
A BILL FOR AN ACT

RELATING TO COUNTIES.

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

1 SECTION 1. Chapter 41D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§41D- Indemnification of county agencies. (a) To
5 receive county aid, assistance, support, benefits, services, and
6 interests in or rights to use county property, a state agency
7 may agree in writing to an indemnity provision by which the
8 State agrees to indemnify, defend, and hold harmless a county
9 agency, its officers, agents, and employees when:

10 (1) A county ordinance, rules, or regulations expressly or
11 by clear implication require the indemnity provision;

12 (2) The governor approves the State's proposed
13 indemnification;

14 (3) The comptroller, pursuant to section 41D-8.5, has
15 obtained an insurance policy or policies in an amount
16 sufficient to cover the liability of the State that
17 reasonably may be anticipated to arise under the
18 indemnity provision; and



1 (4) The State's liability under the indemnity provision
2 will be expressly limited to the amount of, and will
3 be defrayed solely by, such insurance.

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

8 SECTION 2. Chapter 663, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§663- County agency; limited liability. Any county
12 agency, its officers, agents, and employees providing aid,
13 assistance, support, benefits, services, and interests in or
14 rights to use county property to a state agency shall not be
15 liable for any civil damages resulting from the acts or
16 omissions of the agency's officers, agents, or employees
17 occurring during the course of providing aid, assistance,
18 support, benefits, services, and interests in or rights to use
19 county property to the state agency, except for damages that may
20 result from the gross negligence, or wanton acts or omissions,
21 of the agency's officers, agents, or employees."

1 SECTION 3. Section 41D-8.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§~~41D-8.5 Insurance for indemnification. The comptroller
4 may:

5 (1) Obtain sufficient loss insurance to cover the
6 liability of the State that may arise from indemnity
7 provisions agreed to pursuant to section 29-15.5;
8 [and]

9 (2) Obtain sufficient loss insurance to indemnify, defend,
10 and hold harmless a county providing assistance,
11 services, rights, or permission to use county property
12 to a state agency under an indemnity agreement
13 provision pursuant to section 41D- ; and

14 [~~+~~2] (3) Obtain appropriate and sufficient reinsurance to
15 cover the liability of a captive insurance company
16 established pursuant to section 41D-2."

17 SECTION 4. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect upon its approval.

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Report Title:

Counties; Indemnification

Description:

Provides that a state agency may indemnify a county agency to receive county aid or services or to use county property. Limits liability of county agency, its officers, and employees when providing aid to state agency. Authorizes the comptroller to obtain loss insurance in order to indemnify county.

