

JAN 19 2018

A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. Chapter 431, Hawaii Revised Statutes, is
2 amended by adding a new article to be appropriately designated
3 and to read as follows:

4 **"ARTICLE**

5 **GLOBAL WARMING OR EROSION INSURANCE RESERVE**

6 **"§431: -A Short title.** This article shall be known and
7 may be cited as the Hawaii global warming and erosion insurance
8 reserve act.

9 **§431: -B Purpose.** The purpose of this article is to
10 require authorized property insurers to establish reserve funds
11 out of premiums of policies covering risks located or resident
12 in this State. The reserve fund shall be used to pay for losses
13 resulting from certain environmental events occurring along
14 shoreline property in the State.

15 **§431: -C Definitions.** As used in this article, unless
16 the context shall otherwise require:



1 "Authorized reinsurance" means reinsurance from a licensed,
2 accredited, certified, or trustee reinsurer in this State.

3 "Environmental event" means:

4 (1) An event associated with global warming, erosion, or
5 both; and

6 (2) Covered losses related to global warming, erosion, or
7 both.

8 "Hawaii mandatory global warming and erosion reserve" or
9 "reserve" means the separate contingent liability account
10 established pursuant to section 431: -E.

11 "Hawaii subject premiums" means premiums related to
12 property risks located or resident in this State with respect to
13 the kinds of property insurance, as specified in section 431:1-
14 206, that are written on a direct basis.

15 "Property insurance" shall have the same meaning as in
16 section 431:1-206.

17 "Property insurer" means an insurer licensed to transact
18 property insurance.

19 "Qualifying losses" means losses and loss adjustment
20 expenses incurred, net of authorized reinsurance, which are



1 directly attributable to an environmental event in this State
2 and which occur along the State's shoreline areas.

3 **§431: -D Hawaii mandatory global warming and erosion**
4 **reserve branch; establishment.** There is established the global
5 warming and erosion reserve branch within the insurance division
6 of the department of commerce and consumer affairs. The purpose
7 of the branch shall be to administer the Hawaii mandatory global
8 warming and erosion reserve, as required pursuant to this
9 article.

10 **§431: -E Hawaii mandatory global warming and erosion**
11 **reserve.** Every authorized property insurer issuing a policy of
12 insurance or contract of reinsurance covering losses resulting
13 from an environmental event for property risks located or
14 resident in this State shall establish a Hawaii mandatory global
15 warming and erosion reserve, which shall be used to fund the
16 payment of claims resulting from qualifying losses.

17 **§431: -F Annual contribution to the Hawaii mandatory**
18 **global warming and erosion reserve.** (a) No later than July 1
19 of every year, every property insurer that covers losses
20 resulting from an environmental event shall fund its mandatory
21 global warming and erosion reserve for the previous calendar



1 year in an amount to be determined by the commissioner by rule
2 and based on the aggregate environmental event load included in
3 the premium of policies covering property risks located or
4 resident in this State with respect to the kinds of insurance
5 specified in section 431:1-206. The reserve liability so
6 established shall be net of any authorized reinsurance ceded and
7 federal, state, and local tax incurred on any reserves.

8 (b) Notwithstanding subsection (a), an insurer need not
9 fund its Hawaii mandatory global warming and erosion reserve
10 with respect to assumed reinsurance premiums in excess of loss
11 reinsurance contracts or treaties.

12 **§431: -G Accumulation of the Hawaii mandatory global**
13 **warming and erosion reserve.** The Hawaii mandatory global
14 warming and erosion reserve may have a rolling term of ten
15 years. At the end of the tenth year, the first year's
16 contribution, to the extent it is not used to fund environmental
17 event losses, shall be taken into income, and the following
18 year's contribution shall be added to the reserve.

19 **§431: -H Transfers from the Hawaii mandatory global**
20 **warming and erosion reserve.** (a) A property insurer shall
21 release its Hawaii mandatory global warming and erosion reserve



1 when it incurs qualifying losses. Within thirty days of
2 releasing the funds from the Hawaii mandatory global warming and
3 erosion reserve, a property insurer shall provide the
4 commissioner with written notice of such release. The notice
5 shall be in a form specified by the commissioner and show the
6 amount and calculation of the release and the environmental
7 event that necessitated the release.

8 (b) A property insurer shall return to the Hawaii
9 mandatory global warming and erosion reserve any reserves
10 transferred from the Hawaii mandatory global warming and erosion
11 reserve that are not expended to pay qualifying losses.

12 (c) A property insurer shall not retain any investment
13 income or interest earned from the Hawaii mandatory global
14 warming and erosion reserve. Any investment income or interest
15 earned from the Hawaii mandatory global warming and erosion
16 reserve shall be used by the property insurer to reduce Hawaii
17 policyholders' premiums.

18 (d) Any transfer of reserves from the Hawaii mandatory
19 global warming and erosion reserve that are not expended to pay
20 qualifying losses shall require the property insurer to provide
21 written notice and an explanation of the transfer. Upon the



1 request of a property insurer, the commissioner may approve
2 funds for transfer from the Hawaii mandatory global warming and
3 erosion reserve:

4 (1) To mitigate the potential impairment of the property
5 insurer;

6 (2) When the property insurer no longer has exposure for
7 qualifying losses; or

8 (3) Where the release of funds would be in the best
9 interests of the property insurer, its policyholders,
10 or this State.

11 **§431: -I Reporting requirements.** (a) For a domestic
12 insurer, the Hawaii mandatory global warming and erosion reserve
13 shall be shown as a write-in liability item on the quarterly and
14 annual statements.

15 (b) For an insurer other than a domestic insurer, the
16 Hawaii mandatory global warming and erosion reserve shall be
17 shown as a write-in liability item on the Hawaii supplement to
18 the property annual statement.

19 **§431: -J Rules.** The commissioner may adopt rules
20 pursuant to chapter 91 as necessary to effectuate the purposes
21 of this article."



1 SECTION 2. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$300,000 or so much
3 thereof as may be necessary for fiscal year 2018-2019 for the
4 operational costs associated with the establishment of the
5 global warming and erosion insurance reserve pursuant to
6 section 1 of this Act and the hiring of staff, including an
7 administrator for the global warming and erosion insurance
8 reserve branch, a statistician or actuary, and necessary
9 clerical support staff.

10 The sum appropriated shall be expended by the department of
11 commerce and consumer affairs for the purposes of this Act.

12 SECTION 3. In codifying the new sections added by
13 section 1 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 the new sections in this Act.

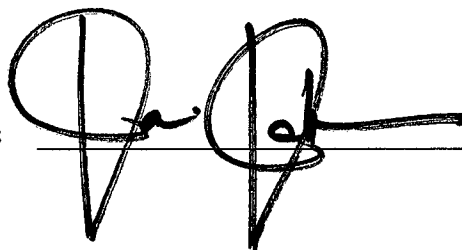
16 SECTION 4. This Act shall take effect on July 1, 2018;
17 provided that section 1 of this Act shall apply to policies of
18 insurance or contracts of reinsurance covering losses for
19



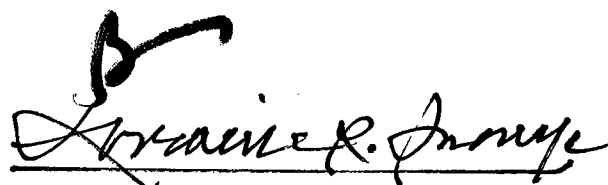
1 property risks located or resident in this State that are issued
2 or renewed on or after June 1, 2019.

3

INTRODUCED BY:



Michelle Indani



S.B. NO. 2327

Report Title:

Insurance; Global Warming and Erosion; Mandatory Reserve Fund; Appropriation

Description:

Establishes the global warming and erosion reserve branch within the insurance division of the department of commerce and consumer affairs. Beginning June 1, 2019, requires authorized property insurers that cover losses resulting from an environmental event, including global warming, erosion, or both, to establish a Hawaii mandatory global warming and erosion reserve, to fund the payment of claims associated with global warming and erosion in the State's shoreline areas. Appropriates funds.

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