
A BILL FOR AN ACT

RELATING TO WILDFIRE RISK MITIGATION.

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 the plans and the recovery of any
8 related costs to implement the plans.

9 The legislature also finds that a resilience working group,
10 convened throughout 2019 and 2020, sought to:

- 11 (1) Identify and prioritize resilience threat scenarios
12 and potential grid impacts;
- 13 (2) Identify key customer and infrastructure sector
14 capabilities and needs following a severe event and
15 loss of power;



- 1 (3) Identify gaps and priorities in grid and customer
2 capabilities following a severe event and loss of
3 power;
- 4 (4) Provide recommendations and inputs for investor-owned
5 utility grid planning to address resilience needs; and
- 6 (5) Recommend additional grid and customer actions to
7 close gaps and capabilities following severe events.
8 The resilience working group identified wildfires as
9 one of five types of severe events of utmost
10 importance to consider for achieving a resilient grid
11 and provided resilience options for utilities to
12 consider.

13 The legislature further finds that securitization may be
14 the most efficient, least-cost way to finance wildfire risk
15 mitigation costs and expenses. Utility rate securitization
16 transactions have an extensive track record of success. Bonds
17 securitized by rates receive AAA credit ratings from credit
18 rating agencies and thus provide a means of securing capital at
19 a lower interest rate than those currently available to
20 utilities, in particular utilities without an investment grade
21 credit rating.



1 The purpose of this Act is to create a process whereby
2 electric utilities develop and submit effective wildfire risk
3 protection plans to the public utilities commission for
4 approval; the public utilities commission evaluates those plans
5 and either approves them or does so with modifications; the
6 electric utilities are able to timely recover the prudently
7 incurred costs and expenses of developing, implementing, and
8 administering those plans; and those costs and expenses are not
9 borne disproportionately by any particular ratepayer or county.

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

13 "PART . WILDFIRE PROTECTION AND MITIGATION

14 §269-A Definitions. As used in this part:

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



1 "Bond" means any bond, note, or other evidence of
2 indebtedness that is issued by the financing entity under a
3 financing order, the proceeds of which are used directly or
4 indirectly to recover, finance, or refinance financing costs of
5 any wildfire protection costs, and that are secured by or
6 payable from wildfire protection property.

7 "Catastrophic wildfire" means any wildfire in the State
8 that damaged or destroyed more than five hundred dwellings or
9 commercial buildings.

10 "Department" means any state department or agency.

11 "Electric utility" means a public utility, as defined in
12 section 269-1, that is engaged in the production, transmission,
13 or distribution of 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 public utilities commission in a financing
18 order. "Financing 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 plan fee;
- 7 (5) Costs related to issuing and servicing bonds or the
- 8 application for a financing order, including, without
- 9 limitation, servicing fees and expenses, trustee fees
- 10 and expenses, legal fees and expenses, accounting
- 11 fees, administrative fees, underwriting and placement
- 12 fees, financial advisory fees, original issue
- 13 discount, capitalized interest, rating agency fees,
- 14 and any other related costs that are approved for
- 15 recovery in the financing order; and
- 16 (6) Other costs as specifically authorized by a financing
- 17 order.

18 "Financing entity" means a public utility and an entity to
19 which a public utility sells or assigns all or a portion of the
20 public utility's interest in wildfire protection property, in
21 each case as approved by the commission in a financing order.



1 For this purpose, an entity to which a public utility sells or
2 assigns all or a portion of the public utility's interest in
3 wildfire protection property shall include any governmental
4 entity eligible to issue federally tax-exempt obligations
5 pursuant to Section 103 of the Internal Revenue Code of 1986,
6 including the State or a political subdivision thereof or any
7 department, agency or instrumentality of the foregoing; provided
8 that the bonds issued thereby shall not constitute a debt or
9 liability of the State or any political subdivision thereof or
10 any department, agency or instrumentality thereof and shall not
11 constitute a pledge of the full faith and credit of the entity
12 or of the State or any political subdivision thereof, but shall
13 be payable solely from the funds provided under this chapter.

14 "Financing order" means an order of the public utilities
15 commission under this part that has become final as provided by
16 law, and that authorizes the issuance of bonds and the
17 imposition, adjustment from time to time, and collection of
18 wildfire protection fees.

19 "Wildfire protection costs" means any capital costs and
20 operation and maintenance expenses related to the development,
21 implementation, and administration of a wildfire protection plan



1 prepared pursuant to section 269-C(a). Wildfire protection
2 costs may also include any of the following:

- 3 (1) Catastrophic wildfire costs or expenses that the
4 commission has determined were prudently incurred;
- 5 (2) Federal and state taxes associated with recovery of
6 the amounts pursuant to paragraph (1); or
- 7 (3) Financing costs.

8 "Wildfire protection fee" means the nonbypassable fees and
9 charges authorized by section 269-F and in a financing order
10 authorized under this part to be imposed on and collected from
11 all existing and future customers of a financing entity or any
12 successor.

13 "Wildfire protection plan" means the risk-based wildfire
14 protection plan mandated by section 269-C(a) and approved by the
15 public utilities commission.

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

- 20 (1) In and to the wildfire protection fee established
21 pursuant to a financing order, including all rights to



1 obtain adjustments to the wildfire protection fee in
2 accordance with section 269-F and the financing order;
3 and

4 (2) To be paid in the amount that is determined in a
5 financing order to be the amount that the public
6 utility or its transferee is lawfully entitled to
7 receive pursuant to this part and the proceeds
8 thereof, and in and to all revenues, collections,
9 claims, payments, moneys, or proceeds of, or arising
10 from, the wildfire protection fee that is the subject
11 of a financing order.

12 **§269-B Electric utility workshops.** The public utilities
13 commission may periodically convene workshops to help electric
14 utilities develop and share information for the identification,
15 adoption, and implementation of best practices regarding
16 wildfires, including but not limited to risk-based wildfire
17 protection and risk-based wildfire mitigation procedures and
18 standards. The best practices discussed in these workshops may
19 be incorporated into the proposed wildfire protection plans and
20 updates submitted for the approval of the public utilities
21 commission pursuant to section 269-C.



1 **§269-C Wildfire protection plans.** (a) Each electric
2 utility shall have and operate in compliance with a risk-based
3 wildfire protection plan, which shall be submitted to the public
4 utilities commission for approval. The risk-based wildfire
5 protection plan shall be based on reasonable and prudent
6 practices that may be determined by public utilities commission
7 standards adopted by decision or rule. The electric utility
8 shall design the risk-based wildfire protection plan to protect
9 public safety, reduce risk to utility customers, and promote
10 resilience of the Hawaii electric system to wildfire damage.
11 Each electric utility's plan shall, at a minimum:

12 (1) Account for responsibilities of persons responsible
13 for executing the plan;

14 (2) Describe the objectives of the plan;

15 (3) Identify areas that are subject to a heightened risk
16 of wildfire and are:

17 (A) Within the right of way or legal control or
18 ownership of the electric utility; and

19 (B) Outside the right of way or legal control or
20 ownership of the electric utility but within a
21 reasonable distance, as determined by the public



- 1 utilities commission, of the electric utility's
2 generation or transmission assets;
- 3 (4) Identify a means for mitigating wildfire risk that
4 reflects a reasonable balancing of mitigation costs
5 with the resulting reduction of wildfire risk;
- 6 (5) Identify preventive actions and programs that the
7 electric utility shall carry out to minimize the risk
8 of utility facilities causing wildfire;
- 9 (6) Identify the metrics the electric utility plans to use
10 to evaluate the plan's performance and the assumptions
11 that underlie the use of those metrics;
- 12 (7) Describe how the application of previously identified
13 metrics to previous plan performances has informed the
14 plan;
- 15 (8) After seeking information from state and local
16 entities, identify a protocol for the deenergizing of
17 power lines and adjusting of power system operations
18 to mitigate wildfires, promote the safety of the
19 public and first responders, and preserve health and
20 communication infrastructure;



- 1 (9) Describe appropriate and feasible procedures for
2 notifying a customer who may be impacted by the
3 deenergizing of electrical lines. The procedures
4 shall consider the need to notify, as a priority,
5 critical first responders, health care facilities,
6 operators of wastewater and water delivery
7 infrastructure and operators of telecommunications
8 infrastructure;
- 9 (10) Describe the procedures, standards, and time frames
10 that the electric utility shall use to inspect utility
11 infrastructure in areas that the electric utility
12 identifies under paragraph (1), including whether
13 those procedures, standards, and time frames are
14 already set forth in the electric utility's existing
15 plans or protocols and in coordination with any
16 relevant entities;
- 17 (11) Describe the procedures, standards, and time frames
18 that the electric utility shall use to carry out
19 vegetation management in areas that the electric
20 utility identifies under paragraph (1), including
21 whether those procedures, standards, and time frames



1 are already set forth in the electric utility's
2 existing plans or protocols and in coordination with
3 any relevant entities;

4 (12) Include a list that identifies, describes, and
5 prioritizes all wildfire risks, and drivers for those
6 risks, throughout the electric utility's service
7 territory. The list shall include but not be limited
8 to:

9 (A) Risks and risk drivers associated with design,
10 construction, operation, and maintenance of the
11 electric utility's equipment and facilities; and

12 (B) Particular risks and risk drivers associated with
13 topographic and climatological risk factors
14 throughout the different parts of the electric
15 utility's service territory;

16 (13) Describe how the plan accounts for the wildfire risk
17 identified in the electric utility's risk assessment;

18 (14) Describe the actions the electric utility will take to
19 ensure its system achieves the highest level of
20 safety, reliability, and resiliency, and to ensure
21 that its system is prepared for a wildfire, including



1 hardening and modernizing its infrastructure with
2 improved engineering, system design, standards,
3 equipment, and facilities, including but not limited
4 to undergrounding lines, insulation of distribution
5 wires, and pole replacement;

6 (15) Demonstrate 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 (16) Identify the estimated development, implementation,
13 and administration costs for the risk-based wildfire
14 protection plan;

15 (17) Identify the timelines, as applicable, for
16 development, implementation, and administration of any
17 aspects of the risk-based wildfire protection plan;

18 (18) Describe how the plan is consistent with the electric
19 utility's other hazard mitigation and grid hardening
20 plans, including plans to prepare for and to restore
21 service after a wildfire including workforce



- 1 mobilization and repositioning equipment and
2 employees;
- 3 (19) Identify community outreach and public awareness
4 efforts that the electric utility shall use before,
5 during, and after a wildfire;
- 6 (20) Describe the processes and procedures the electric
7 utility shall use to do all of the following:
- 8 (A) Monitor and audit the implementation of the plan;
9 (B) Identify any deficiencies in the plan or the
10 plan's implementation and correct those
11 deficiencies; and
- 12 (C) Monitor and audit the effectiveness of electrical
13 line and equipment inspections, including
14 inspections performed by contractors, carried out
15 under the plan and other applicable statutes and
16 commission rules;
- 17 (21) Demonstrate elements of data governance, including
18 enterprise systems; and
- 19 (22) Any modifications to the above, or other information
20 as required by the commission.



1 (b) Each electric utility shall regularly submit updates
2 to its risk-based wildfire protection plan for approval on a
3 schedule determined by the public utilities commission.

4 (c) To develop the risk-based wildfire protection plan,
5 the electric utility may consult with and consider information
6 from federal, state, local, and other expert entities.

7 (d) The public utilities commission shall evaluate each
8 electric utility's risk-based wildfire protection plan and plan
9 updates according to the public utilities commission's rules of
10 practice and procedure in chapter 16-601, Hawaii Administrative
11 Rules. The public utilities commission shall authorize the
12 department of land and natural resources and local emergency
13 services agencies to participate in proceedings evaluating risk-
14 based wildfire protection plans.

15 (e) Not more than ninety days after the last party filing,
16 and not more than a total of one hundred eighty days after the
17 initial application for approval of the submitted wildfire
18 protection plan or update in the docketed proceeding, the public
19 utilities commission shall approve, approve with conditions, or
20 reject the plan or update based on whether the public utilities
21 commission finds that the plan or update is based on reasonable



1 and prudent practices and designed to meet all applicable rules
2 and standards adopted by the public utilities commission. The
3 public utilities commission may, in approving the plan or update
4 with conditions, direct the electric utility to make
5 modifications to the plan or updates that the public utilities
6 commission believes represent a reasonable balancing of
7 mitigation costs with the resulting reduction of wildfire risk
8 based on the evidentiary record in the proceeding. The public
9 utilities commission shall issue a decision explaining its
10 determinations, including findings of fact and conclusions of
11 law, in accordance with chapter 91.

12 (f) The electric utility shall track the costs that it
13 actually incurs to develop, implement, and administer the risk-
14 based wildfire protection plan. In the electric utility's risk-
15 based wildfire protection plan update, the electric utility
16 shall report on the costs as actually incurred for the most
17 recent past period for which the information is available.

18 If the actual costs are less than the amounts that the
19 public utilities commission determined were reasonable in its
20 decision under subsection (e), the public utilities commission



1 shall direct the electric utility to refund or credit the costs
2 to ratepayers.

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

10 (g) The public utilities commission's approval of a risk-
11 based wildfire protection plan does not by itself establish a
12 defense to any enforcement action for violation of a public
13 utilities commission decision, order, or rule.

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



1 (i) In its decision pursuant to section 269-C(e), the
2 public utilities commission shall determine the reasonable costs
3 to develop, implement, and administer the plan and shall
4 authorize the electric utility to recover the costs in rates.
5 The commission shall establish a method to authorize timely and
6 prompt recovery of the wildfire protection costs. The
7 commission shall establish rules for the electric utility to
8 track actual wildfire protection costs and for the commission to
9 authorize, as applicable, refunds or credits to ratepayers where
10 actual wildfire protection costs are ultimately less than those
11 the commission determined reasonable and authorized for rate
12 recovery. To the degree actual wildfire protection costs exceed
13 those the commission determined were reasonable and authorized
14 for rate recovery, the commission shall authorize cost recovery
15 in the event that it determines those additional wildfire
16 protection costs are just and reasonable. The method
17 established hereunder may include the issuance of bonds under
18 section 269-D.

19 (j) No electric utility shall be civilly liable for the
20 death of or injury to persons, or property damage, as a result
21 of:



1 (1) Any act taken in accordance with a plan or updated
2 plan approved by the public utilities commission under
3 this chapter; or

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

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

15 (1) Any determination by the public utilities commission
16 that the electric utility materially failed to comply with an
17 approved plan or part of an approved plan, and any imposition of
18 a civil penalty, shall be inadmissible in any lawsuit or other
19 action against the electric utility seeking compensation for the
20 alleged death of or injury to persons, or property damage. In
21 any action seeking to hold an electric utility civilly liable



1 for the death of or injury to persons, or property damage, no
2 inference of liability may be drawn solely based on a failure by
3 the electric utility to adhere to the requirements of an
4 approved plan.

5 **§269-D Applications to issue bonds and authorize wildfire**
6 **protection fees.** (a) An electric utility or department may
7 apply to the public utilities commission for one or more
8 financing orders to issue bonds to recover any wildfire
9 protection costs, each of which authorizes the following:

10 (1) The imposition, charging, and collection of a wildfire
11 protection fee, to become effective upon the issuance
12 of the bonds, and an adjustment of any wildfire
13 protection fee in accordance with an adjustment
14 mechanism under this part in amounts sufficient to pay
15 the principal of and interest on bonds and all related
16 financing costs on a timely basis; and

17 (2) The creation of wildfire protection property under the
18 financing order.

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

20 (1) The principal amount of the bonds proposed to be
21 issued;



- 1 (2) An estimate of the date each series of bonds is
2 expected to be issued;
- 3 (3) The expected term, not to exceed thirty years, during
4 which term the wildfire protection fee associated with
5 the issuance of each series of bonds is expected to be
6 imposed and collected;
- 7 (4) An estimate of the financing costs associated with the
8 issuance of each series of bonds;
- 9 (5) An estimate of the amount of the wildfire protection
10 fee revenues necessary to pay principal and interest
11 on the bonds and related financing costs as set forth
12 in the application and the calculation for that
13 estimate;
- 14 (6) A proposed methodology for allocating the wildfire
15 protection fee among customer classes within the
16 financing entity;
- 17 (7) A description of a proposed formulaic adjustment
18 mechanism for the adjustment of the wildfire
19 protection fee to correct for any overcollection or
20 undercollection of the wildfire protection fee, and to



1 otherwise ensure the timely payment of principal and
2 interest on the bonds and related financing costs; and
3 (8) Any other information required by the public utilities
4 commission.

5 (c) The public utilities commission shall issue an
6 approval or denial of any application for a financing order
7 filed pursuant to this section within ninety days of the last
8 filing in the applicable docket.

9 (d) In exercising its duties under this section, the
10 public utilities commission shall consider:

11 (1) Whether the wildfire protection costs to be financed
12 by any bonds to be issued are just and reasonable;

13 (2) Whether the costs are consistent with the public
14 interest;

15 (3) Whether the terms and conditions of any bonds to be
16 issued are just and reasonable;

17 (4) Whether the immediate ratepayer bill impact of any
18 financing order is minimized to the furthest extent
19 practicable; and

20 (5) Any other factors that the public utilities commission
21 deems reasonable and in the public interest.



1 **§269-E Wildfire protection plan financing order.** (a) A
2 financing order shall remain in effect until the bonds issued
3 under the financing order and all financing costs related to the
4 bonds have been paid in full or defeased by their terms. A
5 financing order shall remain in effect and unabated
6 notwithstanding the bankruptcy, reorganization, or insolvency of
7 the electric utility or the commencement of any judicial or
8 nonjudicial proceeding on the financing order.

9 (b) Once a financing order has become final as provided by
10 law, the financing order shall become irrevocable. The public
11 utilities commission may not directly or indirectly, except as
12 provided in the adjustment mechanism approved in the financing
13 order, reduce, impair, postpone, rescind, alter, or terminate
14 the wildfire protection plan fee authorized in the financing
15 order or impair the wildfire protection property or the
16 collection of the wildfire protection plan fee so long as any
17 bonds are outstanding or any financing costs remain unpaid.

18 (c) Under a final financing order, the electric utility
19 shall retain sole discretion to cause bonds to be issued,
20 including the right to defer or postpone the issuance,
21 assignment, sale, or transfer.



1 (d) The public utility may sell and assign all or portions
2 of its interest in wildfire protection property to one or more
3 financing entities that make that wildfire protection property
4 the basis for issuance of bonds, to the extent approved in a
5 financing order. The public utility or financing entity may
6 pledge wildfire protection property as collateral, directly or
7 indirectly, for bonds to the extent approved in the pertinent
8 financing orders providing for a security interest in the
9 wildfire protection property, in the manner set forth in section
10 269-G. In addition, wildfire protection property may be sold or
11 assigned by either of the following:

12 (1) The financing entity or a trustee for the holders of
13 bonds or the holders of an ancillary agreement in
14 connection with the exercise of remedies upon a
15 default; or

16 (2) Any person acquiring the wildfire protection property
17 after a sale or assignment pursuant to this chapter.

18 **§269-F Wildfire protection fee.** (a) The public utilities
19 commission may create, pursuant to a financing order approved
20 pursuant to section 269-E, a nonbypassable surcharge for a
21 financing entity, referred to as a wildfire protection fee that



1 shall be applied to the repayment of bonds and related financing
2 costs as described in this part. The wildfire protection fee
3 may be a usage-based surcharge, a flat user fee, or a charge
4 based upon customer revenues as determined by the public
5 utilities commission for each customer class in any financing
6 order.

7 (b) As long as any bonds are outstanding and any financing
8 costs have not been paid in full, any wildfire protection fee
9 authorized under a financing order shall be nonbypassable.
10 Subject to any exceptions provided in a financing order, a
11 wildfire protection fee shall be paid by all existing and future
12 customers of a financing entity or any successors.

13 (c) The wildfire protection plan fee shall be collected by
14 a financing entity or its successors, in accordance with section
15 269-F(a), in full through a surcharge, fee, or charge that is
16 separate and apart from the financing entity's rates.

17 (d) A financing entity may exercise the same rights and
18 remedies under its tariff and applicable law and regulation
19 based on a customer's nonpayment of the wildfire protection plan
20 fee as it could for a customer's failure to pay any other charge
21 payable to that public utility.



1 (e) Absent a financing order, the public utilities
2 commission may create, pursuant to an application from an
3 electric utility, a nonbypassable surcharge referred to as a
4 wildfire protection fee, which shall be applied to recover
5 financing costs and wildfire protection costs. The wildfire
6 protection fee shall be a dedicated, discrete tariff rider. The
7 costs shall be reconciled and adjusted on a yearly basis via a
8 yearly informational filing with the public utilities commission
9 and shall go into effect thirty days after the yearly filing.

10 **§269-G Security interests in wildfire protection property;**
11 **financing statements.** (a) A security interest in wildfire
12 protection property is valid and enforceable against the pledgor
13 and third parties, subject to the rights of any third parties
14 holding security interests in the wildfire protection property
15 perfected in the manner described in this section, and attaches
16 when all of the following have taken place:

- 17 (1) The public utilities commission has issued a financing
18 order authorizing the wildfire protection fee included
19 in the wildfire protection property;
- 20 (2) Value has been given by the pledgees of the wildfire
21 protection property; and



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

3 (b) A valid and enforceable security interest in wildfire
4 protection property is perfected when it has attached and when a
5 financing statement has been filed naming the pledgor of the
6 wildfire protection property as "debtor" and identifying the
7 wildfire protection property.

8 Any description of the wildfire protection property shall
9 be sufficient if it refers to the financing order creating the
10 wildfire protection property. A copy of the financing statement
11 shall be filed with the public utilities commission by the
12 public utility that is the pledgor or transferor of the wildfire
13 protection property, and the public utilities commission may
14 require the public utility to make other filings with respect to
15 the security interest in accordance with procedures that the
16 commission may establish; provided that the filings shall not
17 affect the perfection of the security interest.

18 (c) A perfected security interest in wildfire protection
19 property shall be a continuously perfected security interest in
20 all wildfire protection property revenues and proceeds arising
21 with respect thereto, whether or not the revenues or proceeds



1 have accrued. Conflicting security interests shall rank
2 according to priority in time of perfection. Wildfire
3 protection property shall constitute property for all purposes,
4 including for contracts securing bonds, whether or not the
5 wildfire protection property revenues and proceeds have accrued.

6 (d) Subject to the terms of the security agreement
7 covering the wildfire protection property and the rights of any
8 third parties holding security interests in the wildfire
9 protection property perfected in the manner described in this
10 section, the validity and relative priority of a security
11 interest created under this section shall not be defeated or
12 adversely affected by the commingling of revenues arising with
13 respect to the wildfire protection property with other funds of
14 the public utility that is the pledgor or transferor of the
15 wildfire protection property, or by any security interest in a
16 deposit account of that public utility perfected under article
17 490:9, into which the revenues are deposited.

18 Subject to the terms of the security agreement, upon
19 compliance with the requirements of section 490:9-312(b)(1), the
20 pledgees of the wildfire protection property shall have a
21 perfected security interest in all cash and deposit accounts of



1 the electrical corporation in which wildfire protection property
2 revenues have been commingled with other funds; provided that
3 the perfected security interest shall be limited to an amount
4 not greater than the amount of the wildfire protection property
5 revenues received by the public utility within twelve months
6 before:

7 (1) Any default under the security agreement; or
8 (2) The institution of insolvency proceedings by or
9 against the public utility, less payments from the
10 revenues to the pledgees during that twelve-month
11 period.

12 (e) If default occurs under the security agreement
13 covering the wildfire protection property, the pledgees of the
14 wildfire protection property, subject to the terms of the
15 security agreement, shall have all rights and remedies of a
16 secured party upon default under chapter 490, article 9, and
17 shall be entitled to foreclose or otherwise enforce their
18 security interest in the wildfire protection property, subject
19 to the rights of any third parties holding prior security
20 interests in the wildfire protection property perfected in the
21 manner provided in this section. In addition, the public



1 utilities commission may require in the financing order creating
2 the wildfire protection property that, in the event of default
3 by the electrical corporation in payment of wildfire protection
4 property revenues, the commission and any successor thereto,
5 upon the application by the pledgees or transferees, including
6 transferees of the wildfire protection property, under section
7 269-H, and without limiting any other remedies available to the
8 pledgees or transferees by reason of the default, shall order
9 the sequestration and payment to the pledgees or transferees of
10 wildfire protection property revenues. Any order shall remain
11 in full force and effect notwithstanding any bankruptcy,
12 reorganization, or other insolvency proceedings with respect to
13 the debtor, pledgor, or transferor of the wildfire protection
14 property. Any surplus in excess of amounts necessary to pay
15 principal, premiums, if any, interest, costs, and arrearages on
16 the bonds, and associated financing costs arising under the
17 security agreement, shall be remitted to the debtor or to the
18 pledgor or transferor.

19 (f) Sections 490:9-204 and 490:9-205 shall apply to a
20 pledge of wildfire protection property by the public utility, an
21 affiliate of the public utility, or a financing entity.



1 (g) This section sets forth the terms by which a
2 consensual security interest shall be created and perfected in
3 the wildfire protection property. Unless otherwise ordered by
4 the public utilities commission with respect to any series of
5 bonds on or before the issuance of the series, there shall exist
6 a statutory lien as provided in this subsection. Upon the
7 effective date of the financing order, there shall exist a first
8 priority lien on all wildfire protection property then existing
9 or thereafter arising pursuant to the terms of the financing
10 order. This lien shall arise by operation of this section
11 automatically without any action on the part of the public
12 utility, any affiliate thereof, the financing entity, or any
13 other person. This lien shall secure all obligations, then
14 existing or subsequently arising, to the holders of the bonds
15 issued pursuant to the financing order, the trustee or
16 representative for the holders, and any other entity specified
17 in the financing order. The persons for whose benefit this lien
18 is established shall, upon the occurrence of any defaults
19 specified in the financing order, have all rights and remedies
20 of a secured party upon default under chapter 409, article 9,
21 and are entitled to foreclose or otherwise enforce this



1 statutory lien in the wildfire protection property. This lien
2 shall attach to the wildfire protection property regardless of
3 who owns, or is subsequently determined to own, the wildfire
4 protection property, including the public utility, any affiliate
5 thereof, the financing entity, or any other person. This lien
6 shall be valid, perfected, and enforceable against the owner of
7 the wildfire protection property and all third parties upon the
8 effectiveness of the financing order without any further public
9 notice; provided that any person may file a financing statement
10 in accordance with this section. Financing statements filed may
11 be "protective filings" and shall not be evidence of the
12 ownership of the wildfire protection property.

13 A perfected statutory lien in wildfire protection property
14 is a continuously perfected lien in all wildfire protection
15 property revenues and proceeds, whether or not the revenues or
16 proceeds have accrued.

17 Conflicting liens shall rank according to priority in time
18 of perfection. Wildfire protection property shall constitute
19 property for all purposes, including for contracts securing
20 bonds, whether or not the wildfire protection property revenues
21 and proceeds have accrued.



1 In addition, the public utilities commission may require,
2 in the financing order creating the wildfire protection
3 property, that, in the event of default by the public utility in
4 the payment of wildfire protection property revenues, the
5 commission and any successor thereto, upon the application by
6 the beneficiaries of the statutory lien, and without limiting
7 any other remedies available to the beneficiaries by reason of
8 the default, shall order the sequestration and payment to the
9 beneficiaries of wildfire protection property revenues. Any
10 order shall remain in full force and effect notwithstanding any
11 bankruptcy, reorganization, or other insolvency proceedings with
12 respect to the debtor. Any surplus in excess of amounts
13 necessary to pay principal, premiums, if any, interest, costs,
14 and arrearages on the bonds, and other costs arising in
15 connection with the documents governing the bonds, shall be
16 remitted to the debtor.

17 **§269-H Transfers of wildfire protection property.** (a) A
18 transfer of wildfire protection property by the public utility
19 to an affiliate or to a financing entity, or by an affiliate of
20 the public utility or a financing entity to another financing
21 entity, which the parties in the governing documentation have



1 expressly stated to be a sale or other absolute transfer, in a
2 transaction approved in a financing order, shall be treated as
3 an absolute transfer of all of the transferor's right, title,
4 and interest, as in a true sale, and not as a pledge or other
5 financing, of the wildfire protection property, other than for
6 federal and state income and franchise tax purposes.

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

12 (1) Commingling of wildfire protection fee revenues with
13 other amounts;

14 (2) The retention by the seller of either of the
15 following:

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



1 (B) The right to recover costs associated with taxes,
2 franchise fees, or license fees imposed on the
3 collection of wildfire protection fee;

4 (3) Any recourse that the purchaser may have against the
5 seller;

6 (4) Any indemnification rights, obligations, or repurchase
7 rights made or provided by the seller;

8 (5) The obligation of the seller to collect wildfire
9 protection fee on behalf of an assignee;

10 (6) The treatment of the sale, assignment, or transfer for
11 tax, financial reporting, or other purpose; or

12 (7) Any true-up adjustment of the wildfire protection fee
13 as provided in the financing order.

14 (c) A transfer of wildfire protection property shall be
15 deemed perfected against third persons when both of the
16 following occur:

17 (1) The public utilities commission issues the financing
18 order authorizing the wildfire protection fee included
19 in the wildfire protection property; and



1 (2) An assignment of the wildfire protection property in
2 writing has been executed and delivered to the
3 transferee.

4 (d) As between bona fide assignees of the same right for
5 value without notice, the assignee first filing a financing
6 statement in accordance with chapter 409, article 9, part 5,
7 naming the assignor of the wildfire protection property as
8 debtor and identifying the wildfire protection property shall
9 have priority. Any description of the wildfire protection
10 property shall be sufficient if it refers to the financing order
11 creating the wildfire protection property. A copy of the
12 financing statement shall be filed by the assignee with the
13 public utilities commission, and the commission may require the
14 assignor or the assignee to make other filings with respect to
15 the transfer in accordance with procedures that the commission
16 may establish, but these filings shall not affect the perfection
17 of the transfer.

18 **§269-I Financing entity successor requirements; default of**
19 **financing entity.** (a) Any successor to an electric utility
20 subject to a financing order shall be bound by the requirements
21 of this part. The successor of the electric utility shall



1 perform and satisfy all obligations of the electric utility
2 under the financing order, in the same manner and to the same
3 extent as the electric utility, including the obligation to
4 collect and pay the wildfire protection plan fee to any
5 financing party as required by a financing order.

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

18 **§269-J Treatment of bonds, fees, and property. (a)**
19 Neither financing orders nor bonds issued under this part shall
20 constitute a debt or liability of the State or of any political
21 subdivision thereof, nor shall they constitute a pledge of the



1 full faith and credit of the State or any of its political
2 subdivisions, but are payable solely from the funds provided
3 therefor under this part. All bonds shall contain on the face
4 thereof a statement to the following effect: "Neither the full
5 faith and credit nor the taxing power of the State of Hawaii is
6 pledged to the payment of the principal of, or interest on, this
7 bond."

8 (b) The issuance of bonds under this part shall not
9 directly, indirectly, or contingently obligate the State or any
10 political subdivision thereof to levy or pledge any form of
11 taxation or to make any appropriation for their payment.

12 **§269-K Recovery bonds; issuance; recovery property**
13 **interests.** (a) The financing entity may issue recovery bonds
14 upon approval by the public utilities commission in a financing
15 order. Recovery bonds shall be nonrecourse to the credit or any
16 assets of the public utility, other than the recovery property
17 as specified in that financing order.

18 (b) The public utility may sell and assign all or portions
19 of its interest in recovery property to one or more financing
20 entities that make that recovery property the basis for issuance
21 of recovery bonds, to the extent approved in a financing order.



1 The public utility or financing entity may pledge recovery
2 property as collateral, directly or indirectly, for recovery
3 bonds to the extent approved in the pertinent financing orders
4 providing for a security interest in the recovery property, in
5 the manner set forth in section 269-L. In addition, recovery
6 property may be sold or assigned by either of the following:

7 (1) The financing entity or a trustee for the holders of
8 recovery bonds or the holders of an ancillary
9 agreement in connection with the exercise of remedies
10 upon a default; or

11 (2) Any person acquiring the recovery property after a
12 sale or assignment pursuant to this chapter.

13 (c) To the extent that any interest in recovery property
14 is sold, assigned, or is pledged as collateral pursuant to
15 subsection (b), the public utilities commission shall authorize
16 the public utility to contract with the financing entity that it
17 shall continue to operate its system to provide service to
18 consumers within its service territory, shall collect amounts in
19 respect of the fixed recovery charges for the benefit and
20 account of the financing entity, and shall account for and remit
21 these amounts to or for the account of the financing entity.



1 Contracting with the financing entity in accordance with that
2 authorization shall not impair or negate the characterization of
3 the sale, assignment, or pledge as an absolute transfer, a true
4 sale, or a security interest, as applicable. To the extent that
5 billing, collection, and other related services with respect to
6 the provision of the public utility's services are provided to a
7 consumer by any person or entity other than the public utility
8 in whose service territory the consumer is located, that person
9 or entity shall collect the fixed recovery charges and any
10 associated fixed recovery tax amounts from the consumer for the
11 benefit and account of the public utility or financing entity
12 with the associated revenues remitted solely for the benefit and
13 repayment of the recovery bonds and associated financing costs
14 as a condition to the provision of electric service to that
15 consumer. Each financing order shall impose terms and
16 conditions, consistent with the purposes and objectives of this
17 chapter, on any person or entity responsible for billing,
18 collection, and other related services, including without
19 limitation collection of the fixed recovery charges and any
20 associated fixed recovery tax amounts, that are the subject of
21 the financing order.



1 (d) Recovery property that is specified in a financing
2 order shall constitute an existing, present property right,
3 notwithstanding the fact that the imposition and collection of
4 fixed recovery charges depend on the public utility continuing
5 to provide services or continuing to perform its servicing
6 functions relating to the collection of fixed recovery charges
7 or on the level of future service consumption, e.g., electricity
8 consumption. Recovery property shall exist whether or not the
9 fixed recovery charges have been billed, have accrued, or have
10 been collected and notwithstanding the fact that the value for a
11 security interest in the recovery property, or amount of the
12 recovery property, is dependent on the future provision of
13 service to consumers. All recovery property specified in a
14 financing order shall continue to exist until the recovery bonds
15 issued pursuant to a financing order and all associated
16 financing costs are paid in full.

17 (e) Recovery property, fixed recovery charges, and the
18 interests of an assignee, bondholder or financing entity, or any
19 pledgee in recovery property and fixed recovery charges shall
20 not be subject to setoff, counterclaim, surcharge, recoupment,
21 or defense by the public utility or any other person or in



1 connection with the bankruptcy, reorganization, or other
2 insolvency proceeding of the public utility, any affiliate of
3 the public utility, or any other entity.

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

12 **§269-L Security interests in recovery property; financing**
13 **statements.** (a) A security interest in recovery property is
14 valid, enforceable against the pledgor and third parties,
15 subject to the rights of any third parties holding security
16 interests in the recovery property perfected in the manner
17 described in this section, and attaches when all of the
18 following have taken place:

19 (1) The public utilities commission has issued a financing
20 order authorizing the fixed recovery charges included
21 in the recovery property;



1 (2) Value has been given by the pledgees of the recovery
2 property; and

3 (3) The pledgor has signed a security agreement covering
4 the recovery property.

5 (b) A valid and enforceable security interest in recovery
6 property is perfected when it has attached and when a financing
7 statement has been filed naming the pledgor of the recovery
8 property as "debtor" and identifying the recovery property. Any
9 description of the recovery property shall be sufficient if it
10 refers to the financing order creating the recovery property. A
11 copy of the financing statement shall be filed with the public
12 utilities commission by the public utility that is the pledgor
13 or transferor of the recovery property, and the public utilities
14 commission may require the public utility to make other filings
15 with respect to the security interest in accordance with
16 procedures it may establish; provided that the filings shall not
17 affect the perfection of the security interest.

18 (c) A perfected security interest in recovery property
19 shall be a continuously perfected security interest in all
20 recovery property revenues and proceeds arising with respect
21 thereto, whether or not the revenues or proceeds have accrued.



1 Conflicting security interests shall rank according to priority
2 in time of perfection. Recovery property shall constitute
3 property for all purposes, including for contracts securing
4 recovery bonds, whether or not the recovery property revenues
5 and proceeds have accrued.

6 (d) Subject to the terms of the security agreement
7 covering the recovery property and the rights of any third
8 parties holding security interests in the recovery property
9 perfected in the manner described in this section, the validity
10 and relative priority of a security interest created under this
11 section shall not be defeated or adversely affected by the
12 commingling of revenues arising with respect to the recovery
13 property with other funds of the public utility that is the
14 pledgor or transferor of the recovery property, or by any
15 security interest in a deposit account of that public utility
16 perfected under article 9 of chapter 490, into which the
17 revenues are deposited. Subject to the terms of the security
18 agreement, upon compliance with the requirements of section
19 490:9-312(b)(1), the pledgees of the recovery property shall
20 have a perfected security interest in all cash and deposit
21 accounts of the electrical corporation in which recovery



1 property revenues have been commingled with other funds;
2 provided that the perfected security interest shall be limited
3 to an amount not greater than the amount of the recovery
4 property revenues received by the public utility within twelve
5 months before (1) any default under the security agreement, or
6 (2) the institution of insolvency proceedings by or against the
7 public utility, less payments from the revenues to the pledgees
8 during that twelve-month period.

9 (e) If default occurs under the security agreement
10 covering the recovery property, the pledgees of the recovery
11 property, subject to the terms of the security agreement, shall
12 have all rights and remedies of a secured party upon default
13 under article 9 of chapter 490, and shall be entitled to
14 foreclose or otherwise enforce their security interest in the
15 recovery property, subject to the rights of any third parties
16 holding prior security interests in the recovery property
17 perfected in the manner provided in this section. In addition,
18 the public utilities commission may require in the financing
19 order creating the recovery property that, in the event of
20 default by the electrical corporation in payment of recovery
21 property revenues, the public utilities commission and any



1 successor thereto, upon the application by the pledgees or
2 transferees, including transferees under section 269-M of the
3 recovery property, and without limiting any other remedies
4 available to the pledgees or transferees by reason of the
5 default, shall order the sequestration and payment to the
6 pledgees or transferees of recovery property revenues. Any
7 order shall remain in full force and effect notwithstanding any
8 bankruptcy, reorganization, or other insolvency proceedings with
9 respect to the debtor, pledgor, or transferor of the recovery
10 property. Any surplus in excess of amounts necessary to pay
11 principal, premiums, if any, interest, costs, and arrearages on
12 the recovery bonds, and associated financing costs arising under
13 the security agreement, shall be remitted to the debtor or to
14 the pledgor or transferor.

15 (f) Sections 490:9-204 and 490:9-205 shall apply to a
16 pledge of recovery property by the public utility, an affiliate
17 of the public utility, or a financing entity.

18 (g) This section sets forth the terms by which a
19 consensual security interest shall be created and perfected in
20 the recovery property. Unless otherwise ordered by the public
21 utilities commission with respect to any series of recovery



1 bonds on or prior to the issuance of the series, there shall
2 exist a statutory lien as provided in this subsection. Upon the
3 effective date of the financing order, there shall exist a first
4 priority lien on all recovery property then existing or
5 thereafter arising pursuant to the terms of the financing order.
6 This lien shall arise by operation of this section automatically
7 without any action on the part of the public utility, any
8 affiliate thereof, the financing entity, or any other person.
9 This lien shall secure all obligations, then existing or
10 subsequently arising, to the holders of the recovery bonds
11 issued pursuant to the financing order, the trustee or
12 representative for the holders, and any other entity specified
13 in the financing order. The persons for whose benefit this lien
14 is established shall, upon the occurrence of any defaults
15 specified in the financing order, have all rights and remedies
16 of a secured party upon default under article 9 of chapter 490,
17 and are entitled to foreclose or otherwise enforce this
18 statutory lien in the recovery property. This lien shall attach
19 to the recovery property regardless of who owns, or is
20 subsequently determined to own, the recovery property, including
21 the public utility, any affiliate thereof, the financing entity,



1 or any other person. This lien shall be valid, perfected, and
2 enforceable against the owner of the recovery property and all
3 third parties upon the effectiveness of the financing order
4 without any further public notice; provided that any person may
5 file a financing statement in accordance with this section.

6 Financing statements so filed may be "protective filings" and
7 shall not be evidence of the ownership of the recovery property.

8 A perfected statutory lien in recovery property is a
9 continuously perfected lien in all recovery property revenues
10 and proceeds, whether or not the revenues or proceeds have
11 accrued.

12 Conflicting liens shall rank according to priority in time
13 of perfection. Recovery property shall constitute property for
14 all purposes, including for contracts securing recovery bonds,
15 whether or not the recovery property revenues and proceeds have
16 accrued.

17 In addition, the public utilities commission may require,
18 in the financing order creating the recovery property, that, in
19 the event of default by the public utility in the payment of
20 recovery property revenues, the public utilities commission and
21 any successor thereto, upon the application by the beneficiaries



1 of the statutory lien, and without limiting any other remedies
2 available to the beneficiaries by reason of the default, shall
3 order the sequestration and payment to the beneficiaries of
4 recovery property revenues. Any order shall remain in full
5 force and effect notwithstanding any bankruptcy, reorganization,
6 or other insolvency proceedings with respect to the debtor. Any
7 surplus in excess of amounts necessary to pay principal,
8 premiums, if any, interest, costs, and arrearages on the
9 recovery bonds, and other costs arising in connection with the
10 documents governing the recovery bonds, shall be remitted to the
11 debtor.

12 **§269-M Transfers of recovery property.** (a) A transfer of
13 recovery property by the public utility to an affiliate or to a
14 financing entity, or by an affiliate of the public utility or a
15 financing entity to another financing entity, which the parties
16 in the governing documentation have expressly stated to be a
17 sale or other absolute transfer, in a transaction approved in a
18 financing order, shall be treated as an absolute transfer of all
19 of the transferor's right, title, and interest, as in a true
20 sale, and not as a pledge or other financing, of the recovery



1 property, other than for federal and state income and franchise
2 tax purposes.

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

8 (1) Commingling of fixed recovery charge revenues with
9 other amounts;

10 (2) The retention by the seller of either of the
11 following:

12 (A) A partial or residual interest, including an
13 equity interest, in the financing entity or the
14 recovery property, whether direct or indirect,
15 subordinate or otherwise; or

16 (B) The right to recover costs associated with taxes,
17 franchise fees, or license fees imposed on the
18 collection of fixed recovery charges;

19 (3) Any recourse that the purchaser may have against the
20 seller;



1 (4) Any indemnification rights, obligations, or repurchase
2 rights made or provided by the seller;

3 (5) The obligation of the seller to collect fixed recovery
4 charges on behalf of an assignee;

5 (6) The treatment of the sale, assignment, or transfer for
6 tax, financial reporting, or other purpose; or

7 (7) Any true-up adjustment of the fixed recovery charges
8 as provided in the financing order.

9 (c) A transfer of recovery property shall be deemed

10 perfected against third persons when both of the following
11 occur:

12 (1) The public utilities commission issues the financing
13 order authorizing the fixed recovery charges included
14 in the recovery property; and

15 (2) An assignment of the recovery property in writing has
16 been executed and delivered to the transferee.

17 (d) As between bona fide assignees of the same right for
18 value without notice, the assignee first filing a financing
19 statement in accordance with part 5 of article 9 of chapter 490,
20 naming the assignor of the recovery property as debtor and
21 identifying the recovery property shall have priority. Any



1 description of the recovery property shall be sufficient if it
2 refers to the financing order creating the recovery property. A
3 copy of the financing statement shall be filed by the assignee
4 with the public utilities commission, and the commission may
5 require the assignor or the assignee to make other filings with
6 respect to the transfer in accordance with procedures it may
7 establish, but these filings shall not affect the perfection of
8 the transfer.

9 **§269-N Severability.** If any provision of this part is
10 held to be invalid or is superseded, replaced, repealed, or
11 expires for any reason:

- 12 (1) That occurrence shall not affect any action allowed
13 under this part that is taken before that occurrence
14 by the public utilities commission, a financing
15 entity, a bondholder, or any financing party, and any
16 the action shall remain in full force and effect; and
17 (2) The validity and enforceability of the rest of this
18 part shall remain unaffected."

19 SECTION 3. Chapter 269-17, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§269-17 Issuance of securities. A public utility
2 corporation may, on securing the prior approval of the public
3 utilities commission, and not otherwise, except as provided in
4 section 269-D, issue stocks and stock certificates, bonds,
5 notes, and other evidences of indebtedness, payable at periods
6 of more than twelve months after the date thereof, for the
7 following purposes and no other, namely: for the acquisition of
8 property or for the construction, completion, extension, or
9 improvement of or addition to its facilities or service, or for
10 the discharge or lawful refunding of its obligations or for the
11 reimbursement of moneys actually expended from income or from
12 any other moneys in its treasury not secured by or obtained from
13 the issue of its stocks or stock certificates, [~~or~~] bonds,
14 notes, or other evidences of indebtedness, for any of the
15 aforesaid purposes except maintenance of service, replacements,
16 and substitutions not constituting capital expenditure in cases
17 where the corporation has kept its accounts for [~~such~~]
18 expenditures in [~~such~~] a manner as to enable the commission to
19 ascertain the amount of moneys so expended and the purposes for
20 [~~which~~] that the expenditures were made, and the sources of the
21 funds in its treasury applied to the expenditures. As used



1 herein, "property" and "facilities", mean property and
2 facilities used in all operations of a public utility
3 corporation whether or not included in its public utility
4 operations or rate base. A public utility corporation may not
5 issue securities to acquire property or to construct, complete,
6 extend, ~~or~~ improve, or add to its facilities or service if the
7 commission determines that the proposed purpose ~~[will]~~ shall
8 have a material adverse effect on its public utility operations.

9 All stock and every stock certificate, and every bond,
10 note, or other evidence of indebtedness of a public utility
11 corporation not payable within twelve months, issued without an
12 order of the commission authorizing the same, then in effect,
13 shall be void."

14 SECTION 4. Each electric utility shall file its first
15 risk-based wildfire protection plan with the public utilities
16 commission required under section 269-B, Hawaii Revised
17 Statutes, established by section 2 of this Act, no later than
18 December 31, 2024.

19 SECTION 5. Notwithstanding the provisions of Act 262,
20 Session Laws of Hawaii 2023, the legislature authorizes the
21 issuance of special purpose revenue bonds for wildfire risk



1 migration purposes that requires an allocation of the annual
2 state ceiling under section 39B-2, Hawaii Revised Statutes, for
3 the period July 1, 2024, through December 31, 2028.

4 SECTION 6. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 7. In codifying the new part added to chapter 269,
8 Hawaii Revised Statutes, by section 2 of this Act, the revisor
9 of statutes shall substitute appropriate section numbers for the
10 letters used in designating and referring to the new sections in
11 this Act.

12 SECTION 8. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 9. This Act shall take effect upon its approval.



Report Title:

Wildfires; Mitigation; Protection; Public Utilities Commission;
Electric Utilities; Securitization; Risk Protection Plans

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. (SD1)

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

