

JAN 24 2018

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# A BILL FOR AN ACT

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RELATING TO STATE SELF-INSURANCE AGAINST PROPERTY AND CASUALTY  
RISKS.

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

1       SECTION 1. The legislature finds that the State currently  
2 purchases third party insurance through its risk management and  
3 insurance administration to cover the State's property and  
4 casualty risks. The State's property and casualty insurance  
5 premium costs are currently \$19,000,000 per year.

6       The purpose of this Act is to save the State the costs of  
7 its annual insurance premiums for property and casualty  
8 insurance coverage by self-insuring the State's property and  
9 casualty risks.

10       SECTION 2. Chapter 41D, Hawaii Revised Statutes, is  
11 amended by adding a new section to be appropriately designated  
12 and to read as follows:

13       "§41D-       State self-insurance against property and  
14 casualty risks special fund. (a) There is established in the  
15 state treasury the state self-insurance against property and



1 casualty risks special fund to be administered by the  
2 comptroller, through the risk manager.

3 (b) Moneys in the special fund shall be used to provide  
4 the State with self-insurance coverage against property and  
5 casualty risks pursuant to section 41D-2(a)(1) and (2). The  
6 special fund shall pay claims to state agencies for losses to  
7 property of the State caused by fire or other casualty,  
8 including the cost to:

9 (1) Repair or replace buildings and other structures;

10 (2) Replace damaged contents; and

11 (3) Provide alternate structures while damaged structures  
12 are being repaired or replaced.

13 (c) Moneys in excess of the amounts necessary for meeting  
14 the immediate requirements of the special fund may be invested  
15 as provided in section 36-21. Interest earned by the special  
16 fund shall be credited to the special fund.

17 (d) In order to ensure that the special fund is operated  
18 on an actuarially sound basis, the governor shall authorize the  
19 annual transfer of \$19,000,000 in general funds to the special  
20 fund.



1        (e) The comptroller may establish deductibles for the  
2 state agencies for certain perils or classes of property or  
3 casualty risks and may:

4        (1) Assess the agencies for losses incurred in the amount  
5 of the deductible; or

6        (2) Reduce the payment from the special fund to cover the  
7 property or casualty loss by the amount of the  
8 deductible.

9        (f) For any year in which the balance in the special fund  
10 is insufficient to keep the special fund actuarially sound and  
11 pay the claims required under subsection (b), the comptroller  
12 shall request that the governor authorize an advance to the  
13 special fund of sufficient sums of money from other funds in the  
14 state treasury.

15        (g) The moneys advanced to the special fund as provided in  
16 subsection (f) shall be repaid from the special fund in annual  
17 installments, with interest. The amount of each annual  
18 installment shall be fixed by the comptroller so that the moneys  
19 advanced can be reasonably expected to be repaid in not more  
20 than ten years.



(h) In order to ensure that moneys advanced to the special fund are repaid as specified in subsection (g), the comptroller may require further assess the state agencies."

SECTION 3. Section 41D-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The comptroller, through the risk manager, shall:

(1) ~~[Have discretion to purchase casualty insurance for]~~  
Establish and administer self-insurance coverage  
against casualty risks of the State ~~[or state agencies]~~, including those employees of the State who, in the comptroller's discretion, may be at risk ~~[and shall be responsible for the acquisition of all casualty insurance]~~;

(2) ~~[Have discretion to purchase property insurance for]~~  
Establish and administer self-insurance coverage  
against all property risks of the State ~~[or state agencies and shall acquire all property insurance]~~;

(3) Direct and manage all risk management and insurance programs of the State, except for employee benefits insurance and workers' compensation insurance programs



1 or as otherwise provided in chapters 87A, 88, 383 to  
2 386A, 392, and 393;

- 3 (4) Consult with state agencies to determine what  
4 ~~[property, casualty, and other]~~ insurance policies,  
5 other than self-insurance coverage against property  
6 and casualty risks, are presently in force or are  
7 sought by the state agencies and to make  
8 determinations about whether to continue subscribing  
9 to insurance policies. In the event that the risk  
10 manager's determination is not satisfactory to the  
11 state agency, the state agency may have the risk  
12 manager's decision reviewed by the comptroller. In  
13 this case, the comptroller's decision shall be final;
- 14 (5) Consolidate and combine state insurance coverages, and  
15 purchase excess insurance when, in the comptroller's  
16 discretion, it is appropriate to do so;
- 17 (6) Acquire risk management, investigative, claims  
18 adjustment, actuarial, and other services, except  
19 attorney's services, as may be required for the sound  
20 administration of this chapter; provided that a broker  
21 submitting a proposal in response to a fixed fee



1 solicitation by the comptroller pursuant to this  
2 subsection and the broker's performance of the  
3 activities in accordance with the proposal shall not  
4 constitute a violation of sections 431:10-218,  
5 431:13-102, and 431:13-103;

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

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

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

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

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

20 SECTION 4. Section 41D-4, Hawaii Revised Statutes, is  
21 amended to read as follows:



1       "§41D-4 State risk management revolving fund. (a) The  
2 state risk management revolving fund is created and shall be  
3 funded in amounts reasonably necessary to:

4       (1) Carry out the responsibilities of the comptroller  
5 established in section 41D-2[7], but excluding section  
6 41D-2(a)(1) and (2);

7       ~~[(2) Pay claims to state agencies for losses to property of~~  
8 ~~the State caused by fire or other casualty, including~~  
9 ~~the cost to repair or replace buildings and other~~  
10 ~~structures, replace damaged contents, and to provide~~  
11 ~~alternate structures while damaged structures are~~  
12 ~~being repaired or replaced;~~

13       ~~(3)]~~ (2) Pay claims against the State under sections 662-  
14 11, 41D-3, and 41D-8; and

15       ~~[(4)]~~ (3) Pay for losses to the State incurred by the  
16 dishonesty, nonfeasance, or misfeasance of any officer  
17 or employee of the State or for any losses to the  
18 State through larceny, theft, embezzlement, forgery,  
19 misappropriation, wrongful abstraction, wilful  
20 misapplication, or any other fraudulent or dishonest



1 act committed by one or more of the employees of the  
2 State acting directly or in collusion with others.

3 (b) In addition to any appropriation the legislature shall  
4 make to the state risk management revolving fund, the  
5 comptroller may apportion to, and collect from, state agencies  
6 those amounts of money that, in the discretion of the  
7 comptroller, reflect benefits received by the agencies under  
8 this chapter. The comptroller may consider the relevant risk  
9 and loss experience of the agencies in making apportionments and  
10 assessments. Funds so collected shall be deposited into the  
11 state risk management revolving fund.

12 ~~[(c) The comptroller may establish deductibles for the~~  
13 ~~state agencies for certain perils or classes of property losses~~  
14 ~~and may:~~

- 15 ~~(1) Assess the agencies for losses incurred in the amount~~  
16 ~~of the deductible; or~~  
17 ~~(2) Reduce the payment from the state risk management~~  
18 ~~revolving fund to cover the casualty loss by the~~  
19 ~~amount of the deductible.~~





1       ~~(d)~~ (c) The comptroller may establish a formula for  
2    refunds to the state agencies based upon the agencies' risk and  
3    loss experience.

4       ~~[(e)]~~ (d) Money in the state risk management revolving  
5    fund shall be expended only for the purposes delineated in  
6    subsection (a) and only upon the authority of the comptroller,  
7    who is given discretion when to permit expenditures from the  
8    fund. Money in the state risk management revolving fund shall  
9    not be garnished, attached, or otherwise subjected to legal  
10   compulsion to pay actual or alleged obligations of the State,  
11   any state agency, or any state employee.

12       ~~[(f)]~~ (e) The comptroller shall prepare, for each fiscal  
13   year, a report of all claims arbitrated, compromised, or settled  
14   for \$10,000 or less paid from the state risk management  
15   revolving fund. The report shall be submitted to the  
16   legislature twenty days prior to the commencement of the regular  
17   session next succeeding the year for which the report is made.

18       ~~[(g)]~~ (f) Money received from the settlement of claims or  
19   losses of the State as delineated in subsection (a) shall be  
20   deemed to be trust moneys and may be deposited into the state  
21   risk management revolving fund or into a trust account with and



1 under the control of the affected agency at the discretion of  
2 the comptroller. These moneys and any interest earned thereon  
3 shall be used for the purpose identified in any such  
4 settlement."

5 SECTION 5. There is appropriated out of the general  
6 revenues of the State of Hawaii the sum of \$ or so much  
7 thereof as may be necessary for fiscal year 2018-2019 for the  
8 deposit into the state self-insurance against property and  
9 casualty risks special fund.

10 The sum appropriated shall be expended by the department of  
11 accounting and general services for the purposes of this Act.

12 SECTION 6. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect on July 1, 2018.

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INTRODUCED BY: \_\_\_\_\_



# S.B. NO. 3046

**Report Title:**

Self-Insurance; State Property and Casualty Risks

**Description:**

Establishes a special fund to provide the State with self-insurance against the State's property and casualty risks. Appropriates moneys.

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