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# A BILL FOR AN ACT

RELATING TO PUBLIC UTILITIES.

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

1           SECTION 1. The legislature finds that the risk of  
2 catastrophic wildfires has increased, making it imperative that  
3 electric utilities develop, implement, and administer effective  
4 plans for wildfire risk mitigation. Electric utilities should  
5 develop, implement, and administer wildfire protection plans,  
6 and, through a public process, the public utilities commission  
7 should review and approve such plans.

8           The legislature also finds that a resilience working group,  
9 convened throughout 2019 and 2020, sought to identify and  
10 prioritize resilience threat scenarios and potential grid  
11 impacts; identify key customer and infrastructure sector  
12 capabilities and needs following a severe event and loss of  
13 power; identify gaps and priorities in grid and customer  
14 capabilities following a severe event and loss of power; provide  
15 recommendations and inputs for investor-owned utility grid  
16 planning to address resilience needs; and recommend additional  
17 grid and customer actions to close gaps and capabilities



1 following severe events. The resilience working group  
2 identified wildfires as one of five types of severe events of  
3 utmost importance to consider for achieving a resilient grid and  
4 provided resilience options for utilities to consider.

5 The legislature further finds that securitization may be  
6 the most efficient, least costly way to finance wildfire risk  
7 mitigation costs and expenses. Utility rate securitization  
8 transactions have an extensive track record of success. Bonds  
9 securitized by rates receive investment grade credit ratings  
10 from credit rating agencies and thus provide a means of securing  
11 capital at a lower interest rate than those currently available  
12 to utilities, in particular utilities without an investment  
13 grade credit rating.

14 The purpose of this Act is to:

15 (1) Create a process whereby electric utilities develop  
16 and submit effective risk-based wildfire protection  
17 plans to the public utilities commission for approval  
18 and the commission evaluates those plans and either  
19 approves them or does so with modifications;

20 (2) Create a process whereby electric utilities are able  
21 to timely recover the prudently incurred costs and



1 expenses of developing, implementing, and  
2 administering wildfire protection plans and ensure  
3 those costs and expenses are not borne  
4 disproportionately by any particular consumer or  
5 county; and

6 (3) Require public utilities to report wildfires caused by  
7 or occurring in connection with their operations.

8 SECTION 2. Chapter 269, Hawaii Revised Statutes, is  
9 amended by adding a new part to be appropriately designated and  
10 to read as follows:

11 **"PART . WILDFIRE PROTECTION AND MITIGATION**

12 **§269-A Definitions.** As used in this part:

13 "Ancillary agreement" means a bond insurance policy, letter  
14 of credit, reserve account, surety bond, swap arrangement,  
15 hedging arrangement, liquidity or credit support arrangement, or  
16 other similar agreement or arrangement entered into in  
17 connection with the issuance of bonds that is designed to  
18 promote the credit quality and marketability of the recovery  
19 bonds or to mitigate the risk of an increase in interest rates.

20 "Assignee" means a legally recognized entity:



1 (1) To which an electric utility assigns, sells, or  
2 transfers, other than as security, all or a portion of  
3 the electric utility's interest in or right to  
4 wildfire protection property; or

5 (2) Who acquires, by way of assignment or otherwise, all  
6 or a portion of the wildfire protection property  
7 following the exercise of remedies upon a default.

8 "Assignee" includes a corporation, limited liability company,  
9 general partnership or limited partnership, public authority,  
10 trust, financing entity, or any other legal entity to which an  
11 assignee assigns, sells, or transfers, other than as security,  
12 its interest in or right to wildfire protection property.

13 "Bond" means any bond, note, certificate of participation  
14 or beneficial interest, or other evidence of indebtedness or  
15 ownership that is issued by the financing entity under a  
16 financing order, the proceeds of which are used directly or  
17 indirectly to recover, finance, or refinance financing costs of  
18 any wildfire protection costs, and that are directly or  
19 indirectly secured by or payable from wildfire protection  
20 property.



1 "Catastrophic wildfire" means any wildfire in the State  
2 that damaged or destroyed more than five hundred residential or  
3 commercial structures.

4 "Commission" means the public utilities commission.

5 "Consumer" means any individual, governmental body, trust,  
6 business entity, or nonprofit organization that consumes  
7 electricity that has been transmitted or distributed by means of  
8 electric transmission or distribution facilities, whether those  
9 electric transmission or distribution facilities are owned by  
10 the consumer, the electric utility, or any other party.

11 "Electric utility" means an electric utility company that  
12 is engaged in the production, transmission, or distribution of  
13 electricity.

14 "Financing costs" means the costs to issue, service, repay,  
15 or refinance bonds, whether incurred or paid upon issuance of  
16 the bonds or over the life of the bonds, if they are approved  
17 for recovery by the commission in a financing order. "Financing  
18 costs" may include any of the following:

19 (1) Principal, interest, and redemption premiums that are  
20 payable on bonds;

21 (2) A payment required under an ancillary agreement;



- 1           (3) An amount required to fund or replenish reserve  
2           accounts or other accounts established under an  
3           indenture, ancillary agreement, or other financing  
4           document related to the bonds;
- 5           (4) Taxes, franchise fees, or license fees imposed on the  
6           wildfire protection charge, or otherwise resulting  
7           from the collection of the wildfire protection charge,  
8           in any such case whether paid, payable, or accrued;
- 9           (5) Costs related to issuing and servicing bonds or the  
10          application for a financing order, including without  
11          limitation servicing fees and expenses, trustee fees  
12          and expenses, legal fees and expenses, accounting  
13          fees, administrative fees, underwriting and placement  
14          fees, financial advisory fees, original issue  
15          discount, capitalized interest, rating agency fees,  
16          and any other related costs that are approved for  
17          recovery in the financing order; and
- 18          (6) Other costs as specifically authorized by a financing  
19          order.

20           "Financing entity" means an electric utility or an entity  
21   to which an electric utility or an affiliate of an electric



1 utility sells, assigns, or pledges all or a portion of the  
2 electric utility's interest in recovery property, including an  
3 affiliate of the electric utility or any unaffiliated entity, in  
4 each case as approved by the commission in a financing order.

5 For purposes of this definition and subject to section 269-  
6 G(c), an entity to which an electric utility sells, assigns, or  
7 pledges all or a portion of the electric utility's interest in  
8 recovery property may include any governmental entity that is  
9 able to issue recovery bonds that are exempt from federal tax  
10 pursuant to section 103 of the Internal Revenue Code of 1986, as  
11 amended, including the State or a political subdivision thereof  
12 or any department, agency, or instrumentality of the State or  
13 political subdivision; provided that the recovery bonds issued  
14 shall not constitute a general obligation of the State or any  
15 political subdivision thereof or any department, agency, or  
16 instrumentality of the State or political subdivision and shall  
17 not constitute a pledge of the full faith and credit of the  
18 entity or of the State or any political subdivision thereof, but  
19 shall be payable solely from the funds provided under this part.

20 "Financing order" means an order of the commission under  
21 this part that has become final and no longer subject to appeal



1 as provided by law and that authorizes the issuance of recovery  
2 bonds and the imposition, adjustment from time to time, and  
3 collection of recovery charges, and which shall include a  
4 procedure to require the expeditious approval by the commission  
5 of periodic adjustments to wildfire protection charges and to  
6 any associated fixed recovery tax amounts included in that  
7 financing order to ensure recovery of all wildfire protection  
8 costs and the costs associated with the proposed recovery,  
9 financing, or refinancing thereof, including the costs of  
10 servicing and retiring the bonds contemplated by the financing  
11 order.

12 "Financing party" means any holder of recovery bonds, any  
13 party to or beneficiary of an ancillary agreement, and any  
14 trustee, collateral agent, or other person acting for the  
15 benefit of any of the foregoing.

16 "Fixed recovery tax amounts" means those nonbypassable  
17 rates and other charges, including but not limited to  
18 distribution, connection, disconnection, and termination rates  
19 and charges, that are needed to recover federal and state taxes  
20 associated with wildfire protection charges authorized by the





1 commission in a financing order, but are not approved as  
2 financing costs financed from proceeds of bonds.

3 "Governmental financing entity" means the State or a  
4 political subdivision thereof or any department, agency, or  
5 instrumentality of the State or a political subdivision to which  
6 an electric utility has assigned or pledged its interest in  
7 wildfire protection property as security for the payment of debt  
8 service on bonds, and related administrative costs and funding  
9 of reserves, issued by the governmental financing entity;  
10 provided that the bonds issued by the governmental financing  
11 entity shall not constitute a general obligation of the entity  
12 or of the State or any political subdivision of the State and  
13 shall not constitute a pledge of the full faith and credit of  
14 the governmental financing entity or of the State or any  
15 political subdivision of the State, but shall be payable solely  
16 from the funds provided under this part.

17 "True-up adjustment" means a formulaic adjustment to the  
18 wildfire protection charges as they appear on customer bills  
19 that is necessary to correct for any overcollection or  
20 undercollection of the wildfire protection charges authorized by  
21 a financing order and to otherwise ensure the timely and



1 complete payment and recovery of wildfire protection costs over  
2 the authorized repayment term.

3 "Wildfire protection charge" means the nonbypassable fees  
4 and charges, including but not limited to distribution,  
5 connection, disconnection, and termination rates and charges,  
6 that are authorized by section 269-E and in a financing order  
7 authorized under this part to be imposed on and collected from  
8 all existing and future consumers of a financing entity or any  
9 successor to recover both of the following:

- 10 (1) Financing costs specified in the financing order; and  
11 (2) The costs of recovering, financing, or refinancing  
12 wildfire protection costs through a wildfire  
13 protection plan approved by the commission in the  
14 financing order, including the costs of servicing and  
15 retiring bonds.

16 "Wildfire protection costs" means any capital costs and  
17 operation and maintenance expenses related to the development,  
18 implementation, and administration of a wildfire protection plan  
19 prepared pursuant to section 269-C. "Wildfire protection costs"  
20 does not include any penalties levied against an electric



1 utility pursuant to section 269-D. "Wildfire protection costs"  
2 may also include any of the following:

- 3 (1) Catastrophic wildfire costs or expenses authorized by  
4 the commission in a financing order for recovery;
- 5 (2) Federal and state taxes associated with recovery of  
6 the amounts pursuant to paragraph (1);
- 7 (3) Financing costs; and
- 8 (4) Professional fees, consultant fees, redemption  
9 premiums, tender premiums, and other costs incurred by  
10 the electric utility in using proceeds of bonds to  
11 acquire outstanding securities of the electric  
12 utility, as authorized by the commission in a  
13 financing order.

14 "Wildfire protection plan" means the risk-based wildfire  
15 protection plan mandated by section 269-C and approved by the  
16 commission.

17 "Wildfire protection property" means the property right  
18 created pursuant to this part, including without limitation the  
19 right, title, and interest of the electric utility, financing  
20 entity, or its assignee:



1 (1) In and to the wildfire protection charge established  
2 pursuant to a financing order, including the right to  
3 impose, bill, collect, and receive such fixed recovery  
4 charges under the financing order and all rights to  
5 obtain adjustments to the wildfire protection charge  
6 in accordance with section 269-E and the financing  
7 order; and

8 (2) To be paid the amount that is determined in a  
9 financing order to be the amount that the electric  
10 utility or its assignee is lawfully entitled to  
11 receive pursuant to this part and the proceeds  
12 thereof, and in and to all revenues, collections,  
13 claims, payments, moneys, or proceeds of, or arising  
14 from, the wildfire protection charge that is the  
15 subject of a financing order.

16 "Wildfire protection property" does not include a right to be  
17 paid fixed recovery tax amounts. "Wildfire protection property"  
18 shall constitute a current property right, notwithstanding the  
19 fact that the value of the property right will depend on  
20 consumers using electricity or, in those instances where



1 consumers are customers of the electric utility, the electric  
2 utility performing certain services.

3       **§269-B Electric utility workshops.** The commission may  
4 periodically convene workshops to help electric utilities  
5 develop and share information for the identification, adoption,  
6 and implementation of best practices regarding wildfires,  
7 including but not limited to risk-based wildfire protection and  
8 risk-based wildfire mitigation procedures and standards.

9       **§269-C Wildfire protection plans.** (a) Each electric  
10 utility shall have and operate in compliance with a risk-based  
11 wildfire protection plan, which shall be filed with and  
12 evaluated by the commission. The wildfire protection plan shall  
13 be based on reasonable and prudent practices, which may be  
14 identified through workshops convened by the commission pursuant  
15 to section 269-B, regulatory proceedings conducted by the  
16 commission, and commission standards adopted by rule or order.  
17 The electric utility shall design the wildfire protection plan  
18 to protect public safety, reduce risk to electric utility  
19 customers, and promote resilience of the Hawaii electric system  
20 to wildfire damage. Each electric utility's wildfire protection  
21 plan shall, at a minimum:



- 1           (1) Account for the responsibilities of persons  
2                   responsible for executing the wildfire protection  
3                   plan;
- 4           (2) Describe the objectives of the wildfire protection  
5                   plan;
- 6           (3) Identify areas that are subject to a heightened risk  
7                   of wildfire and are:
  - 8                   (A) Within the right of way or legal control or  
9                   ownership of the electric utility; and
  - 10                   (B) Outside the right of way or legal control or  
11                   ownership of the electric utility but within a  
12                   reasonable distance, as determined by the  
13                   commission, of the electric utility's generation  
14                   or transmission assets;
- 15           (4) Identify a means for mitigating wildfire risk that  
16                   reflects a reasonable balancing of mitigation costs,  
17                   continuity of reliable service, and reduction of  
18                   wildfire risk;
- 19           (5) Identify preventive actions and programs that the  
20                   electric utility shall carry out to minimize the risk  
21                   of electric utility facilities causing wildfires;



- 1           (6) Identify the metrics the electric utility intends to  
2           use to evaluate the wildfire protection plan's  
3           performance and the assumptions that underlie the use  
4           of those metrics;
- 5           (7) Describe how the application of previously identified  
6           metrics to previous wildfire protection plan  
7           performances has informed the wildfire protection  
8           plan;
- 9           (8) After seeking information from state and local  
10          entities, identify a protocol for the deenergizing of  
11          power lines and adjusting of power system operations  
12          to mitigate wildfires, promote the safety of the  
13          public and first responders, and preserve health and  
14          telecommunications infrastructure;
- 15          (9) Describe appropriate and feasible procedures for  
16          notifying a customer who may be impacted by the  
17          deenergizing of power lines. The procedures shall  
18          consider the need to notify, as a priority, critical  
19          first responders, health care facilities, operators of  
20          wastewater and water delivery infrastructure, and  
21          operators of telecommunications infrastructure;



1           (10) Describe the procedures, standards, and time frames  
2                   that the electric utility shall use to inspect  
3                   electric utility infrastructure in areas that the  
4                   electric utility identifies under paragraph (3),  
5                   including whether those procedures, standards, and  
6                   time frames are already set forth in the electric  
7                   utility's existing plans or protocols and in  
8                   coordination with any relevant entities;

9           (11) Describe the procedures, standards, and time frames  
10                   that the electric utility will use to carry out  
11                   vegetation management in areas that the electric  
12                   utility identifies under paragraph (3), including  
13                   whether those procedures, standards, and time frames  
14                   are already set forth in the electric utility's  
15                   existing plans or protocols and in coordination with  
16                   any relevant entities;

17           (12) Include a list that identifies, describes, and  
18                   prioritizes wildfire risks, and drivers for those  
19                   risks, throughout the electric utility's service  
20                   territory, including all relevant risk and risk





- 1 mitigation information as may be required by guidance  
2 or rules adopted by the commission;
- 3 (13) Describe how the wildfire protection plan accounts for  
4 risks the electric utility identifies under paragraph  
5 (12);
- 6 (14) Include a showing that the electric utility has an  
7 adequately sized and trained workforce to promptly  
8 restore service after a wildfire, taking into account  
9 employees of other utilities pursuant to mutual aid  
10 agreements and employees of entities that have entered  
11 into contracts with the electric utility;
- 12 (15) Identify the estimated development, implementation,  
13 and administration costs for the wildfire protection  
14 plan;
- 15 (16) Identify the timelines, as applicable, for  
16 development, implementation, and administration of any  
17 aspects of the wildfire protection plan;
- 18 (17) Describe how the wildfire protection plan is  
19 consistent with the electric utility's other hazard  
20 mitigation and grid hardening plans, including plans  
21 to prepare for, and to restore service after, a



- 1 wildfire, including workforce mobilization and
- 2 prepositioning equipment and employees;
- 3 (18) Identify community outreach and public awareness
- 4 efforts that the electric utility will use before,
- 5 during, and after a wildfire;
- 6 (19) Describe the processes and procedures the electric
- 7 utility will use to do all of the following:
- 8 (A) Monitor and audit the implementation of the
- 9 wildfire protection plan;
- 10 (B) Monitor the effectiveness of the wildfire
- 11 protection plan and the wildfire protection
- 12 plan's implementation and identify areas for
- 13 improvement; and
- 14 (C) Monitor and audit the effectiveness of electrical
- 15 line and equipment inspections, including
- 16 inspections performed by contractors, carried out
- 17 under the wildfire protection plan and other
- 18 applicable statutes and rules of the commission;
- 19 (20) Demonstrate elements of data governance, including
- 20 enterprise systems, as may be required by guidance or
- 21 rules adopted by the commission;



1 (21) Include any modifications to paragraphs (1) to (20);

2 and

3 (22) Other information as required by the commission.

4 (b) Each electric utility shall regularly update its  
5 wildfire protection plan on a schedule determined by the  
6 commission.

7 (c) To develop the wildfire protection plan, the electric  
8 utility may consult with and consider information from federal,  
9 state, local, and other expert entities.

10 (d) The commission, in consultation with the department of  
11 land and natural resources, Hawaii emergency management agency,  
12 and local emergency services agencies, shall evaluate each  
13 electric utility's wildfire protection plan and plan updates  
14 through a public process.

15 (e) No more than ninety days after the last party filing,  
16 and no more than a total of one hundred eighty days after the  
17 initial filing in the docket or non-docketed case related to the  
18 commission's evaluation of a wildfire protection plan or plan  
19 update from an electric utility, the commission shall approve or  
20 approve with conditions the wildfire protection plan or plan  
21 update if the commission finds that the wildfire protection plan



1 or plan update is based on reasonable and prudent practices and  
2 designed to meet all applicable rules and standards adopted by  
3 the commission. The commission may, in approving the wildfire  
4 protection plan or plan update with conditions, direct the  
5 electric utility to make modifications to the wildfire  
6 protection plan or plan update that the commission believes  
7 represent a reasonable balancing of mitigation costs with the  
8 resulting reduction of wildfire risk based on the information  
9 provided by the electric utility and based on best practices.  
10 The commission shall issue a decision explaining any such  
11 directed modifications at the time the commission approves the  
12 wildfire protection plan or plan update. Such decision shall  
13 include a determination of the reasonable costs to develop,  
14 implement and administer the wildfire protection plan or plan  
15 update. The commission shall establish a mechanism to allow  
16 timely and prompt recovery of such costs in rates, which shall  
17 be incremental to the rates the electric utility is otherwise  
18 authorized to charge.

19 (f) The electric utility shall track the costs that it  
20 actually incurs to develop, implement, and administer the  
21 wildfire protection plan. In the electric utility's wildfire



1 protection plan update, the electric utility shall report on the  
2 costs as actually incurred for the most recent past period for  
3 which the information is available.

4 If the actual costs are less than the amounts that the  
5 commission determined were reasonable in its decision under  
6 subsection (e), the commission shall direct the electric utility  
7 to refund or credit the costs to ratepayers.

8 If the actual costs are equal to or greater than the  
9 amounts that the commission determined were reasonable in its  
10 decision under subsection (e), the commission shall not direct  
11 the electric utility to refund to ratepayers the amount the  
12 commission previously determined was reasonable but may disallow  
13 the recovery from ratepayers of any additional costs the  
14 commission finds unreasonable.

15 (g) So long as the electric utility has not acted in a  
16 manner that constitutes wilful misconduct, bad faith, or  
17 reckless disregard of the electric utility's obligations, in  
18 each case, in compliance with any applicable wildfire protection  
19 plan, no electric utility shall be civilly liable for the death  
20 of or injury to persons, or property damage, as a result of:



1 (1) Any act taken in accordance with a wildfire protection  
2 plan or plan update approved by the commission under  
3 this part; or

4 (2) Any failure to take an action proposed by an electric  
5 utility in a wildfire protection plan or plan update  
6 and thereafter removed from the wildfire protection  
7 plan or plan update by modification of the commission.

8 (h) There shall be no liability on the part of, and no  
9 cause of action of any nature shall arise against, the  
10 commission or its agents and employees, the State, the  
11 commission commissioners, or the commissioners' representatives  
12 for the death of or injury to persons, or property damage, for  
13 any action taken by such in the performance of their powers and  
14 duties under this part.

15 (i) The commission shall, as appropriate, adopt rules or  
16 issue orders for the implementation of this section. The rules  
17 or orders may include but need not be limited to procedures and  
18 standards regarding data governance, risk-based decision-making,  
19 vegetation management, public power safety shutoffs and  
20 restorations, pole materials, circuitry, and monitoring systems.



1           **§269-D Penalties.** (a) In addition to any other penalties  
2 provided by law, a failure by an electric utility to comply with  
3 an approved wildfire protection plan or part of an approved  
4 wildfire protection plan shall be subject to a civil penalty, as  
5 determined by the commission. Imposition of penalties pursuant  
6 to this section shall otherwise be in accordance with section  
7 269-28 and all applicable administrative rules. All moneys  
8 collected under this section shall be deposited into the public  
9 utilities commission special fund. The commission shall utilize  
10 performance based regulation to develop financial penalties and  
11 incentives tied to compliance with and performance under an  
12 approved wildfire protection plan.

13           (b) Any determination by the commission that the electric  
14 utility materially failed to comply with an approved wildfire  
15 protection plan or part of an approved wildfire protection plan,  
16 and any imposition of a civil penalty, will be inadmissible in  
17 any lawsuit or other action against the electric utility seeking  
18 compensation for the alleged death of or injury to persons, or  
19 property damage. In any action seeking to hold an electric  
20 utility civilly liable for the death of or injury to persons, or  
21 property damage, no inference of liability may be drawn solely



1 based on a failure by the electric utility to adhere to the  
2 requirements of an approved wildfire protection plan.

3 **§269-E Applications to issue bonds and authorize wildfire**  
4 **protection charges.** (a) An electric utility may apply to the  
5 commission for one or more financing orders to issue bonds to  
6 recover any wildfire protection costs, each of which authorizes  
7 the following:

- 8 (1) The imposition, charging, and collection of a wildfire  
9 protection charge, to become effective upon the  
10 issuance of the bonds, and an adjustment of any such  
11 wildfire protection charge in accordance with a true-  
12 up adjustment mechanism under this part in amounts  
13 sufficient to pay the principal of and interest on  
14 bonds and all related financing costs on a timely  
15 basis;
- 16 (2) The creation of wildfire protection property under the  
17 financing order; and
- 18 (3) The imposition, charging, and collection of fixed  
19 recovery tax amounts to recover any portion of the  
20 electric utility's federal and state taxes associated





1 with those wildfire protection charges and not  
2 financed from the proceeds of bonds.

3 (b) The application shall include all of the following:

4 (1) The principal amount of the bonds proposed to be  
5 issued and the selection of a financing entity;

6 (2) An estimate of the date each series of bonds is  
7 expected to be issued;

8 (3) The expected term, which shall include a scheduled  
9 final payment date not to exceed thirty years, and a  
10 legal final maturity that may be longer, subject to  
11 rating agency and market conditions, during which the  
12 wildfire protection charge associated with the  
13 issuance of each series of bonds is expected to be  
14 imposed and collected;

15 (4) An estimate of the financing costs associated with the  
16 issuance of each series of bonds;

17 (5) An estimate of the amount of the wildfire protection  
18 charge revenues necessary to pay principal and  
19 interest on the bonds and related financing costs as  
20 set forth in the application and the calculation for  
21 that estimate;



- 1           (6) A proposed design of the wildfire protection charges,  
2                   and a proposed methodology for allocating the wildfire  
3                   protection charge among customer classes;
- 4           (7) A description of the true-up adjustment for the  
5                   adjustment of the wildfire protection charge to  
6                   correct for any overcollection or undercollection of  
7                   the wildfire protection charge, and to otherwise  
8                   ensure the timely payment of principal and interest on  
9                   the bonds and related financing costs; and
- 10          (8) Any other information required by the commission.
- 11          (c) The commission shall issue an approval or denial of  
12 any application for a financing order filed pursuant to this  
13 section within ninety days of the last filing in the applicable  
14 docket.
- 15          (d) In exercising its duties under this section, the  
16 commission shall consider:
  - 17           (1) Whether the wildfire protection costs to be financed  
18                   by any bonds to be issued are just and reasonable;
  - 19           (2) Whether the recovery of such costs is consistent with  
20                   the public interest;



1           (3) Whether the terms and conditions of any bonds to be  
2           issued, including without limitation interest rates,  
3           rating, amortization redemption, and maturity, and the  
4           imposition and collection of fixed recovery charges as  
5           set forth in an application, are just and reasonable;

6           (4) Whether the recovery of recovery costs through the  
7           designation of the fixed recovery charges and any  
8           associated fixed recovery tax amounts, and the  
9           issuance of recovery bonds in connection with the  
10          fixed recovery charges, would result in net savings to  
11          consumers and reduce, to the maximum extent possible,  
12          the rates on a present value basis that consumers  
13          would pay as compared to the use of traditional  
14          utility financing mechanisms, which shall be  
15          calculated using the electric utility's updated  
16          overall corporate debt and equity costs in the ratio  
17          approved by the commission at the time of the  
18          financing order; provided that the commission may hire  
19          and rely upon a financial advisor in connection with  
20          this determination; provided that the financial



1           advisor shall not direct how the recovery bonds are  
2           placed to market; and

3           (5) Any other factors that the commission deems reasonable  
4           and in the public interest.

5 The electric utility may request the determination specified in  
6 this section by the commission in a separate proceeding, in an  
7 existing proceeding, or both. If the commission makes the  
8 determination specified in this section, the commission shall  
9 establish, as part of the financing order, a procedure for the  
10 electric utility to submit applications from time to time to  
11 request the issuance of additional financing orders designating  
12 wildfire protection charges and any associated fixed recovery  
13 tax amounts as recoverable. The electric utility may submit an  
14 application with respect to wildfire protection costs that an  
15 electric utility has paid, has an existing legal obligation to  
16 pay, or would be obligated to pay pursuant to an agreement. The  
17 commission shall, within one hundred twenty days of the filing  
18 of that application, issue a financing order, if the commission  
19 determines that the amounts identified in the application are  
20 wildfire protection costs.



1           At the option of the electric utility, the electric utility  
2 may include in its application for a financing order a request  
3 for authorization to sell, transfer, assign, or pledge recovery  
4 property to a governmental financing entity if the electric  
5 utility expects recovery bonds issued by a governmental  
6 financing entity would result in a more cost efficient means,  
7 taking into account all financing costs related to the recovery  
8 bonds, than using another financing entity to issue recovery  
9 bonds to finance the same recovery costs, taking into account  
10 the costs of issuing the other financing entity's bonds. If an  
11 electric utility exercises this option, the commission may hire  
12 and rely upon a financial advisor in connection with the  
13 commission's review; provided that the financial advisor shall  
14 not direct how the recovery bonds are placed to market.

15           (e) The commission shall not issue a financing order to  
16 the extent that the wildfire protection charges under all  
17 financing orders issued under this part constitute more than  
18 five per cent of the average residential customer bill,  
19 calculated at the time of the last such financing order. This  
20 provision shall not affect any financing order previously issued  
21 under this part.



1 (f) Wildfire protection charges shall be imposed only on  
2 existing and future consumers in the utility service territory.  
3 Consumers within the utility service territory of the electric  
4 utility that is subject to the financing order shall continue to  
5 pay wildfire protection charges until the bonds and associated  
6 financing costs are paid in full by the financing entity or, in  
7 the event the wildfire protection property has been assigned to  
8 an assignee in connection with the exercise of remedies upon a  
9 default, until the receipt of proceeds by the assignee in an  
10 amount sufficient to repay the principal amount of, and interest  
11 that would have accrued on, the bonds had they remained  
12 outstanding.

13 (g) The wildfire protection charge and any associated  
14 fixes recovery tax amounts shall be collected by a financing  
15 entity or its successors, in accordance with subsection (i), in  
16 full through a surcharge, fee, or charge that is separate and  
17 apart from the financing entity's rates.

18 (h) An electric utility may exercise the same rights and  
19 remedies under its tariff and applicable law and regulation  
20 based on a consumer's nonpayment of the wildfire protection



1 charge as it could for a consumer's failure to pay any other  
2 charge payable to that electric utility.

3 (i) The commission may establish in a financing order an  
4 effective mechanism that ensures recovery of wildfire protection  
5 costs through nonbypassable wildfire protection charges from  
6 existing and future consumers in the utility service territory.  
7 The wildfire protection charge and any associated fixed recovery  
8 tax amounts may be a usage-based surcharge, a flat user fee, or  
9 a charge based upon customer revenues as determined by the  
10 commission for each customer class in any financing order.  
11 Consumers shall be required to pay those charges until:

12 (1) The bonds and all associated financing costs are paid  
13 in full; or

14 (2) In the event the wildfire protection property has been  
15 assigned to an assignee in connection with the  
16 exercise of remedies upon a default, until the receipt  
17 of proceeds by such assignee in an amount sufficient  
18 to repay the principal amount of, and interest that  
19 would have accrued on, the bonds had they remained  
20 outstanding, at which time those charges shall be  
21 terminated.



1 A financing order shall remain in effect and unabated  
2 notwithstanding the bankruptcy, reorganization, or insolvency of  
3 the electric utility or the commencement of any judicial or  
4 nonjudicial proceeding on the financing order. Wildfire  
5 protection charges shall be irrevocable, notwithstanding the  
6 true-up adjustment pursuant to subsection (n).

7 (j) The commission shall issue financing orders in  
8 accordance with this part to facilitate the recovery, financing,  
9 or refinancing of wildfire protection costs. A financing order  
10 may be adopted only upon the application of the electric utility  
11 and shall become effective in accordance with its terms only  
12 after the electric utility files with the commission the  
13 electric utility's written consent to all terms and conditions  
14 of the financing order. A financing order may specify how  
15 amounts collected from a consumer shall be allocated between  
16 wildfire protection charges, any associated fixed recovery tax  
17 amounts, and other charges.

18 (k) Notwithstanding any other law, and except as otherwise  
19 provided in section 269-G(e), with respect to wildfire  
20 protection property that has been made the basis for the  
21 issuance of bonds and with respect to any associated fixed





1 recovery tax amounts, the financing order, the wildfire  
2 protection charges, and any associated fixed recovery tax  
3 amounts shall be irrevocable. The State and its agencies,  
4 including the commission, pledge and agree with bondholders, the  
5 owners and assignees of the wildfire protection property, and  
6 other financing parties that the State and its agencies will not  
7 take any action listed in this subsection. This subsection  
8 shall not preclude limitation or alteration if full compensation  
9 is made by law for the full protection of the wildfire  
10 protection property collected pursuant to a financing order and  
11 of the bondholders and any assignee or financing party entering  
12 into a contract with the electric utility. The prohibited  
13 actions shall be the following:

- 14 (1) Alter the provisions of this part, which authorize the  
15 commission to create an irrevocable contract right or  
16 chose in action by the issuance of a financing order,  
17 to create wildfire protection property, and make the  
18 wildfire protection charges imposed by a financing  
19 order irrevocable, binding, nonbypassable charges for  
20 all existing and future consumers;



- 1           (2) Take or permit any action that impairs or would impair  
2           the value of wildfire protection property or the  
3           security for the bonds or revise the wildfire  
4           protection costs for which recovery is authorized;
- 5           (3) In any way impair the rights and remedies of the  
6           bondholders, assignees, and other financing parties;
- 7           (4) Except for changes made pursuant to the formula-based  
8           true-up mechanism authorized under subsection (n),  
9           reduce, alter, or impair wildfire protection charges  
10          that are to be imposed, billed, charged, collected,  
11          and remitted for the benefit of the bondholders, any  
12          assignee, and any other financing parties until any  
13          and all principal, interest, premium, financing costs,  
14          and other fees, expenses, or charges incurred, and any  
15          contracts to be performed, in connection with the  
16          related bonds have been paid and performed in full or,  
17          in the event the wildfire protection property has been  
18          assigned to an assignee in connection with the  
19          exercise of remedies upon a default under the terms of  
20          the bonds, until the receipt of proceeds by such  
21          assignee in an amount sufficient to repay principal



1           and interest on the bonds that would have accrued had  
2           they remained outstanding.

3           (1) Under a financing order, the bonds may be issued in  
4 one or more series, and the electric utility shall retain sole  
5 discretion to cause bonds to be issued, including the right to  
6 defer or postpone such issuance, assignment, sale, or transfer.

7           (m) Neither financing orders nor bonds issued under this  
8 part shall constitute a general obligation of the State or of  
9 any political subdivision thereof, nor shall they constitute a  
10 pledge of the full faith and credit of the State or any of its  
11 political subdivisions, but shall be payable solely from the  
12 wildfire protection property provided under this part. All  
13 bonds shall contain on the face thereof a statement to the  
14 following effect: "Neither the full faith and credit nor the  
15 taxing power of the State of Hawaii is pledged to the payment of  
16 the principal of, or interest and premium on, this bond."

17           The issuance of bonds under this part shall not directly,  
18 indirectly, or contingently obligate the State or any political  
19 subdivision thereof to levy or to pledge any form of taxation or  
20 to make any appropriation for their payment.



1 (n) The commission shall establish procedures for the  
2 expeditious processing of an application for a financing order,  
3 which shall provide for the approval or disapproval of the  
4 application within ninety days of the application. Any wildfire  
5 protection charges authorized by a financing order shall appear  
6 on consumer bills. The commission shall, in any financing  
7 order, provide for a procedure for periodic true-up adjustments  
8 to wildfire protection charges, which shall be made at least  
9 annually and may be made more frequently. The electric utility  
10 shall make a filing with the commission to implement any true-up  
11 adjustment, and the review by the commission of these filings  
12 shall be limited to mathematical and clerical errors. Within  
13 thirty days after receiving an electric utility's filing of a  
14 true-up adjustment, the commission's review of the filing shall  
15 be limited to mathematical or clerical errors as determined in  
16 accordance with any true-up adjustment formulas set forth in the  
17 applicable financing order. The commission shall either approve  
18 the filing or inform the electric utility of any mathematical or  
19 clerical errors in its calculation. If the commission informs  
20 the electric utility of mathematical or clerical errors in its  
21 calculation, the electric utility shall correct its error and



1 refile its true-up adjustment. The timeframes previously  
2 described in this subsection shall apply to a refiled true-up  
3 adjustment.

4 (o) Wildfire protection charges are wildfire protection  
5 property when, and to the extent that, a financing order  
6 authorizing the wildfire protection charges has become effective  
7 in accordance with this part, and the wildfire protection  
8 property shall thereafter continuously exist as property for all  
9 purposes, and all of the rights and privileges relating to that  
10 property shall continuously exist for the period and to the  
11 extent provided in the financing order, but in any event until  
12 the bonds are paid in full, including all principal; premiums,  
13 if any; and interest with respect to the bonds, and all other  
14 financing costs are paid in full or, in the event the wildfire  
15 protection property has been assigned to an assignee in  
16 connection with the exercise of remedies upon a default, until  
17 the receipt by such assignee of proceeds in an amount sufficient  
18 to repay the principal amount of, and interest that would have  
19 accrued on, the bonds had they remained outstanding. A  
20 financing order may provide that the creation of wildfire  
21 protection property shall be simultaneous with the sale of the



1 wildfire protection property to an assignee as provided in the  
2 application of the pledge of the wildfire protection property to  
3 secure the bonds.

4 (p) Any successor to a financing entity shall be bound by  
5 the requirements of this part and shall perform and satisfy all  
6 obligations of, and have the same rights under a financing order  
7 as, and to the same extent as, the financing entity.

8 **§269-F Bonds; issuance; wildfire protection property**  
9 **interests.** (a) The electric utility may sell and assign all or  
10 portions of its interest in wildfire protection property to one  
11 or more financing entities that make that wildfire protection  
12 property the basis for issuance of bonds, to the extent approved  
13 in a financing order. The electric utility or financing entity  
14 may pledge wildfire protection property as collateral, directly  
15 or indirectly, for bonds to the extent approved in the pertinent  
16 financing orders providing for a security interest in the  
17 wildfire protection property, in the manner set forth in this  
18 section. In addition, wildfire protection property may be sold  
19 or assigned by either of the following:

20 (1) The financing entity or a trustee for the holders of  
21 bonds or the holders of an ancillary agreement in



1 connection with the exercise of remedies upon a  
2 default under the terms of the recovery bonds; or

3 (2) Any person acquiring the wildfire protection property  
4 after a sale or assignment pursuant to this part.

5 (b) To the extent that any interest in wildfire protection  
6 property is sold, assigned, or is pledged as collateral pursuant  
7 to subsection (a), the commission shall authorize the electric  
8 utility to contract with the financing entity and its assignees  
9 that it will continue to operate its system to provide service  
10 to consumers within its service territory, will collect amounts  
11 in respect of the wildfire protection charges for the benefit  
12 and account of the financing entity or its assignees, and will  
13 account for and remit these amounts to or for the account of the  
14 financing entity or its assignees. Contracting with the  
15 financing entity or its assignees in accordance with that  
16 authorization shall not impair or negate the characterization of  
17 the sale, assignment, or pledge as an absolute transfer, a true  
18 sale, or a security interest, as applicable. To the extent that  
19 billing, collection, and other related services with respect to  
20 the provision of the electric utility's services are provided to  
21 a consumer by any person or entity other than the electric



1 utility in whose service territory the consumer is located, that  
2 person or entity shall collect the wildfire protection charges  
3 and any associated fixed recovery tax amounts from the consumer  
4 for the benefit and account of the electric utility, financing  
5 entity, or assignees with the associated revenues remitted  
6 solely for such person's benefit as a condition to the provision  
7 of electric service to that consumer. Each financing order  
8 shall impose terms and conditions, consistent with the purposes  
9 and objectives of this part, on any person or entity responsible  
10 for billing, collection, and other related services, including  
11 without limitation collection of the wildfire protection charges  
12 and any associated fixed recovery tax amounts, that are the  
13 subject of the financing order.

14 (c) The financing entity may issue bonds upon approval by  
15 the commission in a financing order. Bonds shall be nonrecourse  
16 to the credit or any assets of the electric utility, other than  
17 the wildfire protection property as specified in that financing  
18 order.

19 (d) Wildfire protection property that is specified in a  
20 financing order shall constitute an existing, present property  
21 right, notwithstanding the fact that the imposition and





1 collection of wildfire protection charges depend on the electric  
2 utility continuing to provide services or continuing to perform  
3 its servicing functions relating to the collection of wildfire  
4 protection charges or on the level of future service  
5 consumption. Wildfire protection property shall exist whether  
6 or not the wildfire protection charges have been billed, have  
7 accrued, or have been collected and notwithstanding the fact  
8 that the value for a security interest in the wildfire  
9 protection property, or amount of the wildfire protection  
10 property, is dependent on the future provision of service to  
11 consumers. All wildfire protection property specified in a  
12 financing order shall continue to exist until the bonds issued  
13 pursuant to a financing order and all associated financing costs  
14 are paid in full or, in the event the wildfire protection  
15 property has been assigned to an assignee in connection with the  
16 exercise of remedies upon a default, until the receipt by such  
17 assignee of proceeds in an amount sufficient to repay the  
18 principal amount of, and interest that would have accrued on,  
19 the bonds had they remained outstanding.

20 (e) Wildfire protection property, wildfire protection  
21 charges, and the interests of an assignee, bondholder, or



1 financing entity, or any pledgee in wildfire protection property  
2 and wildfire protection charges shall not be subject to setoff,  
3 counterclaim, surcharge, recoupment, or defense by the electric  
4 utility or any other person or in connection with the  
5 bankruptcy, reorganization, or other insolvency proceeding of  
6 the electric utility, any affiliate of the electric utility, or  
7 any other entity.

8 (f) Notwithstanding any other law to the contrary, any  
9 requirement under this part or a financing order that the public  
10 utilities commission takes action with respect to the subject  
11 matter of a financing order shall be binding upon the  
12 commission, as it may be constituted from time to time, and any  
13 successor agency exercising functions similar to the commission,  
14 and the commission shall have no authority to rescind, alter, or  
15 amend that requirement in a financing order.

16 **§269-G Security interests in wildfire protection property;**  
17 **financing statements.** (a) A security interest in wildfire  
18 protection property is valid and enforceable against the pledgor  
19 and third parties, subject to the rights of any third parties  
20 holding security interests in the wildfire protection property



1 perfected in the manner described in this section, and attaches  
2 when all of the following have taken place:

3 (1) The commission has issued a financing order  
4 authorizing the wildfire protection charge included in  
5 the wildfire protection property;

6 (2) Value has been given by the pledgees of the wildfire  
7 protection property; and

8 (3) The pledgor has signed a security agreement covering  
9 the wildfire protection property.

10 (b) A valid and enforceable security interest in wildfire  
11 protection property is perfected when it has attached and when a  
12 financing statement has been filed with the bureau of  
13 conveyances naming the pledgor of the wildfire protection  
14 property as "debtor" and identifying the wildfire protection  
15 property.

16 Any description of the wildfire protection property shall  
17 be sufficient if it refers to the financing order creating the  
18 wildfire protection property. A copy of the financing statement  
19 shall be filed with the commission by the electric utility that  
20 is the pledgor or transferor of the wildfire protection  
21 property, and the commission may require the electric utility to



1 make other filings with respect to the security interest in  
2 accordance with procedures that the commission may establish;  
3 provided that the filings shall not affect the perfection of the  
4 security interest.

5 (c) A perfected security interest in wildfire protection  
6 property shall be a continuously perfected security interest in  
7 all wildfire protection property revenues and proceeds arising  
8 with respect thereto, whether or not the revenues or proceeds  
9 have accrued. Conflicting security interests shall rank  
10 according to priority in time of perfection. Wildfire  
11 protection property shall constitute property for all purposes,  
12 including for contracts securing bonds, whether or not the  
13 wildfire protection property revenues and proceeds have accrued.

14 (d) Subject to the terms of the security agreement  
15 covering the wildfire protection property and the rights of any  
16 third parties holding security interests in the wildfire  
17 protection property, the validity and relative priority of a  
18 security interest created under this section shall not be  
19 defeated or adversely affected by the commingling of revenues  
20 arising with respect to the wildfire protection property with  
21 other funds of the electric utility, or by any security interest



1 in a deposit account of that electric utility perfected under  
2 chapter 490, article 9, into which the revenues are deposited.

3 Subject to the terms of the security agreement, upon  
4 compliance with the requirements of section 490:9-312(b)(1), the  
5 pledgees of the wildfire protection property shall have a  
6 perfected security interest in all cash and deposit accounts of  
7 the electric utility in which wildfire protection property  
8 revenues have been commingled with other funds; provided that  
9 the perfected security interest shall be limited to an amount no  
10 greater than the amount of the wildfire protection property  
11 revenues received by the electric utility within twelve months  
12 before:

13 (1) Any default under the security agreement; or  
14 (2) The institution of insolvency proceedings by or  
15 against the electric utility, less payments from the  
16 revenues to the pledgees during that twelve-month  
17 period.

18 (e) If default occurs under the security agreement  
19 covering the wildfire protection property, the pledgees of the  
20 wildfire protection property, subject to the terms of the  
21 security agreement, shall have all rights and remedies of a



1 secured party upon default under chapter 490, article 9, and  
2 shall be entitled to foreclose or otherwise enforce their  
3 security interest in the wildfire protection property, subject  
4 to the rights of any third parties holding prior security  
5 interests in the wildfire protection property perfected in the  
6 manner provided in this section. In addition, the commission  
7 may require in the financing order creating the wildfire  
8 protection property that, in the event of default by the  
9 electric utility in payment of wildfire protection property  
10 revenues, the commission and any successor thereto, upon the  
11 application by the pledgees or assignees, including assignees  
12 under section 269-H of the wildfire protection property, and  
13 without limiting any other remedies available to the pledgees or  
14 assignees by reason of the default, shall order the  
15 sequestration and payment to the pledgees or assignees of  
16 wildfire protection property revenues. Any financing order  
17 shall remain in full force and effect notwithstanding any  
18 bankruptcy, reorganization, or other insolvency proceedings with  
19 respect to the debtor, pledgor, or transferor of the wildfire  
20 protection property. Any surplus in excess of:



1 (1) Amounts necessary to pay principal, premiums, if any,  
2 interest, costs, and arrearages on the bonds, and  
3 associated financing costs arising under the security  
4 agreement; or

5 (2) In the event the wildfire protection property has been  
6 assigned to an assignee in connection with the  
7 exercise of remedies upon a default, an amount  
8 sufficient to repay the principal amount of, and  
9 interest that would have accrued on, the bonds had  
10 they remained outstanding,

11 shall be remitted to the debtor or to the pledgor or transferor.

12 (f) Sections 490:9-204 and 490:9-205 shall apply to a  
13 pledge of wildfire protection property by the electric utility,  
14 an affiliate of the electric utility, or a financing entity.

15 **§269-H Transfers of wildfire protection property.** (a) A  
16 transfer of wildfire protection property by the electric utility  
17 to an assignee or to a financing entity, or by an assignee of  
18 the electric utility or a financing entity to another financing  
19 entity, which the parties in the governing documents have  
20 expressly stated to be a sale or other absolute transfer, in a  
21 transaction approved in a financing order, shall be treated as



1 an absolute transfer of all of the transferor's right, title,  
2 and interest, as in a true sale, and not as a pledge or other  
3 financing, of the wildfire protection property, other than for  
4 federal and state income and franchise tax purposes.

5 (b) The characterization of the sale, assignment, or  
6 transfer as an absolute transfer and true sale and the  
7 corresponding characterization of the property interest of the  
8 assignee shall not be affected or impaired by, among other  
9 things, the occurrence of any of the following:

10 (1) Commingling of wildfire protection charge revenues  
11 with other amounts;

12 (2) The retention by the seller of either of the  
13 following:

14 (A) A partial or residual interest, including an  
15 equity interest, in the financing entity or the  
16 wildfire protection property, whether direct or  
17 indirect, subordinate or otherwise; or

18 (B) The right to recover costs associated with taxes,  
19 franchise fees, or license fees imposed on the  
20 collection of wildfire protection charge;





- 1           (3) Any recourse that an assignee may have against the
- 2           seller;
- 3           (4) Any indemnification rights, obligations, or repurchase
- 4           rights made or provided by the seller;
- 5           (5) The obligation of the seller to collect wildfire
- 6           protection charges on behalf of an assignee;
- 7           (6) The treatment of the sale, assignment, or transfer for
- 8           tax, financial reporting, or other purpose; or
- 9           (7) Any true-up adjustment of the wildfire protection
- 10          charge as provided in the financing order.
- 11          (c) A transfer of wildfire protection property shall be
- 12 deemed perfected against third parties when both of the
- 13 following occur:
- 14          (1) The commission issues the financing order authorizing
- 15          the wildfire protection charge included in the
- 16          wildfire protection property; and
- 17          (2) An assignment of the wildfire protection property in
- 18          writing has been executed and delivered to the
- 19          assignee.
- 20          (d) As between bona fide assignees of the same right for
- 21 value without notice, the assignee first filing a financing



1 statement with the bureau of conveyances in accordance with  
2 chapter 490, article 9, part 5, naming the assignor of the  
3 wildfire protection property as debtor and identifying the  
4 wildfire protection property shall have priority. Any  
5 description of the wildfire protection property shall be  
6 sufficient if it refers to the financing order creating the  
7 wildfire protection property. A copy of the financing statement  
8 shall be filed by the assignee with the commission, and the  
9 commission may require the assignor or the assignee to make  
10 other filings with respect to the transfer in accordance with  
11 procedures the commission may establish, but these filings shall  
12 not affect the perfection of the transfer.

13 **§269-I Successor requirements; default.** (a) Any  
14 successor to an electric utility subject to a financing order,  
15 whether pursuant to any bankruptcy, reorganization, or other  
16 insolvency proceeding, or pursuant to any merger, sale, or  
17 transfer, by operation of law, or otherwise, shall be bound by  
18 the requirements of this part. The successor of the electric  
19 utility shall perform and satisfy all obligations of the  
20 electric utility under the financing order, in the same manner  
21 and to the same extent as the electric utility, including the



1 obligation to collect and pay the wildfire protection charge to  
2 any financing party as required by a financing order or any  
3 assignee. Any successor to the electric utility shall be  
4 entitled to receive any fixed recovery tax amounts otherwise  
5 payable to the electric utility.

6 (b) The commission may require in a financing order that  
7 if a default by the electric utility in remittance of the  
8 wildfire protection charge collected arising with respect to  
9 wildfire protection property occurs, the commission, without  
10 limiting any other remedies available to any financing party by  
11 reason of the default, shall order the sequestration and payment  
12 to the beneficiaries of the wildfire protection charge collected  
13 arising with respect to the wildfire protection property. Any  
14 order shall remain in full force and effect notwithstanding any  
15 bankruptcy, reorganization, or other insolvency proceedings with  
16 respect to the electric utility.

17 **§269-J Severability.** If any provision of this part is  
18 held to be invalid or is superseded, replaced, repealed, or  
19 expires for any reason:

20 (1) That occurrence shall not affect any action allowed  
21 under this part that is taken prior to that occurrence



1 by the commission, a financing entity, a bondholder,  
2 or any financing party, and any such action shall  
3 remain in full force and effect; and

4 (2) The validity and enforceability of the rest of this  
5 part shall remain unaffected."

6 SECTION 3. Section 269-9, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**S269-9 Report accidents.** (a) Every public utility shall  
9 report to the public utilities commission all accidents and  
10 wildfires potentially caused by or occurring in connection with  
11 [its] the public utility's operations and service~~[, and the]~~.

12 The commission shall investigate the causes of [any]:

13 (1) Any accident ~~[which results]~~ that resulted in the loss  
14 of life~~[,]~~; and

15 (2) Any wildfires that:

16 (A) May have been caused by a public utility;

17 (B) Destroyed a significant amount of public utility  
18 equipment; or

19 (C) Resulted in the loss of life.

20 The commission may investigate any other accidents ~~[which]~~ that,  
21 in ~~[its]~~ the commission's opinion, require investigation.



1        (b) The public utility's reporting of an accident or  
2 wildfire under this section shall not be admissible evidence in  
3 any judicial, administrative, or other governmental proceeding  
4 for purposes of establishing that the wildfire was caused by the  
5 public utility."

6        SECTION 4. Chapter 269-17, Hawaii Revised Statutes, is  
7 amended to read as follows:

8        "**§269-17 Issuance of securities.** A public utility  
9 corporation or a financing entity may, on securing the prior  
10 approval of the public utilities commission, and not otherwise,  
11 except as provided in section 269-E, issue stocks and stock  
12 certificates, bonds, notes, and other evidences of indebtedness,  
13 payable at periods of more than twelve months after the date  
14 thereof, for the following purposes and no other, namely: for  
15 the acquisition of property or for the construction, completion,  
16 extension, or improvement of or addition to its facilities or  
17 service, or for the discharge or lawful refunding of its  
18 obligations or for the reimbursement of moneys actually expended  
19 from income or from any other moneys in its treasury not secured  
20 by or obtained from the issue of its stocks or stock  
21 certificates, or bonds, notes, or other evidences of



1 indebtedness, for any of the aforesaid purposes except  
2 maintenance of service, replacements, and substitutions not  
3 constituting capital expenditure in cases where the corporation  
4 has kept its accounts for such expenditures in such manner as to  
5 enable the commission to ascertain the amount of moneys so  
6 expended and the purposes for which the expenditures were made,  
7 and the sources of the funds in its treasury applied to the  
8 expenditures. As used [~~herein,~~] in this section, "property" and  
9 "facilities" [~~]~~ mean property and facilities used in all  
10 operations of a public utility corporation whether or not  
11 included in its public utility operations or rate base. A  
12 public utility corporation may not issue securities to acquire  
13 property or to construct, complete, extend or improve or add to  
14 its facilities or service if the commission determines that the  
15 proposed purpose will have a material adverse effect on its  
16 public utility operations.

17 All stock and every stock certificate, and every bond,  
18 note, or other evidence of indebtedness of a public utility  
19 corporation not payable within twelve months, issued without an  
20 order of the commission authorizing the same, then in effect,  
21 shall be void."



1 SECTION 5. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4 SECTION 6. In codifying the new part added by section 2 of  
5 this Act, the revisor of statutes shall substitute appropriate  
6 section numbers for the letters used in designating and  
7 referring to the new sections in this Act.

8 SECTION 7. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 8. This Act shall take effect on July 1, 3000.



**Report Title:**

Wildfires; Mitigation; Protection; Public Utilities Commission;  
Electric Utilities; Securitization; Wildfire Protection Plans;  
Wildfire Reporting; Public Utilities

**Description:**

Creates a process for electric utilities to develop and submit wildfire protection plans to the Public Utilities Commission for approval and allow the recovery of related costs and expenses through securitization, while avoiding a disproportionate impact on a specific ratepayer or county. Requires public utilities to report wildfires potentially caused by or occurring in connection with their operations. Effective 7/1/3000. (HD3)

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

