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# A BILL FOR AN ACT

RELATING TO STATE SELF-INSURANCE AGAINST PROPERTY AND CASUALTY  
RISKS.

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

1       SECTION 1. The legislature finds that the State currently  
2 purchases third-party insurance through its risk management and  
3 insurance administration to cover the State's property and  
4 casualty risks. Property and casualty insurance provide risk  
5 mitigation to minimize the State's loss exposure. The  
6 legislature further finds that the State's property and casualty  
7 insurance premium costs are significant and subject to further  
8 premium increases.

9       The purpose of this Act is to save the State the costs of  
10 its annual insurance premiums for property and casualty  
11 insurance coverage by self-insuring the State's property and  
12 casualty risks.

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



1        "§41D-        State self-insurance against property and  
2 casualty risks special fund. (a) There is established in the  
3 state treasury the state self-insurance against property and  
4 casualty risks special fund to be administered by the  
5 comptroller, through the risk manager.

6        (b) Moneys in the special fund shall be used to provide  
7 the State with self-insurance coverage against property and  
8 casualty risks pursuant to section 41D-2(a)(1) and (2). The  
9 special fund shall pay claims to state agencies for losses to  
10 property of the State caused by fire or other casualty,  
11 including the cost to:

12        (1) Repair or replace buildings and other structures;

13        (2) Replace damaged contents; and

14        (3) Provide alternate structures while damaged structures  
15 are being repaired or replaced.

16        (c) Moneys in excess of the amounts necessary for meeting  
17 the immediate requirements of the special fund may be invested  
18 as provided in section 36-21. Interest earned by the special  
19 fund shall be credited to the special fund.



1        (d) To ensure that the special fund is operated on an  
2 actuarially sound basis, the governor shall authorize the annual  
3 transfer of \$                      in general funds to the special fund.

4        (e) The comptroller may establish deductibles for the  
5 state agencies for certain perils or classes of property or  
6 casualty risks and may:

7        (1) Assess the agencies for losses incurred in the amount  
8 of the deductible; or

9        (2) Reduce the payment from the special fund to cover the  
10 property or casualty loss by the amount of the  
11 deductible.

12       (f) For any year in which the balance in the special fund  
13 is insufficient to keep the special fund actuarially sound and  
14 pay the claims required under subsection (b), the comptroller  
15 shall request that the governor authorize an advance to the  
16 special fund of sufficient sums of money from other funds in the  
17 state treasury.

18       (g) The moneys advanced to the special fund pursuant to  
19 subsection (f) shall be repaid from the special fund in annual  
20 installments, with interest. The amount of each annual  
21 installment shall be fixed by the comptroller so that the moneys



1 advanced can be reasonably expected to be repaid in not more  
2 than ten years.

3 (h) To ensure that moneys advanced to the special fund are  
4 repaid as specified in subsection (g), the comptroller may  
5 further assess the state agencies."

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

8 "(a) The comptroller, through the risk manager, shall:

9 (1) ~~[Have discretion to purchase casualty insurance for]~~

10 Establish and administer self-insurance coverage

11 against casualty risks of the State ~~[or state~~

12 ~~agencies]~~, including those employees of the State who,

13 in the comptroller's discretion, may be at risk ~~[and~~

14 ~~shall be responsible for the acquisition of all~~

15 ~~casualty insurance];~~

16 (2) ~~[Have discretion to purchase property insurance for]~~

17 Establish and administer self-insurance coverage

18 against all property risks of the State ~~[or state~~

19 ~~agencies and shall acquire all property insurance];~~

20 (3) Direct and manage all risk management and insurance

21 programs of the State, except for employee benefits



1 insurance and workers' compensation insurance programs  
2 or as otherwise provided in chapters 87A, 88, 383 to  
3 386A, 392, and 393;

- 4 (4) Consult with state agencies to determine what  
5 ~~[property, casualty, and other]~~ insurance policies,  
6 other than self-insurance coverage against property  
7 and casualty risks, are presently in force or are  
8 sought by the state agencies and to make  
9 determinations about whether to continue subscribing  
10 to insurance policies. In the event that the risk  
11 manager's determination is not satisfactory to the  
12 state agency, the state agency may have the risk  
13 manager's decision reviewed by the comptroller. In  
14 this case, the comptroller's decision shall be final;
- 15 (5) Consolidate and combine state insurance coverages, and  
16 purchase excess insurance when, in the comptroller's  
17 discretion, it is appropriate to do so;
- 18 (6) Acquire risk management, investigative, claims  
19 adjustment, actuarial, and other services, except  
20 attorney's services, as may be required for the sound  
21 administration of this chapter; provided that a broker



1 submitting a proposal in response to a fixed fee  
2 solicitation by the comptroller pursuant to this  
3 subsection and the broker's performance of the  
4 activities in accordance with the proposal shall not  
5 constitute a violation of sections 431:10-218,  
6 431:13-102, and 431:13-103;

7 (7) Gather from all state agencies and maintain data  
8 regarding the State's risks and casualty, property,  
9 and fidelity losses;

10 (8) In conjunction with the attorney general and as  
11 otherwise provided by this chapter, compromise or  
12 settle claims cognizable under chapter 662;

13 (9) Provide technical services in risk management and  
14 insurance to state agencies;

15 (10) Be authorized to establish a captive insurance company  
16 pursuant to article 19 of chapter 431 to effectuate  
17 the purposes of this chapter; and

18 (11) Do all other things appropriate to the development of  
19 sound risk management practices and policies for the  
20 State."



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

**"§41D-4 State risk management revolving fund.** (a) The state risk management revolving fund is created and shall be funded in amounts reasonably necessary to:

(1) Carry out the responsibilities of the comptroller established in section 41D-2~~[+]~~, but excluding section 41D-2 (a) (1) and (2);

~~[-(2)- Pay claims to state agencies for losses to property of the State caused by fire or other casualty, including the cost to repair or replace buildings and other structures, replace damaged contents, and to provide alternate structures while damaged structures are being repaired or replaced;~~

~~[-(3)-]~~ (2) Pay claims against the State under sections 662-11, 41D-3, and 41D-8; and

~~[-(4)-]~~ (3) Pay for losses to the State incurred by the dishonesty, nonfeasance, or misfeasance of any officer or employee of the State or for any losses to the State through larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, wilful



1 misapplication, or any other fraudulent or dishonest  
2 act committed by one or more of the employees of the  
3 State acting directly or in collusion with others.

4 (b) In addition to any appropriation the legislature shall  
5 make to the state risk management revolving fund, the  
6 comptroller may apportion to, and collect from, state agencies  
7 those amounts of money that, in the discretion of the  
8 comptroller, reflect benefits received by the agencies under  
9 this chapter. The comptroller may consider the relevant risk  
10 and loss experience of the agencies in making apportionments and  
11 assessments. Funds so collected shall be deposited into the  
12 state risk management revolving fund.

13 ~~[(c) The comptroller may establish deductibles for the~~  
14 ~~state agencies for certain perils or classes of property losses~~  
15 ~~and may:~~

16 ~~(1) Assess the agencies for losses incurred in the amount~~  
17 ~~of the deductible; or~~

18 ~~(2) Reduce the payment from the state risk management~~  
19 ~~revolving fund to cover the casualty loss by the~~  
20 ~~amount of the deductible.~~





1       ~~(d)~~ (c) The comptroller may establish a formula for  
2       refunds to the state agencies based upon the agencies' risk and  
3       loss experience.

4       ~~(e)~~ (d) Money in the state risk management revolving  
5       fund shall be expended only for the purposes delineated in  
6       subsection (a) and only upon the authority of the comptroller,  
7       who is given discretion when to permit expenditures from the  
8       fund. Money in the state risk management revolving fund shall  
9       not be garnished, attached, or otherwise subjected to legal  
10      compulsion to pay actual or alleged obligations of the State,  
11      any state agency, or any state employee.

12      ~~(f)~~ (e) The comptroller shall prepare, for each fiscal  
13      year, a report of all claims arbitrated, compromised, or settled  
14      and paid from the state risk management revolving fund as  
15      provided in section 41D-3. The report shall be submitted to the  
16      legislature twenty days prior to the commencement of the regular  
17      session next succeeding the year for which the report is made.

18      ~~(g)~~ (f) Money received from the settlement of claims or  
19      losses of the State as delineated in subsection (a) shall be  
20      deemed to be trust moneys and may be deposited into the state  
21      risk management revolving fund or into a trust account with and



1 under the control of the affected agency at the discretion of  
2 the comptroller. These moneys and any interest earned thereon  
3 shall be used for the purpose identified in any such  
4 settlement."

5 SECTION 5. There is appropriated out of the general  
6 revenues of the State the sum of \$ or so much thereof  
7 as may be necessary for fiscal year 2022-2023 to be deposited  
8 into the state self-insurance against property and casualty  
9 risks special fund.

10 SECTION 6. There is appropriated out of the state self-  
11 insurance against property and casualty risks special fund the  
12 sum of \$ or so much thereof as may be necessary for  
13 fiscal year 2022-2023 for purposes of this Act.

14 The sum appropriated shall be expended by the department of  
15 accounting and general services for the purposes of this Act.

16 SECTION 7. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 8. This Act shall take effect on July 1, 2112.

19



**Report Title:**

Self-Insurance; State Property and Casualty Risks; Special Fund;  
Department of Accounting and General Services; Appropriation

**Description:**

Establishes the State self-insurance against property and  
casualty risks special fund to be administered by the  
comptroller to provide the State with self-insurance against the  
State's property and casualty risks. Appropriates funds.  
Effective 7/1/2112. (HD1)

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