
A BILL FOR AN ACT

RELATING TO THE HAWAII HURRICANE RELIEF FUND.

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

1 SECTION 1. The legislature finds that the Hawaii hurricane
2 relief fund (HHRF) is currently lying dormant with a reserve of
3 approximately \$180,000,000. Although the HHRF will serve an
4 important purpose when it restarts as a primary insurer, its
5 reserves can temporarily be used for an alternative,
6 constructive purpose such as the backing of natural disaster
7 reinsurance or investment in catastrophe bonds that finance
8 Hawaii's property insurers. The legislature recognizes that the
9 HHRF may not be able to provide financing for all property
10 insurers in Hawaii, but believes that by increasing reinsurance
11 capacity in the market, consumers will benefit from the
12 resulting lower premiums.

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

16 "§431P- Catastrophe bond financing transactions. The
17 fund may invest all or part of its assets in bonds or other
18 financial instruments that provide reimbursement for losses



1 resulting from a natural disaster that affects Hawaii. The fund
2 may enter into a contract to purchase these bonds or other
3 contracts that enable these bonds to be used in reinsurance
4 transactions with selected property insurers doing business in
5 Hawaii. Investment in bonds pursuant to this section shall be
6 exempt from article 6 of chapter 431."

7 SECTION 3. Section 431P-5, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) In addition to the general powers under subsection
10 (a), the fund shall have the specific power to:

11 (1) Adopt and administer a plan of operation in accordance
12 with section 431P-7, and a manual of rules and rates
13 to provide persons having an insurable interest in
14 eligible property with insurance coverage provided by
15 the fund;

16 (2) Authorize the provision of hurricane coverage by the
17 fund for real property and tangible personal property
18 located in or on real property and establish limits of
19 liability for specific coverages within the range of
20 authorized coverage;

21 (3) Adopt actuarially sound rates based on reasonable
22 assumptions relative to expectations of hurricane



1 frequency and severity for all coverage provided under
2 policies or endorsements issued by the fund. Rates
3 adopted shall be subject to approval by the
4 commissioner pursuant to article 14 of chapter 431.
5 Rates adopted shall provide for classification of
6 risks and shall include past and prospective losses
7 and expense experience in this State;

8 (4) Adopt procedures, guidelines, and surcharges
9 applicable to policies of hurricane property insurance
10 issued in connection with an underlying property
11 policy issued by an unauthorized insurer;

12 (5) Adopt any form of insurance policy necessary for
13 providing policies of hurricane property insurance by
14 the fund, with the approval of the commissioner;

15 (6) Issue policies of hurricane property insurance and pay
16 claims for coverage over the mandatory deductible or
17 other deductible provided in the plan of operation or
18 any manual of rules and rates adopted under the plan
19 of operation;

20 (7) Require every licensed property and casualty insurer
21 transacting direct property insurance business in this
22 State to act as a servicing facility, and by contract



1 with that insurer authorize the insurer to inspect
2 eligible properties, service policies and
3 policyholders of hurricane property insurance, provide
4 claim services, and perform any other duties as
5 authorized by the fund for applicants to the fund and
6 those insured by it;

- 7 (8) (A) Assess all licensed property and casualty
8 insurers the amounts which, together with the
9 other assets of the fund, are sufficient to meet
10 all necessary obligations of the fund. The
11 assessment shall be made on the insurer's gross
12 direct written premiums for property and casualty
13 insurance in this State for the preceding
14 calendar year. The rate of assessment in a year
15 in which a covered event has not occurred shall
16 be 3.75 per cent and shall not include the
17 insurer's gross direct written premiums for motor
18 vehicle insurance in this State; provided that
19 following a covered event, the rate of assessment
20 may be increased to an amount not to exceed five
21 per cent and may include the insurer's gross
22 direct written premiums for motor vehicle



1 insurance in this State. This increase shall
2 remain in effect until such time as all claims
3 and other obligations, including but not limited
4 to bonds and notes, arising out of a covered
5 event shall have been fully discharged. An
6 insurer authorized to provide comparable coverage
7 under section 431P-10(b) and which is providing
8 hurricane property insurance in the State shall
9 be assessed an amount that excludes gross direct
10 written premiums for property insurance in this
11 State. The assessment for a year in which a
12 covered event has not occurred shall be collected
13 quarterly during each calendar year;

14 (B) In the event of a loss from a covered event the
15 fund, in addition to the assessment in
16 subparagraph (A), shall assess those insurers
17 which acted as servicing facilities during the
18 twelve months ending at the start of the month
19 preceding the month in which the covered event
20 occurs. The total assessment shall be a fixed
21 percentage of the total coverage provided by the
22 fund under its policies of hurricane property



1 insurance during the month preceding the month in
2 which the covered event occurs. The percentage
3 to be used in calculating the total assessment
4 shall be as follows:

- 5 (i) For calendar year 1998, a percentage as
6 fixed by the board in the plan of operation,
7 but in no event shall the total assessment
8 exceed \$500,000,000;
- 9 (ii) For calendar year 1999, 1.125 per cent;
- 10 (iii) For calendar year 2000, 1.25 per cent; and
- 11 (iv) For calendar year 2001, and each calendar
12 year thereafter, 1.5 per cent.

13 A separate total assessment shall be made for
14 each covered event. The total assessment shall
15 be allocated to each servicing facility based on
16 the proportion of the total amount of the fund's
17 gross direct written premiums for policies of
18 hurricane property insurance serviced by each
19 servicing facility to the total amount of the
20 fund's gross direct written premiums for policies
21 of hurricane property insurance, in each case,
22 during the twelve months ending at the start of



1 the month preceding the month in which the
2 covered event occurs. Assessments made under
3 this subparagraph and those under subparagraph
4 (A) in a year in which a covered event has
5 occurred are due from each insurer based on
6 assessment procedures established by the fund to
7 meet its obligations to policyholders in a timely
8 manner; and

9 (C) The fund may exempt or defer, in whole or in
10 part, the assessment of any insurer if the
11 assessment would cause the insurer's financial
12 statement to reflect amounts of capital or
13 surplus less than the minimum amounts required
14 for a certificate of authority in this State;

15 (9) Develop a program of incentives to encourage insurers
16 to provide policies of hurricane property insurance in
17 the event the commissioner authorizes the provision of
18 comparable insurance pursuant to section 431P-10(b)
19 which may include but are not limited to exemption of
20 the insurer's gross direct written premium for
21 property insurance from the assessment pursuant to
22 paragraph (8) (A);



- 1 (10) Develop a credit based on the difference between
2 premiums written in 1993 and the premiums written in
3 1992 by each property insurer against the assessment
4 for gross direct written premiums written in 1993;
- 5 (11) Develop procedures regarding policies written by
6 unauthorized insurers comparable to the assessments,
7 surcharges, and other contributions made by insurers
8 authorized to do business in this State;
- 9 (12) Accumulate reserves or funds, including the investment
10 income thereon, to be used for paying expenses, making
11 or repaying loans or other obligations of the fund,
12 providing loss mitigation incentives, and paying valid
13 claims for covered events insured by the fund;
- 14 (13) Collect and maintain statistical and other data as may
15 be required by the commissioner;
- 16 (14) Exempt mortgage transactions from payments of the
17 special mortgage recording fee and provide for maximum
18 limits on or, uniform reduction of the special
19 mortgage recording fee, pursuant to rules adopted by
20 the board;
- 21 (15) Suspend or reactivate the special mortgage recording
22 fee pursuant to resolution of the board;



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- 1 (16) Impose fines for each incident of nonpayment of
2 amounts due to the fund under this chapter; provided
3 that the fines shall not exceed twenty-five per cent
4 of the amount then due;
- 5 (17) Create loss mitigation incentives, including but not
6 limited to premium credits, premium rebates, loans, or
7 cash payments;
- 8 (18) Enter into claims financing transactions, including
9 but not limited to reinsurance transactions, debt
10 transactions, and other transactions incorporating
11 elements of reinsurance, insurance, debt, or equity;
- 12 (19) Establish business and corporate entities or
13 organizations pursuant to the purposes of this
14 chapter; [~~and~~]
- 15 (20) Sell reinsurance and buy catastrophe bonds pursuant to
16 431P- ; and
- 17 [~~(20)~~] (21) Perform any and all acts reasonably necessary to
18 carry out the purposes of this chapter."

19 SECTION 4. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



Report Title:

Hawaii Hurricane Relief Fund; Reinsurance; Catastrophe Bonds

Description:

Authorizes the use of the Hawaii Hurricane Relief Fund to finance natural disaster reinsurance and catastrophe bonds.

