

ACT 132

S.B NO. 3043

A Bill for an Act Relating to the State Risk Management and Insurance Administration.

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

SECTION 1. The purpose of this Act is to grant the state comptroller sufficient authority to establish a captive insurance company, which will be owned by the State, to insure the general liabilities of state agencies pursuant to chapter 41D, Hawaii Revised Statutes.

The State currently self-insures a substantial portion of its assets, and current insurance policies already maintain deductibles between \$50,000 and \$3,000,000 per occurrence. In return, the State pays nearly \$5,000,000 in premiums per year. The State will save money under the proposed scheme since the state-owned captive insurance company will allow the State direct access to the discounted premium rates available in the reinsurance market.

SECTION 2. Section 41D-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Captive insurance company” shall have the same meaning as captive insurance company in section 431:19-101.”

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

- “(a) The comptroller, through the risk manager, shall:
- (1) Have discretion to purchase casualty insurance for the State or state agencies, including those employees of the State who, in the comptroller’s discretion, may be at risk and shall be responsible for the acquisition of all casualty insurance;
 - (2) Have discretion to purchase property insurance for the State or state agencies and shall acquire all property insurance;
 - (3) Direct and manage all risk management and insurance programs of the State, except for employee benefits insurance and workers’ compensation insurance programs or as otherwise provided in chapters 87, 88, 383 to 386A, 392, and 393;
 - (4) Consult with state agencies to determine what property, casualty, and other insurance policies are presently in force or are sought by the state agencies and to make determinations about whether to continue subscribing to insurance policies. In the event that the risk manager’s

- determination is not satisfactory to the state agency, the state agency may have the risk manager's decision reviewed by the comptroller. In this case, the comptroller's decision shall be final;
- (5) Consolidate and combine state insurance coverages, and purchase excess insurance when, in the comptroller's discretion, it is appropriate to do so;
 - (6) Acquire risk management, investigative, claims adjustment, actuarial, and other services, except attorney's services, as may be required for the sound administration of this chapter;
 - (7) Gather from all state agencies and maintain data regarding the State's risks and casualty, property, and fidelity losses;
 - (8) In conjunction with the attorney general and as otherwise provided by this chapter, compromise or settle claims cognizable under chapter 662;
 - (9) Provide technical services in risk management and insurance to state agencies; [and]
 - (10) Be authorized to establish a captive insurance company pursuant to article 19 of chapter 431 to effectuate the purposes of this chapter; and
- [(10)] (11) Do all other things appropriate to the development of sound risk management practices and policies for the State.'''

SECTION 4. Section 41D-8.5, Hawaii Revised Statutes, is amended to read as follows:

“[[§41D-8.5]] **Insurance for indemnification.** The comptroller may [obtain];

- (1) Obtain sufficient loss insurance to cover the liability of the State that may arise from indemnity provisions agreed to pursuant to section 29-15.5[.]; and
- (2) Obtain appropriate and sufficient reinsurance to cover the liability of a captive insurance company established pursuant to section 41D-2.’’

SECTION 5. The insurance division shall prepare a study of the feasibility and cost effectiveness of providing insurance coverage for damage to real property suffered by the State as a result of fire, flood, or hurricane, and all other insurance coverage that the insurance commissioner deems appropriate and within the scope of chapter 41D, Hawaii Revised Statutes, through a captive insurance facility established pursuant to chapter 431, Hawaii Revised Statutes. The insurance commissioner shall submit the insurance commissioner's findings and recommendations, including any proposed legislation, to the legislature no later than twenty days before the convening of the regular session of 2001.

SECTION 6. There is appropriated out of the captive insurance administrative fund the sum of \$100,000, or so much thereof as may be necessary, for fiscal year 1999-2000¹ to carry out the purposes of this Act. The sum appropriated shall be in addition to the moneys transferred to the insurance regulation fund pursuant to section 431:19-101.8, Hawaii Revised Statutes. The insurance commissioner shall transfer the appropriation authorized by this Act to the insurance regulation fund. The sum appropriated shall be expended by the department of commerce and consumer affairs.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

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SECTION 8. This Act shall take effect upon its approval; provided that section 6 shall take effect on July 1, 2000.

(Approved May 30, 2000.)

Note

1. So in original.