

# SB994

Measure Title: RELATING TO THE HAWAII PROPERTY INSURANCE ASSOCIATION.

Report Title: HPIA; Mandatory Issuance of Policies; Removal of Moratorium

Description: Requires member insurers of HPIA to offer a minimum number of policies proportionate to their market share on properties that are situated in the areas designated for coverage by the insurance commissioner and that have been previously and continuously insured since 06/01/2014. Prohibits HPIA from issuing or continuing a moratorium on issuing policies on those same properties.

Companion:

Package: None

Current Referral: CPN, JDL

Introducer(s): SHIMABUKURO

<u>Sort by Date</u>		Status Text
1/28/2015	S	Introduced.
1/28/2015	S	Passed First Reading.
1/28/2015	S	Referred to CPN, JDL.
1/30/2015	S	The committee(s) on CPN has scheduled a public hearing on 02-03-15 9:00AM in conference room 229.



DAVID Y. IGE  
GOVERNOR  
SHAN S. TSUTSUI  
LT. GOVERNOR

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TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION  
TWENTY-EIGHTH LEGISLATURE  
Regular Session of 2015

Tuesday, February 3, 2015  
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 994 – RELATING TO THE HAWAII PROPERTY INSURANCE ASSOCIATION.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner (“Commissioner”), testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department supports the intent of the bill and submits the following comments:

This bill requires member insurers of the Hawaii Property Insurance Association (“HPIA”) to offer a minimum number of policies proportionate to their market share on properties that are situated in areas designed for coverage by the Commissioner and that have been previously and continuously insured since June 1, 2014. The bill also prohibits the HPIA from issuing or continuing a moratorium on issuing policies on those same properties.

The requirement that HPIA member insurers offer policies proportionate to their market share may discourage certain insurers from writing property insurance. In addition, forcing insurers to accept all property risks may create solvency problems for smaller companies. Finally, it should be noted that the bill requires member insurers to only “offer” policies; the insurers therefore retain discretion over whether to write them.

We thank this Committee for the opportunity to present testimony on this matter.



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**Alison H. Ueoka**  
Executive Director

## TESTIMONY OF ALISON UEOKA

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### SENATE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Senator Rosalyn H. Baker, Chair  
Senator Brian T. Taniguchi, Vice Chair

Tuesday, February 3, 2015

9:00 a.m.

### **SB 589, SB 994, SB1193**

Chair Baker, Vice Chair Taniguchi, and members of the Committee, my name is Alison Ueoka, Executive Director of the Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately thirty-six percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council opposes SB 589, SB 994, and SB 1193. These bills address the current situation in Puna where there has been difficulty in placing new insurance while the lava flow is advancing toward homes. The impact of these bills on the property and casualty insurance industry vary from potentially tightening only the property insurance market to possibly tightening the entire property and casualty insurance market.

Hawaii Insurers Council is active in finding a workable solution for both insurers to ensure the property market remains stable and to insureds in Puna regarding insurance coverage while the lava could potentially destroy homes. There are many issues to consider and there are widespread potential consequences to legislative mandates. Some of the issues that HIC are considering follows:

1. If HPIA is allowed to grow unchecked, its losses could exceed the capacity to pay and place the burden first on the insurance industry and then on its policyholders

including non-property policyholders. Because insurers may only recoup losses 2% at a time, there may be large losses insurers will have to front for years. Perhaps limited growth in HPIA is a consideration and a general fund infusion should monies in HPIA be insufficient.

2. If carriers are required to take all comers and keep all policies, there may be a marketplace tightening in all areas of property and casualty insurance throughout the state. Consider allowing insurers to nonrenew at a capped rate.
3. Insurers must be able to underwrite. If an insurer must take any risk regardless of its condition, this creates a significant moral hazard and greatly increases their exposures. Consider continuing to allow all insurers and HPIA to underwrite risks.
4. Every situation in which the exposure for losses is increased for Puna will transfer that exposure to others in Hawaii.

Hawaii Insurers Council stands ready to assist the Legislature in finding a mutual solution. Thank you for this opportunity to testify.

## Hawaiian Shores Community Association

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Date: Feb. 1, 2015

To: Senator Rosalyn Baker, Chair  
Senator Brian Taniguchi, Vice Chair  
Members of the Committee on Commerce and Consumer Protection

From: Hawaiian Shores Community Association  
Board of Directors  
M. Eileen O'Hara, President

RE: **SB994** – RELATING TO THE HAWAII PROPERTY INSURANCE ASSOCIATION.  
HPIA; Mandatory Issuance of Policies; Removal of Moratorium  
**Committee on Commerce and Consumer Protection: 2/3/15: 9:00 AM, Rm #229**

Dear Senator Baker, Senator Taniguchi and Committee Members:

**Please support the passage of SB994!** The Board of Directors of Hawaiian Shores Community Association (HSCA) represents a subdivision with a well-based public water system (PWS-156) serving 1294 residential lots in lower Puna. We were hard hit by Tropical Storm Iselle on August 7, 2014; losing electricity for two weeks and water service for two days due to lines being damaged by toppled 150' Albizia trees. We are now being threatened by lava, although the initial finger of the June 27, 2014 flow that was marching directly towards our well and mauka portions of our subdivision fortunately stalled on Oct. 30, 2014. The current status of the active flow appears to be headed north of our subdivision, although may impact our community severely should it cross Highway 130. **We have already experienced great economic loss**, first from the hurricane, and now from the impacts of the lava flow.

To date the June 27<sup>th</sup> lava flow has only burned one residence mauka of Paho town. Its current path does not directly threaten any of the densely populated subdivisions in lower Puna, yet the whole Puna District has suffered economic harm by being under a moratorium announced by HPIA after the emergency declaration was signed by the Governor on Sept. 4, 2014. The Puna District is larger than the island of Oahu. **The vast majority of the district is not under threat from lava inundation.**

Allowing the publically supported insurance market to place a moratorium on drafting new insurance policies has the domino effect of empowering private insurers to refuse to renew policies in good standing, which they are not prohibited from doing under State law. Several residential owners in our community have received letters from their insurers, some who

have been paying their premiums diligently for as long as 32 years, informing them their policies will not be renewed! **Allowing this situation to continue spells economic death for the District of Puna** which is home to over **20,000 people**. Already, property owners, who need to leave the district due to health impacts from the VOG and air pollution caused by lava fueled fires, have had to sell their properties for less than 50% of the June 2014 value of those properties as without insurance options, only cash sales can occur. This kind of economic loss cannot be easily absorbed by the vast majority of Puna's population where the medium income is less than the State's average household income. Allowing this situation to continue amounts to an economic injustice of great proportion and the potential for litigation against the State or Hawaii.

It is the role of government to intervene in market failures such as this insurance crisis in Puna. **We urge you to do your duty as publically elected officials and instruct HPIA to lift the moratorium.** When insurance companies, whether they be publically supported or private, are allowed to operate in markets only when there is no risk, you create an unlevel playing field. If this insurance issue is not addressed in this 2015 session, the Puna District will empty out faster than a full bucket of water with a hole in the bottom. That exodus will not be due to lava, but due to inaction by our State government and its inability to act smartly and quickly in response to natural disasters.

**Please pass this bill and encourage the return of economic vitality to the Puna District on the Big Island!**

Mahalo,

*M. Eileen O'Hara, Ph.D.*

M. Eileen O'Hara, Ph.D. (Natural Resource and Environmental Economics)  
President, Board of Directors  
Hawaiian Shores Community Assn.

**SB994**

Submitted on: 2/2/2015

Testimony for CPN on Feb 3, 2015 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Kerri Marks	Individual	Support	No

Comments:

**John Rogers**

Testimony in favor of SB 994      January 31, 2015

At a bare minimum, HIPA should at least offer basic fire insurance for fire caused by sources other than lava, in other words- HIPA should at least offer fire coverage that excludes any damages caused by lava, and also exclude access to property coverage caused by lava or landslides as well so HIPA has zero unfair risk from anything caused by lava. I have spoken with an upper-administrative person at the insurance commissioners office, and he said this is do able and seems legally sound. Perhaps the only thing that HIPA would have to do that might cost something is putting together the legal language so the policy would not have any issues or vulnerability to law suits. I think HIPA can do this, it can't be that monumental to craft this exclusionary type of coverage, and to reiterate- there would be no exceptional risk to them with the exclusion of anything caused by lava.

I have finally finished building a home in Puna district, and I cannot even obtain insurance protecting my home from fire. My entire life savings could go up in smoke literally should there be an act of arson or a common household fire. I am not concerned about lava but I am concerned about protecting my out of pocket investment in this home due to arson or a household fire not caused by lava. This could be offered to everyone without subjecting HIPA to unfair risk. This would help cash purchasers by giving them some kind of fire and liability protection for a home they want to purchase. This would not help anyone needing to borrow the money necessary to finance a home, but it would offer cash buyers some protection and without any undue risk to HIPA. This would be a first step in helping home owners and potential buyers in the affected areas of lower puna. Please consider this first step. I have spoken to the Hawaii State Insurance Commissioner's office regarding this simple solution. Thank you for your kind consideration. John Rogers, Puna home owner-builder



**Corinne Traylor**

In Support of SB 994

When the lava flows reached within 4 miles of the outskirts of Hilo in 1984, was Hilo declared a disaster area and was there a moratorium on providing new insurance policies for homes in Hilo?

Why is the entire area of the Puna district being punished when only a small area is affected by the day by day diminishing lava flow which seems to be stretched to its limits?

My husband and I built a new home in Pahoehoe and obtained a mortgage in March 2014 (before the lava flow). Then, we put more cash into additional improvements including solar panels with the intention of refinancing upon completion of all the improvements.

After the June 27 Lava Flow was announced, we contacted our mortgage lender about refinancing the cost of the substantial cash outlays for improvements. Unfortunately, because of the HPIA moratorium on providing new insurance policies in the Puna district, and the resulting downgrading of real estate values by appraisers, we found that we not only could not obtain the financing we sought, but that we had suddenly become upside down on our mortgage loan. Nor, would we be able to sell our house due to the sudden lack of insurance.

Never in our entire life, have we seen similar financial resources in a state suddenly and brutally turn the tables on their citizens as we have seen taking place here in Hawaii.

Surely, insurance companies, doing business in Hawaii, were aware of the lava risk at the outset. Insurance companies are supposed to cover risk. If they are not willing to cover risk, then why should insurance be required at all by lenders? And, just what is the risk of lava compared to tornadoes and everyday fires?

The HPIA moratorium should be removed immediately. If HPIA is not going to take this action, then the state of Hawaii legislature should bring HPIA and other insurance companies back into line by insisting that insurance be provided to all the residents in Hawaii as a requirement of doing business here in Hawaii.

**SB994**

Submitted on: 2/2/2015

Testimony for CPN on Feb 3, 2015 09:00AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Hiroshi Yanagihara	Individual	Support	No

Comments:

**SB994**

Submitted on: 2/1/2015

Testimony for CPN on Feb 3, 2015 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Charles Traylor	Individual	Comments Only	No

Comments: My wife, Corinne, and I completed construction on a new home in Hawaiian Shores Recreational Estates in Pahoa (15-116 Kuna Street) in November 2013. It was appraised at \$480,000. We obtained a mortgage for \$345,000 in March 2014. Subsequently, we put another \$80,000 cash into additional improvements. We were encouraged to do so by our appraisal. After the June 27 Lava Flow was announced we contacted our mortgage lender, First Hawaiian Bank, about refinancing, because mortgage interest rates for new loans and refinancing had dropped dramatically. We figured that with the additional \$80,000 we had invested in our home the value would have increased proportionately, and the loan amount would have gone up, too. Unfortunately, because of the HPIA moratorium on providing new insurance policies in Lava Zones 1 and 2, and because of a general overall downgrading of real estate values in these zones by much of the financial, insurance and appraisal industries, we found that we not only could not obtain the financing we sought, but that we had probably and suddenly become upside down on our mortgage loan. I am not sure the Hilo was treated this way, when the lava flow from Mauna Loa threatened that city or when various tsunamis have posed dangers. Why is Lower Puna being singled out for this arbitrary and unfair treatment? Real estate values are traditionally based on three criteria, comparables, replacement cost and depreciation. Our financial resources have chosen to base real estate values in Lower Puna since the announcement of the June 27 Lava Flow only on comparables, which they themselves have obliterated by their refusal to support and loan to obvious value. No consideration is any longer being given to replacement cost or to the influences of depreciation, that is, for example, newer properties are inherently worth more than older properties otherwise similar in size and quality. Corinne and I are originally from Texas, where tornadoes and hurricanes are an everyday fact of life. Never in my experience, having lived in Texas, have I ever seen similar financial resources in that state suddenly and brutally turn the tables on their citizens as we have seen taking place here in Hawaii. The four big box retailers in Pahoa (Malama Market, Ace Hardware, Longs and Lex Brodie), who temporarily shut their doors, when the lava was coming close, are either already back in business (Longs is open now), or will open soon. Ace Hardware will reopen tomorrow. Malama Market is planning a substantial remodeling and expansion. These successful businesses know that Lower Puna is a good bet. HPIA and other financial resources, by not showing similar good faith in our community, are beginning to look bad. I can only imagine what their real motives might be, but I can tell you that it is not good. I think it is high time that the State of Hawaii Legislature step in to use their considerable clout to bring these folks back into line. Best regards, Charles Traylor

**SB994**

Submitted on: 2/1/2015

Testimony for CPN on Feb 3, 2015 09:00AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nancy J Kramer	Individual	Support	No

Comments: I am a homeowner, business owner, and landlord in Lower Puna. The prospect of losing insurance coverage for my properties is devastating. This proposed legislation protects what we have at no more risk to my insurance company than what was there for the past seven years when it was collecting my premiums. What's more, it is likely to continue to collect premiums from me for the next seven years or more as what I own is not projected to be in harms way. But it is in Lower Puna. This is what insurance is all about. It is not right that the insurance companies can take our money when there is no danger but then walk away from the same house in the same neighborhood that has been insured all along. This year it is Puna and lava. All of our islands are the result of volcanic activity and in hurricane and tsunami zones. Next year it could happen in any where in Hawaii. HPIA is here to help us protect ourselves and this legislation makes sure that we have availability to insurance to make this possible.

**SB994**

Submitted on: 2/1/2015

Testimony for CPN on Feb 3, 2015 09:00AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
David Shaw	Individual	Support	No

Comments: Aloha Senators: It is vital to the housing stock and the greater Puna economy that home insurances continue to be renewed. Affordable housing availability depends upon the ability to insure homes in areas of some risk - just what HPIA was designed to do. Please vote 'Aye" on SB 994 and help to keep a vital part of the economy of Hawai'i Island alive and contributing to the well-being of families. Mahalo, david

**SB994**

Submitted on: 2/1/2015

Testimony for CPN on Feb 3, 2015 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
David Luboff	Individual	Support	No

Comments: I am a homeowner in the District of Puna and wish to express my support for SB 994. Thank you.

**SB994**

Submitted on: 2/1/2015

Testimony for CPN on Feb 3, 2015 09:00AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lorn	Individual	Support	No

Comments: Its time for the State to stand up for the Lower Puna reidents, over 99% are NOT in harms way yet no insurance is available (again). Please support this legislation.  
Mahalo, Lorn Douglas

**SB994**

Submitted on: 2/2/2015

Testimony for CPN on Feb 3, 2015 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Kim Murphy	Individual	Support	No

Comments:

February 2, 2015

Aloha,

I own property in lower Puna which I may be unable to sell due to the June 27<sup>th</sup> lava flow situation. My home in lower Puna is a significant part of my retirement plan.... so this situation is extremely concerning. I strongly support this proposal or any other proposal that requires insurers to maintain coverage of existing homes now and for prospective buyers. This includes removal of the moratorium by HPIA on existing dwellings and continued coverage under an existing HPIA policy upon a transfer in ownership of the property. This should do much to stabilize property values in lower Puna .....which have been experiencing significant volatility due to the June 27th lava flow. Thank you.

Kim Murphy  
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