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# A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1           SECTION 1. The legislature finds that the State faces  
2 unique challenges in maintaining a stable and competitive  
3 property and casualty insurance market due to geographic  
4 isolation, concentration of risk, and exposure to natural  
5 catastrophes. These conditions periodically result in reduced  
6 underwriting capacity, increased premiums, and the withdrawal or  
7 threatened withdrawal of insurers from the State.

8           The legislature further finds that catastrophic property  
9 and casualty risks, including losses arising from hurricanes,  
10 earthquakes, floods, wildfires, and other low-frequency, high-  
11 severity events, are increasingly difficult to insure through  
12 traditional admitted markets alone, particularly for commercial,  
13 nonprofit, and institutional policyholders.

14           The legislature recognizes that captive insurance companies  
15 licensed under chapter 431, Hawaii Revised Statutes, are  
16 authorized to transact property and casualty insurance subject  
17 to regulation by the insurance commissioner. The legislature



1 notes that, although existing law allows captive insurers to  
2 transact property and casualty insurance, uncertainty regarding  
3 the scope of permissible catastrophic underwriting has limited  
4 the ability of captive insurers to participate fully in  
5 addressing market instability.

6 The legislature also finds that other states facing this  
7 uncertainty, including New Jersey, have expressly authorized  
8 captive insurers to underwrite and reinsure difficult-to-place  
9 property and casualty risks, including catastrophic exposures,  
10 as a means of stabilizing insurance markets and retaining  
11 capacity. Additionally, following the adoption and  
12 implementation of New Jersey's captive insurance law, insurers  
13 that had previously indicated an intent to reduce or exit the  
14 property and casualty market in that state reconsidered those  
15 decisions due, in part, to increased flexibility in risk  
16 financing and the availability of captive insurance mechanisms.

17 The legislature therefore declares that it is in the public  
18 interest to clarify and expressly authorize captive insurers  
19 licensed in the State to underwrite, reinsure, and participate  
20 in the financing of catastrophic property and casualty risks,  
21 subject to appropriate capital, solvency, and regulatory



1 safeguards. This Act is intended to strengthen market  
2 stability, encourage retention of insurance capacity in the  
3 State, and provide regulated alternatives to address  
4 catastrophic risk without diminishing consumer protections.

5 Accordingly, the purpose of this Act is to:

6 (1) Authorize captive insurance companies to underwrite,  
7 reinsure, or otherwise assume catastrophic property  
8 and casualty risks, subject to the approval and  
9 continuing supervision of the insurance commissioner;

10 (2) Allow the commissioner to set certain minimum  
11 standards for captive insurance companies underwriting  
12 catastrophic property and casualty risks; and

13 (3) Require captive insurance companies underwriting  
14 catastrophic property and casualty risk to provide  
15 certain information to the commissioner.

16 SECTION 2. Chapter 431, Hawaii Revised Statutes, is  
17 amended by adding a new part to article 19 to be appropriately  
18 designated and to read as follows:

19 **"PART . CATASTROPHIC PROPERTY AND CASUALTY RISKS**

20 **§431:19-A Catastrophic property and casualty risk;**

21 **defined.** For the purposes of this part, "catastrophic property



1 and casualty risk" means property or casualty exposures  
2 involving the potential for severe, extraordinary, or aggregate  
3 loss that exceeds ordinary underwriting risk and that may be  
4 unavailable, limited, or prohibitively priced in the standard  
5 commercial insurance market, including risks from:

- 6 (1) Natural disasters, including hurricanes, earthquakes,  
7 tsunamis, floods, wildfires, volcanic activity,  
8 landslides, and severe weather events;
- 9 (2) Business interruption, contingent business  
10 interruption, or extra expense losses from an event  
11 described in paragraph (1);
- 12 (3) Excess, umbrella, or layered liability exposures  
13 associated with catastrophic events;
- 14 (4) Infrastructure, energy, transportation, health care,  
15 housing, or other essential or high-value facilities  
16 exposed to catastrophic loss;
- 17 (5) Aggregate losses arising from a single catastrophic  
18 occurrence or series of related occurrences; and
- 19 (6) Reinsurance or retrocessional coverage directly  
20 related to risks described in paragraphs (1) through  
21 (5).



1           **§431:19-B Catastrophic property and casualty risks;**  
2 **authorization.** (a) A captive insurance company formed under  
3 this article may underwrite, reinsure, or otherwise assume  
4 catastrophic property and casualty risks, subject to the  
5 approval and continuing supervision of the commissioner.

6           (b) The authorization granted under this section shall  
7 apply only to commercial, industrial, institutional,  
8 governmental, or nonprofit risks and shall not apply to personal  
9 lines insurance unless expressly approved by the commissioner.

10           (c) A captive insurance company authorized under this  
11 section may participate in reinsurance agreements, risk pools,  
12 layered insurance programs, or other risk-sharing arrangements  
13 related to catastrophic property and casualty risks, subject to  
14 approval by the commissioner.

15           (d) Authorization under this section may be conditioned on  
16 requirements that exceed minimum standards otherwise applicable  
17 under this article, including capital, surplus, reserves,  
18 risk-based capital, or other solvency safeguards commensurate  
19 with the nature and severity of the risks assumed.

20           **§431:19-C Catastrophic risks; capital, surplus, and**  
21 **solvency standards.** (a) In addition to any other requirements



1 under this article, a captive insurance company underwriting  
2 catastrophic property and casualty risks shall maintain capital  
3 and surplus in amounts determined by the commissioner to be  
4 adequate to ensure solvency and the protection of policyholders.

5 (b) In determining appropriate capital and surplus levels,  
6 the commissioner may consider probable maximum loss estimates,  
7 catastrophe modeling, stress testing, reinsurance arrangements,  
8 concentration of risk, and other relevant financial factors.

9 (c) The commissioner may require independent actuarial  
10 opinions, catastrophe modeling analyses, or other financial  
11 certifications as a condition of approval or continued  
12 authorization under section 431:19-B.

13 **§431:19-D Premium tax.** (a) Premiums written by a captive  
14 insurance company authorized pursuant to section 431:19-B shall  
15 be subject to the premium tax applicable to captive insurance  
16 companies under this article.

17 (b) Premiums described in subsection (a) shall not be  
18 subject to any additional tax, surcharge, or assessment solely  
19 by reason of covering catastrophic property and casualty risks.

20 **§431:19-E Reporting and disclosure requirements.** (a) In  
21 addition to any reporting requirements otherwise applicable



1 under this article, a captive insurance company authorized to  
2 underwrite catastrophic property and casualty risks shall  
3 provide to the commissioner information regarding exposure  
4 levels, aggregate catastrophic risk, reinsurance arrangements,  
5 and financial condition, as the commissioner determines is  
6 necessary to ensure solvency and insurance market stability.

7 (b) The commissioner shall prescribe the form, timing, and  
8 content of the reports required under this section.

9 **§431:19-F Rules.** The commissioner may adopt rules  
10 pursuant to chapter 91 necessary for the purposes of this part."

11 SECTION 3. In codifying the new sections added by  
12 section 2 of this Act, the revisor of statutes shall substitute  
13 appropriate section numbers for the letters used in designating  
14 the new sections in this Act.

15 SECTION 4. This Act shall take effect on July 1, 2050.



**Report Title:**

Insurance Commissioner; Captive Insurance Companies;  
Catastrophic Property and Casualty Risks; Authorization; Reports

**Description:**

Authorizes captive insurance companies to underwrite, reinsure, or otherwise assume catastrophic property and casualty risks, subject to the approval and continuing supervision of the Insurance Commissioner. Allows the Commissioner to set certain minimum standards for captive insurance companies underwriting catastrophic property and casualty risk. Requires captive insurance companies underwriting catastrophic property and casualty risk to provide certain information in reports to the Commissioner. Effective 7/1/2050. (SD1)

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