

ACT 122

H.B. NO. 816

A Bill for an Act Relating to Claims by the State.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 41D-4, Hawaii Revised Statutes, is amended to read as follows:

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

- (1) Carry out the responsibilities of the comptroller established in section 41D-2;

- (2) Pay claims to state agencies for losses to property of the State caused by fire or other casualty, including the cost to repair or replace buildings and other structures, replace damaged contents, and to provide alternate structures while damaged structures are being repaired or replaced;
- (3) Pay claims against the State under sections 662-11, 41D-3, and 41D-8; and
- (4) Pay for losses to the State incurred by the dishonesty, nonfeasance, or misfeasance of any officer or employee of the State or for any losses to the State through larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, wilful misapplication, or any other fraudulent or dishonest act committed by one or more of the employees of the State acting directly or in collusion with others.

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

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

- (1) Assess the agencies for losses incurred in the amount of the deductible[,]; or
- (2) Reduce the payment from the state risk management revolving fund to cover the casualty loss by the amount of the deductible.

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

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

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

(g) Money received from the settlement of claims or losses of the State as delineated in subsection (a) may be deposited into the state risk management revolving fund."

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

SECTION 3. This Act shall take effect upon its approval.

(Approved May 22, 1991.)