  
7                   business during a period of not less than the most  
8                   recent five-year period for which that experience is  
9                   available.

10          (4)   The systems of expense provisions included in the  
11                   rates for use by any insurer or group of insurers may  
12                   differ from those of other insurers or groups of  
13                   insurers to reflect the requirements of the operating  
14                   methods of any insurer or group with respect to any  
15                   class of insurance, or with respect to any subdivision  
16                   or combination thereof for which subdivision or  
17                   combination separate expense provisions are  
18                   applicable.

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

21                   Classification rates may be modified to produce rates



1 for individual risks in accordance with rating plans  
2 that establish standards for measuring variations in  
3 hazards or expense provisions, or both. These  
4 standards may measure any differences among risks that  
5 can be demonstrated to have a probable effect upon  
6 losses or expenses. No risk classification may be  
7 based upon race, creed, national origin, or the  
8 religion of the insured.

9 (6) Manual, minimum, class rates, rating schedules, or  
10 rating plans shall be made and adopted, except in the  
11 case of:

12 (A) Special rates where manual, minimum, class rates,  
13 rating schedules, or rating plans are not  
14 applicable; and

15 (B) Specifically rated inland marine risks.

16 (7) No insurer authorized to do business in this State  
17 shall issue any policy that provides or makes  
18 available to any risks preferred rates based upon any  
19 grouping of persons, firms, or corporations by way of  
20 membership, license, franchise, contract, agreement,





1 or any other means, other than common majority

2 ownership of the risks, or except where:

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

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

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

16 (D) Permitted under article 12; or

17 (E) Otherwise expressly provided by law."

18 SECTION 4. Section 431:21-106, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§431:21-106 Plan of operation. (a) The association  
21 shall submit to the commissioner a plan of operation and any



1 amendments to the plan necessary or suitable to assure the fair,  
2 reasonable, and equitable administration of the association.

3 The plan of operation and any amendment shall become effective  
4 upon approval in writing by the commissioner. If the  
5 association fails to submit a suitable plan of operation or if  
6 at any time the association fails to submit suitable amendments  
7 to the plan, the commissioner shall adopt the rules necessary to  
8 carry out this article. The rules shall continue in force until  
9 modified by the commissioner or superseded by a plan submitted  
10 by the association and approved in writing by the commissioner.

11 (b) All member insurers shall comply with the plan of  
12 operation.

13 (c) The plan of operation shall:

14 (1) Establish procedures for performance of all the powers  
15 and duties of the association under section 431:21-

16 105;

17 (2) Establish maximum limits of liability to be placed  
18 through the association;

19 (3) Establish reasonable underwriting standards for  
20 determining insurability of a risk which are  
21 comparable to the standards used to determine



1 insurability of a risk located outside the area  
2 designated by the commissioner as eligible for  
3 association coverage;

4 (4) Establish a schedule of deductibles, if appropriate;

5 (5) Establish the commission to be paid to licensed  
6 producers;

7 (6) Establish the rates to be charged for the insurance  
8 coverages, so that the total premium income from all  
9 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[+]. Rates shall account  
17 for any proceeds obtained by the association from any  
18 civil action or subrogation claim against a  
19 responsible party for claims paid for losses from  
20 climate disasters and extreme weather attributable to  
21 climate change pursuant to section 431:13- ; provided



1       that, if the association does not exercise its  
2       subrogation and direct action rights, the association  
3       shall be required to submit a report to the insurance  
4       commissioner comparing the rates to be charged with  
5       the rates that would have been charged had the  
6       association fully recovered the losses from the  
7       responsible parties;

8       (7) Establish the manner and scope of the inspection and  
9       the form of the inspection report. The inspection  
10       guidelines may include setting minimum conditions the  
11       property must meet before an inspection is required;

12       (8) Establish procedures whereby selections for the board  
13       of directors will be submitted to the commissioner for  
14       the commissioner's information;

15       (9) Establish procedures for records to be kept of all  
16       financial transactions of the association, its  
17       producers, and its board of directors;

18       (10) Establish procedures by which applications will be  
19       received and serviced by the association;

20       (11) Establish guidelines for the investigation and payment  
21       of claims; and



1 (12) Establish procedures whereby the association may  
2 assume and cede reinsurance on risks written through  
3 the association.

4 (d) For the purposes of this section:

5 "Climate disaster" has the same meaning as defined in  
6 section 431:13- .

7 "Responsible party" has the same meaning as defined in  
8 section 431:13- ."

9 SECTION 5. Nothing in this Act shall be construed to:

10 (1) Limit in any way the enforceability of existing laws  
11 concerning insurance, consumer protection, climate,  
12 environment, energy, or natural resources, by either  
13 the government or other private plaintiffs;

14 (2) Replace legally mandated disaster recovery funds,  
15 designated disaster recovery funds established via  
16 legislation or administrative rule, or contractually  
17 obligated or court ordered insurance claim payouts;

18 (3) Relieve the liability of an entity for damages  
19 resulting from climate change, as provided by any  
20 other law; or



1 (4) Preempt, displace, or restrict any rights or remedies  
2 of a person, the State, local government entities, or  
3 a tribal government pursuant to law relating to a  
4 past, present, or future allegation of any of the  
5 following:

6 (A) Deception concerning the effect of fossil fuels  
7 on climate change;

8 (B) Damage or injury resulting from the role of  
9 fossil fuels in contributing to climate change;  
10 and

11 (C) Failure to avoid damage or injury related to  
12 climate change, including claims for nuisance,  
13 trespass, design defect, negligence, failure to  
14 warn, or deceptive or unfair practices, or claims  
15 for injunctive, declaratory, monetary, or other  
16 relief.

17 SECTION 6. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 7. This Act shall take effect on July 1, 2050.



**Report Title:**

HPIA; Property Insurance; Subrogation Claims; Property and Casualty Insurance Rate Regulation; Climate Change

**Description:**

Encourages private insurers and the Hawaii Property Insurance Association to file and litigate subrogation claims against responsible parties for claims paid by the insurer for losses attributable to disasters attributable to climate change.

Allows the Hawaii Property Insurance Association to file and litigate subrogation claims against responsible parties for claims paid by the insurer for losses resulting from climate disasters and extreme weather attributable to climate change.

Establishes a new, specific cause of action that allows insurers and injured parties to file claims against a responsible party for damages resulting from climate disasters, extreme weather attributable to climate change, and other long-term changes in the climate system. Requires insurance rates to account for any proceeds from subrogation or civil claims against a responsible party. 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.*

