

JAN 27 2016

S.B. NO. 2732

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 purpose of this Act is to address the
2 Hawaii hurricane relief fund.

3 More specifically, this Act:

4 (1) Provides for the interest earned on the balance of the
5 Hawaii hurricane reserve trust fund to be retained in
6 the trust fund; and

7 (2) Requires the board of directors of the Hawaii
8 hurricane relief fund to conduct a study of the
9 acquisition of a catastrophic hurricane loss financing
10 arrangement with the premium to be paid by all or a
11 portion of the interest earned in the Hawaii hurricane
12 reserve trust fund.

13 Prior to this Act, the interest earned on the balance of
14 the Hawaii hurricane reserve trust fund was transferred to the
15 general fund. The transfer was implemented in 2002 to address
16 the state budgetary shortfall caused by the "9/11" terrorist
17 attack on the United States. The transfer to the general fund



1 proved even more useful to mitigate the revenue shortfalls
2 during the years of the Great Recession.

3 Now that the economy of Hawaii has improved and general
4 fund revenues from tax sources have and are projected to
5 increase at fairly healthy annual rates, the legislature finds
6 that the general fund no longer needs the interest transferred
7 from the Hawaii hurricane reserve trust fund.

8 The Hawaii hurricane reserve trust fund serves as a de
9 facto budget reserve for the State, although that was not its
10 original purpose. The legislature finds that the fund should
11 continue to serve in that capacity, augmented by the compounding
12 of all or some of the annual interest earned on the principal.

13 The legislature further finds that hurricanes are constant
14 seasonal threats to the Hawaiian Islands. A record of fifteen
15 tropical cyclones entered the Central Pacific during the June 1
16 to November 30, 2015, hurricane season. Fortunately, none of
17 them directly hit the main Hawaiian Islands.

18 Given the yearly exposure to potentially devastating
19 hurricanes, the state government must engage in efforts to
20 prevent damage from wind, rain, and tides, repair quickly the



1 damage that may occur, and ensure the availability of capital
2 for repair and reconstruction activities.

3 For this purpose, the legislature finds that the board of
4 directors of the Hawaii hurricane relief fund should explore the
5 purchase of a catastrophic hurricane loss financing arrangement
6 using all or part of the interest earned by the hurricane
7 reserve trust fund. The legislature intends that the board
8 should submit to the legislature its findings and recommendation
9 on whether the proposal is feasible, practical, affordable, and
10 in the public interest.

11 SECTION 2. Section 431P-16, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§431P-16 Establishment of trust funds. (a) The fund
14 shall establish outside the state treasury a hurricane reserve
15 trust fund and any accounts thereunder and any other trust fund
16 or account necessary to carry out the purposes of this chapter.
17 Moneys deposited in the hurricane reserve trust fund and any
18 accounts thereunder or any other trust fund or account shall be
19 held by the fund, as trustee, in a depository as defined in
20 section 38-1 or according to a similar arrangement at the
21 discretion of the board, including, but not limited to, trust or



1 custodial accounts created for the benefit of the fund's secured
2 parties under contractual claims financing arrangements. These
3 moneys may be invested and reinvested in accordance with the
4 plan of operation. Disbursements from the trust funds shall not
5 be subject to chapter 103D and shall be made in accordance with
6 procedures adopted by the board.

7 (b) The hurricane reserve trust fund shall receive
8 deposits of the special mortgage recording fee established by
9 this chapter. Except as determined by board order, the special
10 mortgage recording fee shall be imposed on each mortgage and
11 each amendment to a mortgage which, in each case, increases the
12 principal amount of the secured debt and which is recorded in
13 the bureau of conveyances of the State under chapter 502 or
14 filed with the assistant registrar of the land court of the
15 State under chapter 501.

16 The special mortgage recording fee shall be an amount equal
17 to one-tenth of one per cent of the stated principal amount of
18 the debt secured by the mortgage or, in the case of an amendment
19 or refinancing of a mortgage, an amount equal to one-tenth of
20 one per cent of the amount of the increase of the stated
21 principal amount of the secured debt; provided that the board



1 may establish a lower special mortgage recording fee amount
2 pursuant to section 431P-5(b)(14). With respect to an open end
3 revolving loan, the principal amount of the debt on which the
4 special mortgage recording fee is calculated shall be the
5 maximum amount which may be outstanding under the loan at any
6 one time. With respect to a mortgage securing a nonmonetary or
7 inchoate obligation, the principal amount of the debt on which
8 the special mortgage recording fee is calculated shall be the
9 monetary amount which the mortgagee attributes to the
10 obligation. If the debt is stated in a foreign currency, it
11 shall be converted to U.S. dollars using an exchange rate
12 published in a newspaper of general circulation in this State
13 within one week prior to recordation of the mortgage or
14 amendment of mortgage.

15 The special mortgage recording fee shall be in addition to
16 any applicable fees under chapter 501 or 502. The special
17 mortgage recording fee shall be submitted to and collected by
18 the bureau of conveyances or the assistant registrar of the land
19 court of the State and shall be deposited into the hurricane
20 reserve trust fund. The special mortgage recording fee shall be
21 submitted at the time the mortgage or amendment of mortgage is



1 recorded together with any related forms or certifications
2 required by the bureau of conveyances or the assistant registrar
3 of the land court of the State.

4 (c) The Hawaii hurricane relief fund shall implement the
5 assessments of all property and casualty insurers as authorized
6 by section 431P-5(b)(8)(A) and (B) and the proceeds from the
7 assessments shall be deposited into the hurricane reserve trust
8 fund or into trust or custodial accounts, created for the
9 benefit of the fund's secured parties, that are held inside or
10 outside the hurricane reserve trust fund.

11 (d) If the Hawaii hurricane relief fund offers to issue
12 policies of hurricane property insurance, the premiums for the
13 policies shall be deposited into the hurricane reserve trust
14 fund.

15 (e) After each covered event, if the board determines that
16 the moneys in the hurricane reserve trust fund, excluding moneys
17 determined by the board to be needed to continue fund operations
18 following the covered event, will be insufficient to pay claims
19 and other obligations of the fund arising out of that covered
20 event, the Hawaii hurricane relief fund shall levy a surcharge
21 not to exceed seven and one-half per cent a year on premiums



1 charged for all property and casualty insurance policies issued
2 for risks insured in this State. These moneys may be deposited
3 into the hurricane reserve trust fund or into trust or custodial
4 accounts created for the benefit of the fund's secured parties
5 that are held inside or outside the hurricane reserve trust
6 fund. The surcharge shall remain in effect until all claims and
7 other obligations of the fund, including but not limited to
8 claims under fund policies of hurricane property insurance,
9 claims financing transactions, bonds, notes, and other
10 obligations arising out of that covered event have been fully
11 discharged. The amount and reason for any surcharge made
12 pursuant to this subsection shall be separately stated on any
13 billing sent to an insured. The surcharge shall not be
14 considered premiums for any other purpose including the
15 computation of gross premium tax or the determination of
16 producers' commissions. The fund may establish procedures for
17 insurers to collect the surcharge from customers who hold
18 property or casualty policies.

19 (f) Any proceeds, experience refunds, or other return
20 funds under reinsurance shall be deposited into the hurricane
21 reserve trust fund.



1 (g) Any proceeds from loans or other moneys from the
2 federal government, any proceeds from bonds issued pursuant to
3 this chapter loaned by the director to the Hawaii hurricane
4 relief fund, and other moneys as the State may make available
5 from time to time shall be deposited into the hurricane reserve
6 trust fund.

7 (h) Any interest earned on the balance of the hurricane
8 reserve trust fund shall be retained in the trust fund.

9 ~~[(h)]~~ (i) Moneys in the hurricane reserve trust fund or in
10 trust or custodial accounts, created for the benefit of the
11 fund's secured parties, shall be expended by the Hawaii
12 hurricane relief fund or its authorized designee and used solely
13 for the purposes of this chapter.

14 ~~[(i)]~~ (j) Moneys in the hurricane reserve trust fund may
15 be disbursed upon dissolution of the Hawaii hurricane relief
16 fund; provided that:

17 (1) The net moneys in the hurricane reserve trust fund
18 shall revert to the state general fund after payments
19 by the fund on behalf of licensed property and
20 casualty insurers or the State that are required to be
21 made pursuant to any federal disaster insurance



1 program enacted to provide insurance or reinsurance
2 for hurricane risks are completed; and
3 (2) If such moneys are paid on behalf of licensed property
4 and casualty insurers, payment shall be made in
5 proportion to the premiums from policies of hurricane
6 property insurance serviced by the insurers in the
7 twelve months prior to dissolution of the fund[
8 ~~provided that all interest earned from the principal in the~~
9 ~~hurricane reserve trust fund shall be transferred and deposited~~
10 ~~into the general fund each year that the hurricane reserve trust~~
11 ~~fund remains in existence]."~~

12 SECTION 3. Study of acquisition of catastrophic hurricane
13 loss financing arrangement. (a) The board of directors of the
14 Hawaii hurricane relief fund shall conduct a study to determine
15 whether the acquisition of a catastrophic hurricane loss
16 financing arrangement by the fund is feasible, practical,
17 affordable, and in the public interest. The board shall conduct
18 the study under the assumption that the only source of annual
19 premium payments is all or a portion of the annual interest
20 earned on the balance of the Hawaii hurricane reserve trust fund
21 and that payouts from the financing arrangement shall be



1 deposited into the Hawaii hurricane reserve trust fund, but
2 subject to expenditure in accordance with legislative
3 appropriation or, when an emergency is proclaimed by the
4 governor, gubernatorial directive.

5 The board shall develop and study alternative scenarios of
6 coverage, limits, premiums, interest amount available for
7 premium payments, the deposit of insurance payouts into the
8 major disaster fund established under section 127A-16, Hawaii
9 Revised Statutes, and other terms and conditions of the
10 catastrophic hurricane loss financing arrangement.

11 The board shall also study the best and quickest way to
12 receive payouts and make the payments available for immediate
13 expenditure by state government, including the deposit of
14 payouts into the major disaster fund for immediate expenditure
15 by the governor under an emergency proclamation.

16 (b) The board of directors shall submit the study, with
17 findings, recommendations, and any proposed legislation, to the
18 legislature and governor at least twenty days before the
19 convening of the regular session of 2017.

20 SECTION 4. (a) There is appropriated out of the Hawaii
21 hurricane reserve trust fund of the State of Hawaii the sum of



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1 \$50,000 or so much thereof as may be necessary for fiscal year
 2 2016-2017 to conduct the study on the feasibility of acquiring a
 3 catastrophic hurricane loss financing arrangement as required
 4 under section 3.

5 The sum appropriated shall be expended by the board of
 6 directors of the Hawaii hurricane relief fund for the purposes
 7 of this Act.

8 (b) Notwithstanding any law to the contrary, the board of
 9 directors of the Hawaii hurricane relief fund may expend the
 10 appropriation under this section for the specified purpose.

11 SECTION 5. Statutory material to be repealed is bracketed
 12 and stricken. New statutory material is underscored.

13 SECTION 6. This Act shall take effect on July 1, 2016.
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INTRODUCED BY:

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Report Title:

Hawaii Hurricane Relief Fund; Interest Earned, Catastrophic Loss Financing Arrangement Study; Appropriation

Description:

Requires the interest earned on the balance of the Hawaii hurricane reserve trust fund to be retained in the trust fund. Requires the board of directors of the Hawaii hurricane relief fund to conduct a study of the acquisition of a catastrophic hurricane loss financing arrangement with all or a portion of the interest earned in the trust fund. Appropriates hurricane reserve trust fund moneys for the study. Effective 07/01/16.

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

