
A BILL FOR AN ACT

RELATING TO THE HAWAII HURRICANE RELIEF FUND.

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

1 SECTION 1. The purpose of this Act is to address the
2 Hawaii hurricane relief fund.

3 More specifically, this Act:

4 (1) Provides for the interest earned on the balance of the
5 hurricane reserve trust fund to be retained in the
6 hurricane reserve trust fund; and

7 (2) Requires the board of directors of the Hawaii
8 hurricane relief fund to conduct a study to determine
9 whether the use of parametric disaster insurance
10 policies for the State is feasible, practical,
11 affordable, and in the public interest.

12 Prior to this Act, the interest earned on the balance of
13 the hurricane reserve trust fund was transferred to the general
14 fund. The transfer was implemented in 2002 to address the state
15 budgetary shortfall caused by the "9/11" terrorist attack on the
16 United States. The transfer to the general fund proved even



1 more useful to mitigate the revenue shortfalls during the years
2 of the Great Recession.

3 Now that the economy of Hawaii has improved and general
4 fund revenues from tax sources have and are projected to
5 increase at fairly healthy annual rates, the legislature finds
6 that the general fund no longer needs the interest transferred
7 from the hurricane reserve trust fund.

8 The hurricane reserve trust fund serves as a de facto
9 budget reserve for the State, although that was not its original
10 purpose. The legislature finds that the fund should continue to
11 serve in that capacity, augmented by the compounding of all or
12 some of the annual interest earned on the principal.

13 The legislature further finds that hurricanes are constant
14 seasonal threats to the Hawaiian Islands. A record of fifteen
15 tropical cyclones entered the Central Pacific during the June 1
16 to November 30, 2015, hurricane season. Fortunately, none of
17 them directly hit the main Hawaiian Islands.

18 The legislature finds that Hawaii is highly exposed to
19 natural disasters, yet there is a gap between the State's
20 exposure to disasters and its investment in post-disaster
21 financing. Currently, Hawaii relies on federal funding from the



1 Federal Emergency Management Agency and the National Flood
2 Insurance Program to support disaster recovery. Limited federal
3 disaster assistance creates a liquidity gap that deepens the
4 economic disruption for Hawaii's economy.

5 The legislature further finds that total losses from a
6 storm making landfall near Waikiki with the same strength as
7 Hurricane Iniki could cost twenty to forty billion dollars in
8 direct economic losses, which represents almost fifty per cent
9 of the state gross domestic product and over three years of
10 total government spending. If a catastrophic event occurs, the
11 federal government does not have the authority to go beyond
12 providing financial assistance to rebuild public facilities,
13 small temporary housing allowances to families left homeless,
14 and Small Business Administration loans to rebuild homes and
15 businesses. Although some property losses will be covered by
16 personal insurance, the vast majority of losses will fall on the
17 State and counties, and thus, the taxpayers. The State is not
18 prepared to absorb tens of billions of dollars in damages and
19 lost tax revenue. However, a parametric insurance transfer
20 could move residual risk off the State's budget and onto the
21 private sector.



1 Parametric, or index-based, insurance solutions settle
2 claims on the characteristics of a disaster, as opposed to the
3 loss sustained from the disaster. Unlike traditional insurance,
4 parametric solutions do not require lengthy loss adjustment
5 processes and they enable rapid disbursements of payouts to
6 maximize liquidity and allow for flexibility in the use of the
7 proceeds. Payouts can occur quickly, in as few as ten to
8 twenty-one days. The trigger for a parametric insurance cover
9 in Hawaii for a natural disaster could be based on the maximum
10 wind speed of the hurricane as it passes through a specific
11 covered area such as the Ala Wai watershed. An example of a
12 specific trigger would be that any hurricane with one-minute
13 maximum winds of ninety-six miles per hour or higher as it
14 passes through a designated area would result in a payout.

15 For this purpose, the legislature finds that the board of
16 directors of the Hawaii hurricane relief fund should conduct a
17 study to determine whether the use of parametric disaster
18 insurance policies for the State is feasible, practical,
19 affordable, and in the public interest.

20 SECTION 2. Section 431P-16, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§431P-16 Establishment of trust funds.** (a) The fund
2 shall establish outside the state treasury a hurricane reserve
3 trust fund and any accounts thereunder and any other trust fund
4 or account necessary to carry out the purposes of this chapter.
5 Moneys deposited in the hurricane reserve trust fund and any
6 accounts thereunder or any other trust fund or account shall be
7 held by the fund, as trustee, in a depository as defined in
8 section 38-1 or according to a similar arrangement at the
9 discretion of the board, including, but not limited to, trust or
10 custodial accounts created for the benefit of the fund's secured
11 parties under contractual claims financing arrangements. These
12 moneys may be invested and reinvested in accordance with the
13 plan of operation. Disbursements from the trust funds shall not
14 be subject to chapter 103D and shall be made in accordance with
15 procedures adopted by the board.

16 (b) The hurricane reserve trust fund shall receive
17 deposits of the special mortgage recording fee established by
18 this chapter. Except as determined by board order, the special
19 mortgage recording fee shall be imposed on each mortgage and
20 each amendment to a mortgage which, in each case, increases the
21 principal amount of the secured debt and which is recorded in



1 the bureau of conveyances of the State under chapter 502 or
2 filed with the assistant registrar of the land court of the
3 State under chapter 501.

4 The special mortgage recording fee shall be an amount equal
5 to one-tenth of one per cent of the stated principal amount of
6 the debt secured by the mortgage or, in the case of an amendment
7 or refinancing of a mortgage, an amount equal to one-tenth of
8 one per cent of the amount of the increase of the stated
9 principal amount of the secured debt; provided that the board
10 may establish a lower special mortgage recording fee amount
11 pursuant to section 431P-5(b)(14). With respect to an open end
12 revolving loan, the principal amount of the debt on which the
13 special mortgage recording fee is calculated shall be the
14 maximum amount which may be outstanding under the loan at any
15 one time. With respect to a mortgage securing a nonmonetary or
16 inchoate obligation, the principal amount of the debt on which
17 the special mortgage recording fee is calculated shall be the
18 monetary amount which the mortgagee attributes to the
19 obligation. If the debt is stated in a foreign currency, it
20 shall be converted to U.S. dollars using an exchange rate
21 published in a newspaper of general circulation in this State



1 within one week prior to recordation of the mortgage or
2 amendment of mortgage.

3 The special mortgage recording fee shall be in addition to
4 any applicable fees under chapter 501 or 502. The special
5 mortgage recording fee shall be submitted to and collected by
6 the bureau of conveyances or the assistant registrar of the land
7 court of the State and shall be deposited into the hurricane
8 reserve trust fund. The special mortgage recording fee shall be
9 submitted at the time the mortgage or amendment of mortgage is
10 recorded together with any related forms or certifications
11 required by the bureau of conveyances or the assistant registrar
12 of the land court of the State.

13 (c) The Hawaii hurricane relief fund shall implement the
14 assessments of all property and casualty insurers as authorized
15 by section 431P-5(b)(8)(A) and (B) and the proceeds from the
16 assessments shall be deposited into the hurricane reserve trust
17 fund or into trust or custodial accounts, created for the
18 benefit of the fund's secured parties, that are held inside or
19 outside the hurricane reserve trust fund.

20 (d) If the Hawaii hurricane relief fund offers to issue
21 policies of hurricane property insurance, the premiums for the



1 policies shall be deposited into the hurricane reserve trust
2 fund.

3 (e) After each covered event, if the board determines that
4 the moneys in the hurricane reserve trust fund, excluding moneys
5 determined by the board to be needed to continue fund operations
6 following the covered event, will be insufficient to pay claims
7 and other obligations of the fund arising out of that covered
8 event, the Hawaii hurricane relief fund shall levy a surcharge
9 not to exceed seven and one-half per cent a year on premiums
10 charged for all property and casualty insurance policies issued
11 for risks insured in this State. These moneys may be deposited
12 into the hurricane reserve trust fund or into trust or custodial
13 accounts created for the benefit of the fund's secured parties
14 that are held inside or outside the hurricane reserve trust
15 fund. The surcharge shall remain in effect until all claims and
16 other obligations of the fund, including but not limited to
17 claims under fund policies of hurricane property insurance,
18 claims financing transactions, bonds, notes, and other
19 obligations arising out of that covered event have been fully
20 discharged. The amount and reason for any surcharge made
21 pursuant to this subsection shall be separately stated on any



1 billing sent to an insured. The surcharge shall not be
2 considered premiums for any other purpose including the
3 computation of gross premium tax or the determination of
4 producers' commissions. The fund may establish procedures for
5 insurers to collect the surcharge from customers who hold
6 property or casualty policies.

7 (f) Any proceeds, experience refunds, or other return
8 funds under reinsurance shall be deposited into the hurricane
9 reserve trust fund.

10 (g) Any proceeds from loans or other moneys from the
11 federal government, any proceeds from bonds issued pursuant to
12 this chapter loaned by the director to the Hawaii hurricane
13 relief fund, and other moneys as the State may make available
14 from time to time shall be deposited into the hurricane reserve
15 trust fund.

16 (h) Any interest earned on the balance of the hurricane
17 reserve trust fund shall be retained in the hurricane reserve
18 trust fund.

19 ~~[(h)]~~ (i) Moneys in the hurricane reserve trust fund or in
20 trust or custodial accounts, created for the benefit of the
21 fund's secured parties, shall be expended by the Hawaii



1 hurricane relief fund or its authorized designee and used solely
2 for the purposes of this chapter.

3 ~~[(i)]~~ (j) Moneys in the hurricane reserve trust fund may
4 be disbursed upon dissolution of the Hawaii hurricane relief
5 fund; provided that:

6 (1) The net moneys in the hurricane reserve trust fund
7 shall revert to the state general fund after payments
8 by the fund on behalf of licensed property and
9 casualty insurers or the State that are required to be
10 made pursuant to any federal disaster insurance
11 program enacted to provide insurance or reinsurance
12 for hurricane risks are completed; and

13 (2) If such moneys are paid on behalf of licensed property
14 and casualty insurers, payment shall be made in
15 proportion to the premiums from policies of hurricane
16 property insurance serviced by the insurers in the
17 twelve months prior to dissolution of the fund[
18 ~~provided that all interest earned from the principal in the~~
19 ~~hurricane reserve trust fund shall be transferred and deposited~~
20 ~~into the general fund each year that the hurricane reserve trust~~
21 ~~fund remains in existence]."~~



1 SECTION 3. (a) The board of directors of the Hawaii
2 hurricane relief fund shall conduct a study to determine whether
3 the use of parametric disaster insurance policies for the State
4 is feasible, practical, affordable, and in the public interest.

5 (b) The board of directors shall submit the study, with
6 findings, recommendations, and any proposed legislation, to the
7 legislature and governor at least twenty days before the
8 convening of the regular session of 2017.

9 SECTION 4. (a) There is appropriated out of the hurricane
10 reserve trust fund of the State of Hawaii the sum of \$
11 or so much thereof as may be necessary for fiscal year 2016-2017
12 to conduct the study on whether the use of parametric disaster
13 insurance policies for the State is feasible, practical,
14 affordable, and in the public interest as required under section
15 3.

16 The sum appropriated shall be expended by the board of
17 directors of the Hawaii hurricane relief fund for the purposes
18 of this Act.

19 (b) Notwithstanding any law to the contrary, the board of
20 directors of the Hawaii hurricane relief fund may expend the
21 appropriation under this section for the specified purpose.



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
3 SECTION 6. This Act shall take effect on July 1, 2016.



Report Title:

Hawaii Hurricane Relief Fund; Interest Earned, Study;
Appropriation

Description:

Requires the interest earned on the balance of the Hurricane Reserve Trust Fund to be retained in the Hurricane Reserve Trust Fund. Requires the Board of Directors of the Hawaii Hurricane Relief Fund to conduct a study on whether the use of parametric disaster insurance policies for the State is feasible, practical, affordable, and in the public interest. Appropriates Hurricane Reserve Trust Fund moneys for the study. (SB2732 HD1)

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