

**Session Laws of Hawaii
Passed By The
Twenty-Third State Legislature
Special Session
2005**

ACT 1

H.B. NO. 160

A Bill for an Act Relating to the Compliance Resolution Fund.

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

SECTION 1. Section 431:2-215, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The ~~[commissioner shall determine the]~~ amount or amounts to be assessed ~~[and the time any moneys from assessments are due]~~ for each line or type of insurance or entity regulated under title 24~~[-; provided that:~~

- (1) ~~The criteria for making the assessment shall be established by rule; provided further that the commissioner shall have provisional authority to make assessments prior to adoption of the rule but this provisional authority shall not extend beyond two years from June 28, 1999;]~~ shall be determined

and assessed as provided below:

- ~~[(2)]~~ (1) The insurers or entities regulated under title 24 shall be provided ~~[reasonable]~~ at least sixty days notice of when their respective assessments are due;
- (2) The total amount or amounts to be assessed of insurers or entities regulated under title 24 in all lines or types of insurance shall be calculated based on the commissioner's proposed fiscal year budget, less funds in the insurance regulation sub-account of the compliance resolution fund on June 30 of the fiscal year immediately preceding the fiscal year of the proposed budget and less the commissioner's anticipated revenues;
- (3) The assessments by line or type shall bear a reasonable relationship to the costs of regulating the line or type of insurance, including any administrative costs of the division; and
- (4) The sum total of all assessments made and collected shall not exceed the special fund ceiling or ceilings related to the fund that are established by the legislature[-]; provided that the total assessments for all lines or types of insurance in any one fiscal year shall not exceed \$5,000,000.

[As used in this subsection, “reasonable notice” means a period of at least sixty days.]”

SECTION 2. Section 431:19-101.8, Hawaii Revised Statutes, is amended to read as follows:

“§431:19-101.8 Captive insurance administrative fund. (a) The commissioner may establish a separate fund designated as the captive insurance administrative fund~~[-]~~ to be expended by the commissioner to carry out the commissioner’s duties and obligations under article 19 of chapter 431.

(b) ~~All moneys collected pursuant to this article, including premium taxes [collected] from captive insurance companies licensed in this State under this article, all captive insurance company application fees, annual license fees, and examination fees [collected pursuant to this article], shall be credited to the captive insurance administrative fund. [Each fiscal year, the commissioner shall transfer out of the fund and deposit into the compliance resolution fund a total of forty per cent of the total moneys credited to the fund in the prior fiscal year or \$1,500,000, whichever is greater, to pay for the expenditures contemplated by this section. In addition, each fiscal year, the commissioner shall transfer out of the fund and deposit into the compliance resolution fund up]~~

(c) ~~Up to ten per cent of the total moneys credited to the fund in the prior fiscal year may be used for purposes of promoting Hawaii as a captive insurance domicile. Disbursements for promotional activities from the [compliance resolution] fund shall be subject to the approval of the director of commerce and consumer affairs. [Subject to the foregoing expenditure limits, all moneys remaining in the fund shall revert to the general fund.]~~

(d) Sums from the fund expended by the commissioner shall be used to defray any administrative costs, including personnel costs, associated with the captive programs of the division, and costs incurred by supporting offices, branches, divisions, and departments. Any law to the contrary notwithstanding, the commissioner may use the moneys in the fund to employ or retain, by contract or otherwise, without regard to chapter 76, hearings officers, attorneys, investigators, accountants, examiners, and other necessary professional, technical, and support personnel to implement and carry out the purposes of article 19 of chapter 431; provided that any position, except any attorney position, that is subject to chapter 76 prior to July 1, 1999, shall remain subject to chapter 76.

(e) Moneys deposited by the commissioner in the fund shall not revert to the general fund.”

SECTION 3. The office of the auditor shall conduct a financial and management audit of the insurance regulation sub-account of the compliance resolution fund and shall report its findings to the legislature not less than twenty days prior to the convening of the 2008 regular legislative session. The audit shall examine the two consecutive fiscal years immediately preceding the year in which it is submitted.

SECTION 4. There is appropriated out of the captive insurance administrative fund the sum of \$1,500,000 or so much thereof as may be necessary for fiscal year 2005-2006 and the sum of \$1,500,000 or so much thereof as may be necessary for fiscal year 2006-2007 for the operating expenses of the captive insurance branch and for the development of the captive insurance industry in Hawaii.

The sums appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2005.

(Vetoed by Governor and veto overridden by Legislature on July 12, 2005.)