
A BILL FOR AN ACT

RELATING TO SUSTAINING HAWAII.

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

1 SECTION 1. Chapter 171, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§171- Climate change countermeasures special fund.

5 (a) There is created in the state treasury a special fund to be
6 designated as the climate change countermeasures special fund to
7 be administered by the board. Moneys deposited into this
8 special fund shall be used to prevent, ameliorate, cure, undo,
9 or remove damage to the environment that is caused by factors of
10 climate change, including:

- 11 (1) Coastal zone erosion;
12 (2) Flooding;
13 (3) King tides;
14 (4) Wildfires; and
15 (5) The great pacific garbage patch.

16 (b) The board may use moneys in the special fund to carry
17 out the purposes of this section, including hiring employees,



1 specialists, and consultants necessary to complete projects
2 related to the purposes of this section."

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

5 "(a) All assessments, fees, fines, penalties, and
6 reimbursements collected by or on behalf of the insurance
7 division under title 24, except for the commissioner's education
8 and training fund (section 431:2-214), the patients'
9 compensation fund (Act 232, Session Laws of Hawaii 1984), the
10 drivers education fund underwriters fee (sections 431:10C-115
11 and 431:10G-107), and the captive insurance administrative fund
12 (section 431:19-101.8) to the extent provided by section
13 431:19-101.8(b), shall be deposited into the compliance
14 resolution fund under section 26-9(o) [~~-~~]; provided that one per
15 cent of the assessments, fees, fines, penalties, and
16 reimbursements shall be deposited to the credit of the climate
17 change countermeasures special fund established under section
18 171-___. All sums transferred from the insurance division into
19 the compliance resolution fund may be expended by the
20 commissioner to carry out the commissioner's duties and
21 obligations under title 24."



1 SECTION 3. Section 431:2-216, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Each mutual benefit society under article 1 of
4 chapter 432, health maintenance organization under chapter 432D,
5 and any other entity offering or providing health benefits or
6 services under the regulation of the commissioner, except an
7 insurer licensed to offer accident and health or sickness
8 insurance under article 10A, shall deposit with the commissioner
9 by July 1 of each year an assessment of \$10,000 for the first
10 seventy thousand private, nongovernment members the entity
11 covers and an additional assessment on a pro rata basis to be
12 determined and imposed by the commissioner for covered members
13 exceeding seventy thousand; provided that in the third year and
14 each year thereafter, assessments shall be borne on a pro rata
15 basis. The aggregate annual assessment shall not exceed
16 \$1,000,000. This assessment shall be credited to the compliance
17 resolution fund[-]; provided that one per cent of the aggregate
18 annual assessment shall be credited to the climate change
19 countermeasures special fund established under section 171- .
20 If assessments are increased, the commissioner shall provide to



1 any organization or entity subject to the increased assessment,
2 justification for the increase."

3 SECTION 4. Section 431:7-101, Hawaii Revised Statutes, is
4 amended by amending subsection (e) to read as follows:

5 "(e) All fees and penalties shall be deposited to the
6 credit of the compliance resolution fund[-]; provided that one
7 per cent of all fees and penalties shall be deposited to the
8 credit of the climate change countermeasures special fund
9 established under section 171- ."

10 SECTION 5. Section 431:7-202, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§431:7-202 Taxation.** (a) Each authorized insurer,
13 except with respect to all life insurance contracts, ocean
14 marine insurance contracts, and real property title insurance
15 contracts, shall pay to the director of finance through the
16 commissioner a tax of 4.265 per cent on the gross premiums
17 written from all risks or property resident, situated, or
18 located within this State, during the year ending on the
19 preceding December 31, less return premiums (but not including
20 dividends paid or credited to policyholders), and less any



1 reinsurance accepted (the tax upon such business being payable
2 by the direct writing insurer).

3 All premiums written, procured, or received in the State
4 shall be presumed to have been from risks or property resident,
5 situated, or located within the State. This presumption may be
6 rebutted as to any premium:

7 (1) By showing that it has been properly allocated or
8 apportioned and reported as a taxable premium of
9 another state or other appropriate taxing authority;
10 or

11 (2) By facts as to the residence, situation, or location
12 of the risks or property, conclusively showing the
13 nontaxability of the premium.

14 (b) Each authorized insurer, with respect to life
15 insurance contracts, shall pay to the director of finance
16 through the commissioner a tax of 2.75 per cent on the gross
17 premiums received from all risks resident within this State,
18 during the year ending on the preceding December 31, less return
19 premiums, dividends paid or credited to policyholders, and
20 reinsurance accepted (the tax upon such business being payable
21 by the direct writing insurer).



1 The tax also shall apply to premiums for insurance written
2 on individuals residing outside the State unless the direct
3 writing insurer shall show the payment of a comparable tax to
4 another appropriate taxing authority. Such showing may be
5 required as to any premium written, procured, or received in the
6 State.

7 (c) Each authorized insurer shall, with respect to all
8 ocean marine insurance contracts written within the State,
9 during the year ending on the preceding December 31, pay to the
10 director of finance through the commissioner a tax of .8775 per
11 cent on its gross underwriting profit. The gross underwriting
12 profit shall be ascertained by deducting from the net premiums
13 (i.e., gross premiums less all return premiums and premiums for
14 reinsurance ceded) on such ocean marine insurance contracts, the
15 net losses paid (i.e., gross losses paid less salvage and
16 recoveries on reinsurance ceded) during such year under such
17 contracts. In the case of an insurer issuing participating
18 contracts, the gross underwriting profit shall not include, for
19 computation of the tax prescribed by this subsection, the amount
20 refunded, or paid as participation dividends, by such insurer to
21 the holders of such contracts.



1 (d) Each authorized insurer, with respect to real property
2 title insurance contracts written on real property situated
3 within this State during the year ending on the preceding
4 December 31, shall pay to the director of finance through the
5 commissioner a tax of 4.265 per cent of the amount of the risk
6 premium actually received by the authorized insurer for the
7 provision of such insurance. The amount of the risk premium
8 received by the authorized insurer for the provision of real
9 property title insurance shall be an amount equal to the amount
10 actually received by the authorized insurer solely for the
11 provision of real property title insurance coverage in
12 accordance with the underwriting agreement or contract between
13 the authorized insurer and the underwritten title company.

14 (e) No return premium shall be deductible unless the
15 original gross premium, or an adjustment thereof, in an amount
16 equal to or in excess of the return premium, has been
17 concurrently or previously reported as taxable under this
18 section or a prior similar law of the State.

19 (f) The taxes imposed by subsections (a), (b), (c), and
20 (d) shall be paid monthly. The monthly tax shall be due and
21 payable by electronic payment via the Automated Clearing House



1 debit or credit payment system on or before the twentieth day of
2 the calendar month following the month in which it accrues,
3 coinciding with the filing of the statement provided for in
4 section 431:7-201.

5 In addition to the monthly tax and monthly tax statement,
6 the annual tax shall be due and payable by electronic payment
7 via the Automated Clearing House debit or credit payment system
8 on or before March 1 coinciding with the filing of the statement
9 provided for in section 431:7-201.

10 All amounts paid under this subsection, other than fines,
11 shall be allowed as a credit on the annual tax imposed by
12 subsections (a), (b), (c), and (d).

13 If the total amount of installment payments for any
14 calendar year exceeds the amount of annual tax for that year,
15 the excess shall be treated as an overpayment of the annual tax
16 and be allowed as a refund under section 431:7-203.

17 Any insurer failing or refusing to pay the required taxes
18 above stated when due and payable shall be liable for a fine of
19 \$500 or ten per cent of the tax due, whichever is greater; plus
20 interest at a rate of twelve per cent per annum on the
21 delinquent taxes. The taxes may be collected by distraint, or



1 the taxes, fine, and interest may be recovered by an action to
2 be instituted by the commissioner in the name of this State, in
3 any court of competent jurisdiction. The commissioner may
4 suspend the certificate of authority of the delinquent insurer
5 until the taxes, fine, and interest, should any be imposed, are
6 fully paid.

7 As used in this subsection, "Automated Clearing House debit
8 or credit payment system" means the network for the interbank
9 clearing of electronic payments for participating depository
10 financial institutions.

11 (g) In establishing the prepayment amount of an insurer
12 who has acquired the business of another insurer, the amount of
13 tax liability of the acquiring insurer for the preceding
14 calendar year shall be deemed to include the amount of tax
15 liability of the acquired insurer for that year.

16 (h) The commissioner shall withhold one per cent of all
17 taxes collected under this section from the director of finance
18 and deposit the sums to the credit of the climate change
19 countermeasures special fund established under section 171- ."

20 SECTION 6. Section 431:10C-115, Hawaii Revised Statutes,
21 is amended by amending subsection (b) to read as follows:



1 "(b) The commissioner shall deposit the fees into a
2 special drivers education fund account[-]; provided that one per
3 cent of the fees shall be deposited to the credit of the climate
4 change countermeasures special fund established under section
5 171- ."

6 SECTION 7. Section 431:10G-107, Hawaii Revised Statutes,
7 is amended by amending subsection (b) to read as follows:

8 "(b) There is created in the treasury of the State a
9 special fund to be known as the motorcycle and motor scooter
10 operators education fund. The commissioner shall deposit the
11 fees collected under this section into the motorcycle and motor
12 scooter operators education fund[-]; provided that one per cent
13 of all the fees shall be deposited to the credit of the climate
14 change countermeasures special fund established under section
15 171- ."

16 SECTION 8. Section 431:19-101.8, Hawaii Revised Statutes,
17 is amended by amending subsection (b) to read as follows:

18 "(b) All moneys collected pursuant to this article,
19 including premium taxes from captive insurance companies
20 licensed in this State under this article, all captive insurance
21 company application fees, annual license fees, and examination



1 fees, shall be credited to the captive insurance administrative
 2 fund[-]; provided that one per cent of the fees shall be
 3 credited to the climate change countermeasures special fund
 4 established under section 171- ."

5 SECTION 9. Statutory material to be repealed is bracketed
 6 and stricken. New statutory material is underscored.

7 SECTION 10. This Act shall take effect on July 1, 2020.

8

INTRODUCED BY:

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JAN 14 2020



H.B. NO. 1686

Report Title:

Insurance; Climate; Change; Countermeasures; DLNR

Description:

Requires that 1% of all assessments, fees, fines, penalties, reimbursements, and taxes collected by the Insurance Division be deposited into a special fund in the Department of Land and Natural Resources to be used for countermeasures against climate change.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

