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## A BILL FOR AN ACT

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. Property and casualty insurance provides risk  
5 mitigation to minimize the State's loss exposure. The  
6 legislature further finds that the State's property and casualty  
7 insurance premium costs are significant and subject to further  
8 premium increases.

9       The purpose of this Act is to save the State the costs of  
10 its annual insurance premiums for property and casualty  
11 insurance coverage by:

- 12       (1) Self-insuring the State's property and casualty risks;  
13       (2) Requiring the department of budget and finance, in  
14             collaboration with the department of accounting and  
15             general services, to perform a comprehensive actuarial  
16             study on the economic impact, operational



requirements, and risks involved with the conversion  
to a self-insured program established under this Act,  
and submit a report to the legislature; and

(3) Making an appropriation to the conduct the study.

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

"§41D- State self-insurance against property and  
casualty risks special fund. (a) There is established in the  
state treasury the state self-insurance against property and  
casualty risks special fund to be administered by the  
comptroller, through the risk manager.

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

(1) Repair or replace buildings and other structures;

(2) Replace damaged contents; and



1       (3) Provide alternate structures while damaged structures  
2           are being repaired or replaced.

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

7       (d) To ensure that the special fund is operated on an  
8 actuarially sound basis, the governor shall authorize the annual  
9 transfer of \$                   in general funds to the special fund.

10       (e) The comptroller may establish deductibles for the  
11 state agencies for certain perils or classes of property or  
12 casualty risks and may:

13       (1) Assess the agencies for losses incurred in the amount  
14           of the deductible; or

15       (2) Reduce the payment from the special fund to cover the  
16           property or casualty loss by the amount of the  
17           deductible.

18       (f) For any year in which the balance in the special fund  
19 is insufficient to keep the special fund actuarially sound and  
20 pay the claims required under subsection (b), the comptroller  
21 shall request that the governor authorize an advance to the



1 special fund of sufficient sums of money from other funds in the  
2 state treasury to the extent permitted by law.

3 (g) The moneys advanced to the special fund pursuant to  
4 subsection (f) shall be repaid from the special fund in annual  
5 installments, with interest. The amount of each annual  
6 installment shall be fixed by the comptroller so that the moneys  
7 advanced can be reasonably expected to be repaid in not more  
8 than ten years.

9 (h) To ensure that moneys advanced to the special fund are  
10 repaid as specified in subsection (g), the comptroller may  
11 further assess the state agencies."

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

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

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



- 1           (2)   ~~[Have discretion to purchase property insurance for]~~  
2               Establish and administer self-insurance coverage  
3               against all property risks of the State ~~[or state~~  
4               ~~agencies and shall acquire all property insurance]~~ ;  
5           (3)   Direct and manage all risk management and insurance  
6               programs of the State, except for employee benefits  
7               insurance and workers' compensation insurance programs  
8               or as otherwise provided in chapters 87A, 88, 383 to  
9               386A, 392, and 393;  
10          (4)   Consult with state agencies to determine what  
11               ~~[property, casualty, and other]~~ insurance policies,  
12               other than self-insurance coverage against property  
13               and casualty risks, are presently in force or are  
14               sought by the state agencies and to make  
15               determinations about whether to continue subscribing  
16               to insurance policies. In the event that the risk  
17               manager's determination is not satisfactory to the  
18               state agency, the state agency may have the risk  
19               manager's decision reviewed by the comptroller. In  
20               this case, the comptroller's decision shall be final;



- 1 (5) Consolidate and combine state insurance coverages, and  
2 purchase excess insurance when, in the comptroller's  
3 discretion, it is appropriate to do so;
- 4 (6) Acquire risk management, investigative, claims  
5 adjustment, actuarial, and other services, except  
6 attorney's services, as may be required for the sound  
7 administration of this chapter; provided that a broker  
8 submitting a proposal in response to a fixed fee  
9 solicitation by the comptroller pursuant to this  
10 subsection and the broker's performance of the  
11 activities in accordance with the proposal shall not  
12 constitute a violation of sections 431:10-218,  
13 431:13-102, and 431:13-103;
- 14 (7) Gather from all state agencies and maintain data  
15 regarding the State's risks and casualty, property,  
16 and fidelity losses;
- 17 (8) In conjunction with the attorney general and as  
18 otherwise provided by this chapter, compromise or  
19 settle claims cognizable under chapter 662;
- 20 (9) Provide technical services in risk management and  
21 insurance to state agencies;



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

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

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

9 **"§41D-4 State risk management revolving fund.** (a) The  
10 state risk management revolving fund is created and shall be  
11 funded in amounts reasonably necessary to:

12 (1) Carry out the responsibilities of the comptroller  
13 established in section 41D-2[7], but excluding section  
14 41D-2(a)(1) and (2);

15 [~~(2)~~] ~~Pay claims to state agencies for losses to property of~~  
16 ~~the State caused by fire or other casualty, including~~  
17 ~~the cost to repair or replace buildings and other~~  
18 ~~structures, replace damaged contents, and to provide~~  
19 ~~alternate structures while damaged structures are~~  
20 ~~being repaired or replaced;~~



1       ~~(3)~~ (2) Pay claims against the State under sections 662-  
2               11, 41D-3, and 41D-8; and

3       ~~(4)~~ (3) Pay for losses to the State incurred by the  
4               dishonesty, nonfeasance, or misfeasance of any officer  
5               or employee of the State or for any losses to the  
6               State through larceny, theft, embezzlement, forgery,  
7               misappropriation, wrongful abstraction, wilful  
8               misapplication, or any other fraudulent or dishonest  
9               act committed by one or more of the employees of the  
10              State acting directly or in collusion with others.

11       (b) In addition to any appropriation the legislature shall  
12       make to the state risk management revolving fund, the  
13       comptroller may apportion to, and collect from, state agencies  
14       those amounts of money that, in the discretion of the  
15       comptroller, reflect benefits received by the agencies under  
16       this chapter. The comptroller may consider the relevant risk  
17       and loss experience of the agencies in making apportionments and  
18       assessments. Funds so collected shall be deposited into the  
19       state risk management revolving fund.





1       ~~[(c)] The comptroller may establish deductibles for the~~  
2       ~~state agencies for certain perils or classes of property losses~~  
3       ~~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 state risk management~~  
7       ~~revolving fund to cover the casualty loss by the~~  
8       ~~amount of the deductible.~~

9       ~~(d)]~~ (c) The comptroller may establish a formula for  
10       refunds to the state agencies based upon the agencies' risk and  
11       loss experience.

12       ~~[(e)]~~ (d) Money in the state risk management revolving  
13       fund shall be expended only for the purposes delineated in  
14       subsection (a) and only upon the authority of the comptroller,  
15       who is given discretion when to permit expenditures from the  
16       fund. Money in the state risk management revolving fund shall  
17       not be garnished, attached, or otherwise subjected to legal  
18       compulsion to pay actual or alleged obligations of the State,  
19       any state agency, or any state employee.

20       ~~[(f)]~~ (e) The comptroller shall prepare, for each fiscal  
21       year, a report of all claims arbitrated, compromised, or settled



1 and paid from the state risk management revolving fund as  
2 provided in section 41D-3. The report shall be submitted to the  
3 legislature twenty days prior to the commencement of the regular  
4 session next succeeding the year for which the report is made.

5 ~~[(g)]~~ (f) Money received from the settlement of claims or  
6 losses of the State as delineated in subsection (a) shall be  
7 deemed to be trust moneys and may be deposited into the state  
8 risk management revolving fund or into a trust account with and  
9 under the control of the affected agency at the discretion of  
10 the comptroller. These moneys and any interest earned thereon  
11 shall be used for the purpose identified in any such  
12 settlement."

13 SECTION 5. There is appropriated out of the general  
14 revenues of the State the sum of \$ or so much thereof  
15 as may be necessary for fiscal year 2022-2023 to be deposited  
16 into the state self-insurance against property and casualty  
17 risks special fund.

18 SECTION 6. There is appropriated out of the state self-  
19 insurance against property and casualty risks special fund the  
20 sum of \$ or so much thereof as may be necessary for  
21 fiscal year 2022-2023 for purposes of this Act.



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

3 SECTION 7. The department of budget and finance, in  
4 collaboration with the department of accounting and general  
5 services and any other applicable department or agency, shall  
6 perform an actuarial study on the potential risks, costs and  
7 economic impact, and viability of the State establishing and  
8 administering self-insurance coverage as established under this  
9 Act. The department of budget and finance shall submit the  
10 actuarial study and its findings and recommendations, including  
11 any proposed legislation, to the legislature no later than  
12 twenty days prior to the convening of the regular session of  
13 2023.

14 SECTION 8. There is appropriated out of the general  
15 revenues of the State of Hawaii the sum of \$ or so  
16 much thereof as may be necessary for fiscal year 2022-2023 for  
17 the purpose of conducting the actuarial study required by  
18 section 7 of this Act.

19 The sum appropriated shall be expended by the department of  
20 budget and finance for the purposes of this Act.



1       SECTION 9. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3       SECTION 10. This Act shall take effect upon its approval;  
4 provided that sections 2 through 6 of this Act shall take effect  
5 on January 1, 2030; provided further that section 8 of this Act  
6 shall take effect July 1, 2022.



**Report Title:**

Self-Insurance; State Property and Casualty Risks; Special Fund;  
Department of Accounting and General Services; Actuarial Study;  
Appropriation

**Description:**

Establishes the State self-insurance against property and casualty risks special fund to be administered by the comptroller to provide the State with self-insurance against the State's property and casualty risks, to be implemented January 1, 2030. Requires the Department of Budget and Finance to conduct an actuarial study and report to the Legislature. Appropriates funds. (SD1)

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