

A Bill for an Act Relating to Indemnification of the United States.

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

SECTION 1. Chapter 29, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

“§29- Indemnification of federal agencies. (a) To receive federal aid, assistance, support, benefits, services, and interests in or rights to use federal property, a state agency may agree in writing to an indemnity provision by which the State agrees to indemnify, defend, and hold harmless a United States agency, its officers, agents, and employees when all of the following conditions are satisfied:

- (1) Federal law expressly or by clear implication requires the indemnity provision;
- (2) The governor, following a favorable review by the department of the attorney general, approves the State’s proposed indemnification; and
- (3) The comptroller, pursuant to chapter 41D, has obtained an insurance policy or policies in an amount sufficient to cover the liability of the State that reasonably may be anticipated to arise under the indemnity provision or has determined that it is not in the best interest of the State to obtain insurance.

(b) An indemnity provision not in strict compliance with this section shall not give rise to a claim against the State under chapter 661 or otherwise waive the State’s sovereign immunity.

(c) This section shall not affect sections 201E-161(b)(2), 212-7, or 523A-64.”

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

“§41D- Insurance for indemnification. The comptroller may obtain sufficient loss insurance to cover the liability of the State that may arise from indemnity provisions agreed to pursuant to section 29- .”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved June 16, 1997.)

Note

1. Edited pursuant to HRS §23G-16.5.