

JAN 25 2017

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# A BILL FOR AN ACT

RELATING TO THE STATE RISK MANAGEMENT AND INSURANCE  
ADMINISTRATION.

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

1       SECTION 1. Section 41D-2, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3       "**§41D-2 Responsibilities of the Comptroller.** (a) The  
4 comptroller, through the risk manager, shall:

5       (1) Have discretion to purchase casualty insurance for the  
6 State or state agencies, including those employees of  
7 the State who, in the comptroller's discretion, may be  
8 at risk and shall be responsible for the acquisition  
9 of all casualty insurance;

10       (2) Have discretion to purchase property insurance for the  
11 State or state agencies and shall acquire all property  
12 insurance;

13       (3) Direct and manage all risk management and insurance  
14 programs of the State, except for employee benefits  
15 insurance and workers' compensation insurance programs  
16 or as otherwise provided in chapters 87, 88, 383 to  
17 386A, 392, and 393;

1       (4) Consult with state agencies to determine what  
2       property, casualty, and other insurance policies are  
3       presently in force or are sought by the state agencies  
4       and to make determinations about whether to continue  
5       subscribing to insurance policies. In the event that  
6       the risk manager's determination is not satisfactory  
7       to the state agency, the state agency may have the  
8       risk manager's decision reviewed by the  
9       comptroller. In this case, the comptroller's decision  
10      shall be final;

11      (5) Consolidate and combine state insurance coverages, and  
12      purchase excess insurance when, in the comptroller's  
13      discretion, it is appropriate to do so;

14      (6) Acquire risk management, investigative, claims  
15      adjustment, actuarial, and other services, except  
16      attorney's services, as may be required for the sound  
17      administration of this chapter[+] , and provided that  
18      insurers providing insurance services to the State  
19      shall be exempt from sections 431:10-218, 431:13-101,  
20      and 431:13-103;

SB. NO. 885

(7) Gather from all state agencies and maintain data regarding the State's risks and casualty, property, and fidelity losses;

(8) In conjunction with the attorney general and as otherwise provided by this chapter, compromise or settle claims cognizable under chapter 662;

(9) Provide technical services in risk management and insurance to state agencies;

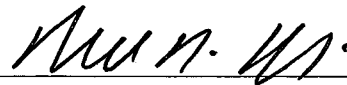
(10) Be authorized to establish a captive insurance company pursuant to article 19 of chapter 431 to effectuate the purposes of this chapter; and

(11) Do all other things appropriate to the development of sound risk management practices and policies for the State."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act, upon its approval, shall take effect on July 1, 2017.

INTRODUCED BY:



BY REQUEST

**Report Title:**

Risk Management and Insurance Administration; Department of Accounting and General Services

**Description:**

Amend the responsibilities of the Comptroller to acquire risk management, investigative, claims adjustment, actuarial, and other services on a fee for services compensation method through an exemption of applicable sections in chapter 431, Hawaii Revised Statutes, that do not allow this. Chapter 431 only allows the State's insurance broker to be compensated through commissions paid by the insurance companies the State buys insurance from which are based on a percentage of the insurance policy premium.

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

JUSTIFICATION SHEET

DEPARTMENT: Accounting and General Services

TITLE: A BILL FOR AN ACT RELATING TO THE STATE RISK MANAGEMENT AND INSURANCE ADMINISTRATION.

PURPOSE: The purpose of this bill is to provide the Comptroller with the flexibility to hire an insurance broker on a fee for services basis versus on a commission basis paid by the insurance company from which the State is purchasing insurance policies.

MEANS: Amend section 41D-2(a), Hawaii Revised Statutes (HRS), to include an exemption from chapter 431, HRS.

JUSTIFICATION: In the past five (5) years, the current insurance broker has earned an annual average commission of approximately \$2 million or 16 percent of the State's premium cost (\$12.5 million) paid by the insurance companies from which the State purchases insurance. The utilization of a fixed fee for services rendered paid by the State to insurance broker could save 25 percent or more of the average commission paid or \$500,000 annually. Other state and county jurisdictions use this method. The Attorney General has issued an opinion that the fixed fee for services compensation model is in violation of chapter 431, HRS. This amendment to section 41D-2, HRS, will allow the Comptroller flexibility to use either compensation method.

The current compensation method has an appearance and/or could present a conflict of interest with the State's insurance broker as they are compensated by the insurance companies from which the State purchases insurance. Such a relationship can promote increased insurance premiums as the State's insurance broker is compensated based on a percentage of those premiums.

Impact on the public: The public will benefit through lower insurance costs as the cost for insurance broker services for the State will be based on services provided.

Impact on the department and other agencies: Better value through cost savings on the cost to acquire and insure State property and liability risks.

GENERAL FUND: None.

OTHER FUNDS: State Risk Management Revolving Fund, savings estimated at \$500,000 annually.

PPBS PROGRAM  
DESIGNATION: AGS 203.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.