

ACT 32

H.B. NO. 4-S

A Bill for an Act Relating to Insurance.

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

SECTION 1. The legislature finds that the destruction caused by Hurricane Iniki in 1992 resulted in an estimated \$1,600,000,000 in insured property losses to Kauai, parts of Oahu, and other areas of the State. Prior to the hurricane, homeowner's insurance covered losses from fire, windstorm, hurricane, and other causes. Immediately after the hurricane, homeowners insurance, which continued to include hurricane coverage, became difficult to obtain. Since that time, more than one-third of Hawaii's homeowners have lost their property insurance, and consumers have been repeatedly buffeted by announcements of companies pulling out of the Hawaii market completely. Insurance companies typically point to the high risk potential and the lack of reinsurance coverage as the primary factors behind the shrinkage in market participation in the State.

In 1993, by Act 339, the legislature created the Hawaii hurricane relief fund in an effort to encourage companies to resume writing homeowners' insurance policies in Hawaii. As a result of the law, insurance companies now issue homeowners' insurance policies that do not contain coverage for the hurricane risk. The Hawaii hurricane relief fund issues policies covering the hurricane risk. The law, however, makes the insurance companies liable for no more than the first \$500,000,000 in losses in the event of another hurricane. Hurricane losses in excess of the liability borne by insurance companies will be assumed by the Hawaii hurricane relief fund. Despite the creation of the fund, however, homeowners are currently forced to pay premiums at levels three to four times the rate paid prior to Hurricane Iniki.

Currently, the amount paid in premiums by homeowners for the first \$500,000,000 of hurricane coverage from private insurance carriers is difficult to ascertain. In contrast, the premiums paid by homeowners for the coverage provided by the Hawaii hurricane relief fund, plus the special mortgage recording fee, plus the 3.75 per cent annual assessment on insurance companies' property and casualty premiums totals approximately \$80,000,000 a year. Because the risk taken on by the Hawaii hurricane relief fund is less than the risk taken on by private insurance carriers in providing coverage for the first \$500,000,000, it is not unreasonable to assume that private carriers are receiving considerably more in premiums than the \$80,000,000 being received by the Hawaii hurricane relief fund.

Assuming \$80,000,000 in premiums each year, at a rate of five per cent interest, it is estimated that it will require seven years for the Hawaii hurricane relief fund to accumulate \$500,000,000. In order to immediately stabilize and, subsequently, provide for a reduction in insurance rates, the State must find a source of funding to satisfy the \$500,000,000 share of liability taken on by the Hawaii hurricane relief fund. The legislature understands that the Hawaii hurricane relief fund currently charges \$1.75 per \$1,000 as its rate for hurricane coverage. Once a source of funding is obtained to address the Hawaii hurricane relief fund's share of the liability, the legislature believes that the current rate per thousand dollars will be stabilized. The rate will be reduced after \$500,000,000 is accumulated by way of premiums from policies of hurricane property insurance, the special mortgage

recording fee, the 3.75 per cent annual assessment on insurance companies' property and casualty premiums, and any interest thereon. The stability of premiums, however, will be contingent on the valuation of each individual property.

The legislature finds that there are several possible sources of funding to address the \$500,000,000 in liability taken on by the Hawaii hurricane relief fund:

- (1) State revenue bonds;
- (2) Loan commitments from the federal government or any agency of the federal government, including federal disaster relief agencies;
- (3) Loan commitments such as lines-of-credit or standby bank facilities from financial institutions or other private sources; and
- (4) Any combination of the above.

Commitments from any of the above sources shall be reduced by the amount of accumulated premiums from policies of hurricane property insurance, the special mortgage recording fee, the 3.75 per cent annual assessment of insurance companies' property and casualty premiums, and any interest earned thereon.

Loan commitments from the federal government or any of its agencies will be drawn only in the event of a hurricane. Funds may not be requested unless projected losses are in excess of the policyholder deductibles, plus the liability borne by insurance companies. If moneys are drawn in the event of a hurricane, they will be repaid in accordance with any loan commitment agreements.

The maintenance of the accumulated funds, deposited with financial institutions in this State, will result in more funds in the local economy to stimulate investment and economic growth.

The purpose of this Act is to establish a means to stabilize and ultimately reduce homeowners' insurance costs by authorizing the director of finance to secure necessary funds to satisfy the share of liability currently reinsured by the Hawaii hurricane relief fund.

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

"§431P- Accumulation of \$500,000,000 in funds and commitments.

(a) Upon written confirmation from the insurance commissioner that the director of finance has secured \$500,000,000, in the aggregate, in the form of:

- (1) Commitments from either the federal government or an agency of the federal government or a financial institution;
- (2) Revenue bonds; or
- (3) A combination of the commitments or bonds;

the Hawaii hurricane relief fund shall:

- (1) Control or freeze rates; and
- (2) Begin accumulating premiums from policies of hurricane property insurance, the special mortgage recording fee, the 3.75 per cent annual assessment on insurance companies' property and casualty premiums, and the interest thereon, net of any required reinsurance payments, operating expenses and funds necessary for the development of a comprehensive loss reduction plan.

(b) When the balance of the net moneys accumulated totals \$500,000,000, the Hawaii hurricane relief fund shall notify the insurance commissioner of that fact. The insurance commissioner, in turn, shall order, following the receipt of the notice, a reduction in the rates for policies of hurricane property insurance.

(c) In the event of a loss from a covered event, the net moneys accumulated shall be used to reduce the commitments and bonds described under subsection (a). The commitments, plus bonds, plus the net moneys accumulated shall be used to settle claims in the event of a covered event in an amount not exceeding

\$500,000,000 in the aggregate, per covered event. The net accumulated moneys, commitments, and bonds shall be used only in the event losses from a covered event exceed the assessment pursuant to section 431P-5(b)(8)(B).

(d) In the event the balance of the net accumulated moneys falls below \$400,000,000, the Hawaii hurricane relief fund shall establish rates, subject to the approval of the insurance commissioner, necessary to replenish the account balance to \$500,000,000. The director of finance shall arrange for additional commitments whenever the account balance falls below \$400,000,000.

(e) The Hawaii hurricane relief fund shall be exempt from paying all taxes and fees levied by the State on other insurers.”

SECTION 3. Section 10, Act 339, Session Laws of Hawaii 1993, is amended by amending subsection (b) to read as follows:

“(b) The department of budget and finance, with the approval of the governor, is authorized to issue in the name of the department revenue bonds at such times and in such amount or amounts not to exceed [~~\$200,000,000~~] \$500,000,000 in aggregate principal as may be requested and deemed necessary by the commissioner for the purposes of the Hawaii hurricane relief fund. All such bonds shall be issued pursuant to part III of chapter 39, except as provided in this section.”

SECTION 4. Statutory material to be repealed is bracketed.¹ New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 1995.

(Approved August 1, 1995.)

Note

1. Edited pursuant to HRS §23G-16.5.