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# A BILL FOR AN ACT

RELATING TO WILDFIRES.

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

1 PART I

2 SECTION 1. The legislature finds that as the risk of  
3 catastrophic wildfires in Hawaii has increased, so has the  
4 threat of property damage from these fires. Although most  
5 property owners have insurance, some do not, and others have  
6 insurance that may not fully cover their losses.

7 The legislature further finds that when the cause of a  
8 wildfire is uncertain or contested, costly and protracted  
9 litigation ensues. Litigation regarding wildfire damages can  
10 impose massive costs, including on the State, counties,  
11 utilities, landowners, and other defendants that may be alleged  
12 to have contributed to catastrophic wildfires. Those costs can  
13 overwhelm major institutions in the community, undermining their  
14 ability to make investments that the State needs. Indeed, even  
15 the possibility of litigation regarding a future catastrophic  
16 wildfire can create a cloud of uncertainty that can impair an  
17 entity's ability to attract capital on reasonable terms--capital



1 that is vital for making investments in wildfire prevention,  
2 among other priorities that may affect the health and safety of  
3 the State's residents.

4 The legislature also finds that the risk of property damage  
5 stemming from catastrophic wildfires may lead property insurers  
6 to raise rates or refuse to provide coverage for certain losses  
7 or certain high-risk areas of Hawaii--as occurred in the wake of  
8 hurricane Iniki with respect to hurricane insurance.

9 The legislature additionally finds that it is in the public  
10 interest to take steps to ensure that property insurance remains  
11 available to cover losses associated with wildfires by providing  
12 benefits to property insurers. Furthermore, the legislature  
13 finds that it is in the public interest to ensure that the  
14 threat of wildfires does not make investment in Hawaii's public  
15 utilities so financially risky that it becomes too costly or  
16 impossible for them to raise capital to implement vital plans,  
17 including plans to mitigate wildfire risk, and to provide safe,  
18 reliable, and affordable service to the people of the State.

19 Moreover, the legislature finds that it is in the public  
20 interest to avoid the costs of litigation arising out of  
21 catastrophic wildfires in order to protect Hawaii's economy and



1 encourage investment in the State. The legislature further  
 2 finds that a fund of this nature would suit the public interest  
 3 as an element of sound wildfire mitigation planning. Therefore,  
 4 the purpose of this part is to serve the public interest in the  
 5 event of a devastating wildfire by establishing a means to  
 6 provide compensation for property damage resulting from  
 7 wildfires.

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

11 "CHAPTER

12 WILDFIRE RELIEF FUND

13 § -1 Definitions. As used in this chapter:

14 "Administrator" means the wildfire relief fund  
 15 administrator appointed pursuant to section -5.

16 "Board" means the wildfire relief fund corporation board of  
 17 directors created pursuant to section -4.

18 "Catastrophic wildfire" means a wildfire occurring on or  
 19 after the effective date of this Act that damages or destroys  
 20 more than five hundred residential or commercial structures.



1 "Contributor" means any person who contributes to the  
2 wildfire relief fund as provided in section -7.

3 "Corporation" means the wildfire relief fund corporation  
4 established pursuant to section -3.

5 "Electric utility" means a public utility that exists for  
6 the furnishing of electrical power.

7 "Fund" means the wildfire relief fund established pursuant  
8 to section -2.

9 "Investor-owned utility" means a public utility that is  
10 owned by shareholders and overseen by a board of directors  
11 elected by shareholders.

12 "Other governmental entities" refers to governmental  
13 entities, including county government agencies, other than state  
14 government agencies.

15 "Public utility" has the same meaning as defined in section  
16 269-1.

17 § -2 **Wildfire relief fund; establishment.** (a) There is  
18 established outside the state treasury a wildfire relief fund  
19 and any accounts thereunder to carry out the purposes of this  
20 chapter.



1           (b) The fund shall be placed within the department of  
2 commerce and consumer affairs for administrative purposes. The  
3 fund shall be a public body corporate and politic.

4           (c) Moneys deposited in the fund and any accounts  
5 thereunder shall be held by the fund, as trustee, in a  
6 depository, as defined in section 38-1, or according to a  
7 similar arrangement at the discretion of the board.

8           (d) All moneys received by the wildfire relief fund  
9 corporation under this chapter shall be paid immediately to the  
10 director of finance and shall become a part of the fund.

11          (e) All payments authorized to be made by the corporation  
12 by this chapter, including all payments for claims for  
13 catastrophic wildfire damages, all salaries, and all other  
14 expenses, shall be made from the fund.

15          (f) The moneys in the fund shall be invested according to  
16 the same investment plans developed for the Hawaii retirement  
17 savings special fund pursuant to chapter 389, and the earnings  
18 from the investments shall be credited to the fund.

19          (g) All moneys in the fund shall be appropriated and  
20 expended exclusively for the uses and purposes set forth in this  
21 chapter; provided that this section shall not be deemed to amend



1 or impair the force or effect of any law of this State  
2 specifically authorizing the investment of moneys from the fund.

3 (h) The fund shall not be subject to chapter 431.

4 § -3 Wildfire relief fund corporation; establishment;  
5 purposes; duties. (a) There is established the wildfire relief  
6 fund corporation, which shall be an independent public body  
7 corporate and politic.

8 (b) The corporation shall be established within the  
9 department of commerce and consumer affairs for administrative  
10 purposes.

11 (c) The purpose of the corporation shall be to administer  
12 the payment of:

13 (1) Eligible claims arising from catastrophic wildfires  
14 from the fund; and

15 (2) Contributions of contributors to the fund.

16 (d) The corporation shall:

17 (1) Receive, process, and determine payments for eligible  
18 claims for property damage arising from catastrophic  
19 wildfires from the fund;

20 (2) Determine and enforce the collection of contributions  
21 from contributors to the fund;



- 1           (3) Retain, employ, or contract with officers; experts;
- 2                   employees; accountants; actuaries; financial
- 3                   professionals; and other advisers, consultants,
- 4                   attorneys, and professionals, as may be necessary in
- 5                   the administrator's judgment, for the efficient
- 6                   operation, management, and administration of the
- 7                   corporation;
- 8           (4) Enter into contracts and other obligations related to
- 9                   the operation, management, and administration of the
- 10                  corporation;
- 11           (5) Purchase insurance or take other actions to maximize
- 12                  the claims-paying resources of the fund;
- 13           (6) Pay costs, expenses, and other obligations of the
- 14                  corporation from the fund's assets;
- 15           (7) Take any actions necessary to collect any amounts owed
- 16                  to the fund; and
- 17           (8) Undertake other activities related to the operation,
- 18                  management, and administration of the fund, as
- 19                  approved by the board.

20           § -4 Wildfire relief fund corporation; board of  
21 directors. (a) There is established a wildfire relief fund

1 board of directors, which shall consist of members  
2 appointed by the governor in accordance with section 26-34. The  
3 board shall be the policy-making body of the corporation. The  
4 board shall be responsible for adopting policies for the  
5 administration and operation of the fund and the performance of  
6 other duties and functions assigned to the fund, to the degree  
7 not specified in this chapter.

8 (b) The members of the board shall serve staggered terms,  
9 with one-half of the members' initial terms ending four years  
10 after the initial appointment, and one-half of the members'  
11 initial terms ending six years after the initial appointment.  
12 Thereafter, each member shall serve four-year terms. Vacancies  
13 shall be filled for the remainder of any unexpired term in the  
14 same manner as the original appointments.

15 (c) The chairperson of the board shall be elected from  
16 among the appointed members of the board. A majority of all  
17 members currently appointed to the board shall constitute a  
18 quorum to conduct business, and the concurrence of a majority of  
19 all members currently appointed to the board shall be necessary  
20 to make any action valid, unless otherwise specified in this  
21 chapter.





1 (d) Members of the board shall be appointed to ensure:

2 (1) A broad and balanced representation, with proper  
3 judgment, character, expertise, skills, and knowledge  
4 useful to the oversight of the corporation; and

5 (2) Diversity with regard to viewpoints, background, work  
6 experience, and demographics.

7 The members of the board shall serve without compensation  
8 but shall be reimbursed for actual and necessary expenses,  
9 including travel expenses, incurred in the discharge of their  
10 duties.

11 (e) The board shall meet at least once every three months  
12 at a time and place determined by the board. The board shall  
13 meet at other times and places as determined by the call of the  
14 chairperson or by a majority of the members of the board.

15 (f) No later than twenty days before the convening of each  
16 regular session of the legislature, the board shall submit to  
17 the legislature and governor a report regarding the activities  
18 and operations of the corporation during the preceding year.

19 The report shall include, at a minimum, a description of:

20 (1) The effectiveness of the fund's claims-payment  
21 process; and



1 (2) The level of participation in the fund by all eligible  
2 participants, including property owners, property  
3 insurers, and contributors.

4 (g) Each member of the board shall retain all immunities  
5 and rights provided to a member pursuant to section 26-35.5.

6 **§ -5 Wildfire relief fund corporation; administrator.**

7 (a) The board shall appoint an administrator and oversee the  
8 administrator's management and administration of the  
9 corporation.

10 (b) The administrator shall serve at the pleasure of the  
11 board and shall be exempt from chapter 76.

12 (c) The administrator shall have powers as are necessary  
13 to carry out the functions of the corporation, subject to the  
14 policy direction of the board.

15 (d) The administrator may employ, terminate, and supervise  
16 employees, including assistants, experts, field personnel, and  
17 clerks, as may be necessary for the administration of the  
18 corporation.

19 (e) The board may overturn any decision of the  
20 administrator through a majority vote.



1 (f) At the direction of the board, the administrator shall  
2 prepare and present for approval a plan of operations related to  
3 the operations, management, and administration of the fund on an  
4 annual basis. At least annually and at the direction of the  
5 board, the administrator shall submit the plan of operations to  
6 the appropriate policy committees of the legislature. The plan  
7 shall include but not be limited to reporting on the fund's  
8 assets and projections for the duration of the fund.

9 (g) At the direction of the board, the administrator shall  
10 at least annually prepare and publish on the corporation's  
11 website a public-facing report that describes the operations and  
12 activities of the corporation and fund during the preceding  
13 year, including a description of the financial condition of the  
14 fund.

15 § -6 Wildfire relief fund corporation; audit. (a) The  
16 auditor shall conduct an annual financial audit of the  
17 corporation and fund pursuant to chapter 23. As part of this  
18 audit, the auditor may contract with a firm qualified to perform  
19 an independent actuarial review.



1 (b) The auditor shall determine the scope of the review  
2 required by this section, which shall include but not be limited  
3 to:

4 (1) A review of the sources and uses of the moneys in the  
5 fund;

6 (2) A reconciliation of changes in actuarial assumptions  
7 and reserve values from the preceding year;

8 (3) An examination of the development of claim reserve  
9 inadequacies or redundancies over time; and

10 (4) An assessment of the future financial viability of the  
11 fund.

12 (c) The corporation shall cooperate with the actuarial  
13 firm in all respects and shall permit the firm full access to  
14 all information the firm deems necessary for a true and complete  
15 review. Information provided to the actuarial firm conducting  
16 the annual review shall be subject to the same limitations on  
17 public inspections as required for the records of the  
18 corporation.

19 (d) The audit required by this section shall be conducted  
20 using both generally accepted accounting principles and the  
21 generally accepted government auditing standards.



1 (e) The cost of the audit required by this section shall  
2 be paid by the corporation.

3 (f) The auditor shall issue an annual report to the  
4 legislature and governor on the results of the audit and review.  
5 The audit and report of the review performed by the independent  
6 actuarial firm shall be available for public inspection, in  
7 accordance with the auditor's established rules and procedures  
8 governing public disclosure of audit documents.

9 § -7 Wildfire relief fund; participation. (a) The  
10 following entities may participate in the fund as contributors:

- 11 (1) The State;
- 12 (2) Electric utilities;
- 13 (3) Public utilities that are not electric utilities that  
14 contribute to the risk of occurrence or severity of a  
15 catastrophic wildfire, including but not limited to  
16 public utilities for the production, conveyance,  
17 transmission, delivery, or furnishing of gas;
- 18 (4) Other governmental entities; and
- 19 (5) Private property owners who own, or whose affiliated  
20 persons or entities own in the aggregate, at  
21 least acres of land in Hawaii.



1 (b) To participate in the fund, an entity shall:

2 (1) Notify the administrator that it intends to  
3 participate in the fund by in the year  
4 preceding the year in which the entity seeks to  
5 participate in the fund; and

6 (2) Have made required contributions to the fund pursuant  
7 to section -8.

8 (c) A contributor that is also a property owner in Hawaii  
9 may make a claim to the fund for compensation in the same manner  
10 provided for in section -13 as other property owners;  
11 provided that the contributor:

12 (1) Shall retain all of the rights, privileges, and  
13 obligations of a contributor; and

14 (2) Notwithstanding any other provisions of this chapter  
15 and regardless of the existence of a depletion event  
16 under section -16(c), shall be bound by the  
17 limitation on claims under section -18.

18 (d) Any person or entity that poses a risk of causing or  
19 exacerbating the severity of a catastrophic wildfire that is not  
20 eligible to participate as a contributor in the fund may submit  
21 an application to the board for participation.



1 (e) The board shall adopt rules pursuant to chapter 91 and  
2 issue criteria for applications submitted under subsection (d).

3 (f) The board shall include in its annual report to the  
4 legislature and governor under section -4 all applications  
5 submitted under subsection (d) and shall recommend to the  
6 legislature whether participation criteria for contributors  
7 should be broadened.

8 § -8 Wildfire relief fund; funding. (a) Total  
9 capitalization. The total capitalization amount of the fund  
10 shall be \$ . Neither the board nor the administrator  
11 may modify the total capitalization amount, except as otherwise  
12 expressly provided in this chapter.

13 (b) Actuarial study. The board shall commission an  
14 actuarial study to be completed in 2024 to assess whether the  
15 total capitalization amount should be increased or decreased  
16 based on a holistic assessment of the risk of catastrophic  
17 wildfires in Hawaii and the potential exposure of the fund to  
18 claims arising out of catastrophic wildfires. The board shall  
19 include this assessment in the annual report that it submits to  
20 the legislature and governor under section -4.



1 (c) Time to total capitalization. The administrator shall  
2 recommend to the board, and the board shall, by majority vote,  
3 approve initial contribution amounts under \$ for  
4 potential contributors, other than the State and electric  
5 utilities, based on the actuarial factors identified in  
6 subsection (b) and with the goal of, to the extent reasonably  
7 possible, having the fund reach the total capitalization amount  
8 within five years of the effective date of Act , Session  
9 Laws of Hawaii 2024, taking into consideration reasonably  
10 expected investment returns and assuming no payments will be  
11 made by the fund during that time period.

12 (d) Capitalization amounts. With the exception of the  
13 contribution made by the State in paragraph (4), contribution  
14 amounts shall be divided by the administrator into an initial  
15 contribution amount to be made by , and annual  
16 contribution amounts to be made over a five-year period, subject  
17 to the administrator's ability to increase payments under the  
18 insufficient funding provision in subsection (g).

19 The fund shall be capitalized by the following  
20 contributions:





- 1           (1) From other governmental entities that are eligible to  
2           participate in the fund, an amount determined by the  
3           administrator based on an actuarial assessment of the  
4           risk of payments to these entities by the fund  
5           resulting from catastrophic wildfires created by these  
6           entities, as well as the risk of potential payments  
7           made by the fund resulting from catastrophic wildfires  
8           created by these entities;
- 9           (2) From public utilities other than electric utilities  
10          and private landowners that are in all cases eligible  
11          to participate in the fund, an amount determined by  
12          the administrator based on an actuarial assessment of  
13          the risk of potential payments by the fund resulting  
14          from catastrophic wildfires created by these entities;
- 15          (3) From electric utilities, \$                   ; provided that  
16          there shall be different contribution amounts required  
17          by investor-owned utilities and non-investor owned  
18          utilities, taking into account the differences in  
19          revenues and assets between the ownership models; and
- 20          (4) From the State, \$                   .



1 (e) The board shall determine the contribution amounts of  
2 eligible contributors by ; provided that this date is  
3 thirty days before the date by which participants are required  
4 to notify the administrator of their intention to participate in  
5 the fund. If an eligible contributor declines to notify the  
6 administrator that the eligible contributor wishes to  
7 participate in the fund and become a contributor, the board  
8 shall reduce the total capitalization amount by subtracting the  
9 amount the board allocated to that eligible contributor.

10 (f) If an electric utility, public utility other than an  
11 electric utility, other governmental entity, or private property  
12 owner elects to become a contributor after the initial  
13 capitalization of the fund, the electric utility, public utility  
14 other than an electric utility, other governmental entity, or  
15 private property owner shall provide, by in the year  
16 before the year in which the electric utility, public utility  
17 other than an electric utility, other governmental entity, or  
18 private property owner seeks to become a contributor, an initial  
19 contribution in an amount determined by the board by a majority  
20 vote upon the administrator's recommendation, based on an up-to-  
21 date consideration of the factors identified in subsection (b),



1 such that the previous and present initial contributions by all  
2 contributors reflect their relative contributions to the risk of  
3 future payments from the fund.

4       If necessary to achieve an allocation of initial  
5 contributions, and if the election is made before the fifth year  
6 of fund operation, the administrator shall reduce the amount of  
7 annual contributions by one or more contributors who previously  
8 made initial contributions until an allocation is reached. The  
9 administrator shall increase the total capitalization amount of  
10 the fund by the amount of the initial contribution of the new  
11 fund contributor. The administrator may, in the administrator's  
12 discretion, permit a new contributor under this subsection to  
13 make payments over a five-year period.

14       (g) Insufficient funding. If the administrator determines  
15 that payments made by the fund, and expected future  
16 contributions by contributors and investment returns, will  
17 result in the fund's: failing to reach the total capitalization  
18 amount, as adjusted, as applicable, under subsection (a), by the  
19 fifth year; or falling below the total capitalization amount  
20 after the fifth year, including, in either case, as a result of  
21 the legislature increasing the total capitalization amount, the



1 administrator shall recommend that the board establish a  
2 supplemental contribution to be contributed to the fund.  
3 Responsibility among contributors for the supplemental  
4 contribution shall be allocated as follows:

5 (1) The administrator shall recommend to the board, and  
6 the board shall determine by majority vote, the  
7 respective portions of the supplemental contribution  
8 amount to be paid by each electric utility, public  
9 utility other than an electric utility, other  
10 governmental entity, and private property owner  
11 contributor, based on an up-to-date assessment of the  
12 factors identified in subsection (b); and

13 (2) The remaining amount of the supplemental contribution  
14 shall be paid by the State, subject to legislative  
15 appropriation.

16 (h) The administrator may allow contributors to pay  
17 supplemental contributions via annual contributions, or in part  
18 via an initial contribution followed by annual contributions,  
19 unless the administrator determines that this contribution  
20 schedule will create a material risk that the fund will not  
21 reach or return to its total capitalization amount within a



1 reasonable period of time to perform the functions identified in  
2 this chapter.

3 (i) If the board establishes a supplemental contribution  
4 pursuant to subsection (g), before the fund receives the  
5 supplemental contribution, the fund may issue revenue bonds up  
6 to the amount of the supplemental contribution, which shall be  
7 backed by future contributions to the fund.

8 (j) The board may order supplemental contributions under  
9 this chapter even if an investigation under the replenishment  
10 process under section -9 is ongoing. In the event that  
11 payments are later made under that replenishment process, the  
12 board, provided that other conditions of the refunds section are  
13 met pursuant to section -11, may refund supplemental  
14 contributions in whole or in part.

15 (k) Utility contribution. The public utilities commission  
16 shall determine a cap on the percentage of a public utility's  
17 contributions to the fund, including initial and supplemental  
18 contributions, that may be recovered from its customers in  
19 rates, unless the commission directs otherwise pursuant  
20 section -9.



1 (1) If the total amount of payments that the administrator  
2 determines should be paid in connection with a catastrophic  
3 wildfire pursuant to sections -13, -14, and -15 exceeds  
4 the current balance of the fund, the State may provide a loan to  
5 the fund. The loan shall be repaid over time through annual  
6 contributions by contributors.

7 § -9 Replenishment of the wildfire relief fund;  
8 determination of prudence. (a) If the administrator, or an  
9 agency of the State with responsibility for determining the  
10 causes of wildfires or catastrophic wildfires informs the public  
11 utilities commission that a catastrophic wildfire may have been  
12 ignited by the facilities of a public utility that is a  
13 contributor, the public utilities commission shall initiate a  
14 proceeding to review the public utility's conduct leading to the  
15 catastrophic wildfire and make findings. The public utilities  
16 commission may, even without formal notice from the  
17 administrator or the agency, initiate this proceeding of its own  
18 accord.

19 (b) The public utilities commission shall evaluate the  
20 prudence of the conduct of the public utility in connection with  
21 a catastrophic wildfire. The public utilities commission shall



1 determine whether the public utility acted prudently,  
2 considering only acts that may have caused the ignition and  
3 evaluating the public utility's actions in the context of the  
4 public utility's overall systems, processes, and programs, such  
5 that an error by a public utility employee would not be a basis  
6 for a finding of imprudence, unless that error resulted from any  
7 imprudent system, process, or program.

8 (c) In evaluating prudence under this section, the public  
9 utilities commission shall determine whether the actions of the  
10 public utility were consistent with actions that a reasonable  
11 public utility would have undertaken in good faith under similar  
12 circumstances, at the relevant point in time, and based on the  
13 information available to the public utility at the relevant  
14 point in time.

15 Reasonable conduct shall not be limited to the optimum  
16 practice, method, or act to the exclusion of others, but rather  
17 shall encompass a spectrum of possible practices, methods, or  
18 acts consistent with utility system needs, the interest of  
19 ratepayers, and the requirements of governmental agencies of  
20 competent jurisdiction.



1 (d) If the public utilities commission determines that  
2 imprudent conduct by the public utility caused the catastrophic  
3 wildfire, the public utilities commission shall determine  
4 whether to order the public utility to reimburse the fund in  
5 whole or in part for payments from the fund made in connection  
6 with the catastrophic wildfire. In determining the amount of  
7 reimbursement, if any, the public utilities commission shall  
8 consider the extent and severity of the public utility's  
9 imprudence and factors within and beyond the public utility's  
10 control that may have led to or exacerbated the costs from the  
11 catastrophic wildfire, including but not limited to humidity,  
12 temperature, winds, fuel, merged wildfires with independent  
13 ignitions, third-party actions that affected the spread of the  
14 wildfire, and fire suppression activities.

15 (e) The public utilities commission shall not order the  
16 public utility to reimburse the fund in an amount that exceeds  
17 the lesser of:

18 (1) The costs that the public utilities commission  
19 determines were due to the public utility's  
20 imprudence; or





1           (2) Twenty per cent of the public utility's transmission  
2           and distribution equity rate base minus the amounts  
3           the public utility has reimbursed, or is required to  
4           reimburse, the fund during the period of three  
5           consecutive calendar years ending on December 31 of  
6           the year in which the calculation is being performed.

7           (f) If the public utilities commission orders the public  
8           utility to reimburse the fund, the public utility shall not  
9           recover the amount of the reimbursement in rates charged to  
10          ratepayers.

11          (g) If the administrator, or an agency of the State with  
12          responsibility for determining the causes of wildfires or  
13          catastrophic wildfires concludes that the conduct of an other  
14          governmental entity or private property owner that is a  
15          contributor may have caused the occurrence or contributed to the  
16          severity of a catastrophic wildfire, the administrator shall  
17          assess the prudence of the contributor's conduct, applying the  
18          same standard of prudence applied to public utilities pursuant  
19          to subsection (c).

20          (h) If the administrator determines that the contributor  
21          acted imprudently and that the imprudence caused or contributed



1 to the severity of the catastrophic wildfire, the administrator  
2 shall recommend that the board require the contributor to  
3 reimburse the fund in whole or in part for payments that the  
4 fund made in connection with the catastrophic wildfire,  
5 considering the factors set forth in subsection (d), subject to  
6 a cap of ten per cent of the contributor's assets within Hawaii,  
7 measured over a rolling three-year period.

8 § -10 Failure to make contributions to wildfire relief

9 fund. (a) Contributors shall notify the administrator if they  
10 will make, or fail to make, a required contribution, whether  
11 initial, annual, or supplemental, to the fund at least days  
12 before the contribution is due.

13 (b) If a contributor fails to make a required contribution  
14 to the fund, that contributor will no longer be a contributor as  
15 of the date that the contribution was due. That entity may,  
16 however, rejoin the fund under the process for joining the fund  
17 after initial capitalization set forth in section -8.

18 (c) The administrator shall not refund to an entity that  
19 fails to make a contribution any previous payments made to the  
20 fund. However, the administrator shall credit all previous



1 contributions when determining the amount of payment to be made  
2 if a participant rejoins the fund under subsection (b).

3       § -11 Refunds. (a) In the event that the total amount  
4 in the fund exceeds one hundred twenty per cent of the total  
5 capitalization amount, the administrator may recommend that the  
6 board authorize refunds to be made to the contributors; provided  
7 that the refunds do not deplete the fund below one hundred  
8 twenty per cent of the total capitalization amount.

9       (b) Refunds shall be made in proportion to the total  
10 amount contributed by the contributors to the fund as of the  
11 date of the refund, excluding any payments made under the  
12 replenishment provisions under section -9.

13       (c) The administrator has no obligation to recommend, and  
14 the board has no obligation to authorize, a refund. The board  
15 shall make a refund only if it takes into consideration all  
16 relevant factors and circumstances and determines that making a  
17 refund will be unlikely to result in the fund's falling below  
18 one hundred twenty per cent of total capitalization within three  
19 years after the refund.

20       (d) Any contributor may request that the board make a  
21 refund whenever the conditions under this section are met.



1 (e) If the board elects to issue a refund or elects not to  
2 do so after receiving a request under subsection (d), the  
3 administrator shall issue an order explaining the board's  
4 decision.

5 § -12 Processing of claims. (a) With the approval of  
6 the board, the administrator shall establish and approve  
7 procedures for the review, approval, and timely payment of  
8 claims for reimbursement from the fund. The procedures may be  
9 revised from time to time by the administrator with the approval  
10 of the board.

11 (b) In the event of a catastrophic wildfire within the  
12 State, the administrator shall process claims made for  
13 compensation against the fund related to the catastrophic  
14 wildfire, consistent with the requirements of this chapter.

15 § -13 Claims by property owners. (a) To be eligible  
16 for compensation from the fund for damage to property from a  
17 catastrophic wildfire, a property owner shall not have opted out  
18 from participation in the fund before the occurrence of the  
19 catastrophic wildfire.

20 (b) County tax assessors shall include, with each real  
21 property tax assessment sent to a property owner in the State, a



1 prominent notice regarding participation in the fund. The  
2 notice shall be in a form prescribed by the administrator and  
3 shall clearly explain the property owner's right to opt out of  
4 participation in the fund by submitting a request to opt out to  
5 the administrator within a specific time. A property owner who  
6 does not submit a timely request to opt out shall be deemed to  
7 participate in the fund as of the deadline for submitting a  
8 request to opt out.

9 (c) Any costs of administering the process described in  
10 subsection (b) shall be reimbursed by the fund.

11 (d) To opt out of participation in the fund with regard to  
12 property either in areas within the State that have been  
13 assigned extreme, high, and moderate wildfire risk classes  
14 by , a property owner shall submit documentation of  
15 insurance coverage for the property along with the property  
16 owner's request to opt out of the fund, and the administrator  
17 shall approve the documentation as adequate evidence of  
18 insurance for the applicable property.

19 (e) Following a catastrophic wildfire, to make a claim for  
20 compensation from the fund for damage to property from the



1 wildfire, a property owner shall submit to the administrator  
2 documentation establishing:

3 (1) That the catastrophic wildfire damaged the owner's  
4 property;

5 (2) The extent of the losses to the owner's property  
6 caused by that catastrophic wildfire; and

7 (3) Any insurance policy providing coverage for those  
8 losses.

9 (f) Within ninety days after a property owner submits a  
10 claim for compensation from the fund, including the  
11 documentation required in this section, the administrator shall  
12 determine whether the documentation is adequate and, if so, the  
13 appropriate amount of the payment to the property owner from the  
14 fund. If the administrator determines that the property owner  
15 has not submitted sufficient documentation for the administrator  
16 to evaluate the claim, the administrator may request additional  
17 documentation from the property owner and may set a date by  
18 which the additional information shall be provided.

19 (g) If no insurance policy provides coverage for the  
20 losses for which a property owner seeks compensation from the



1 fund, the property owner shall be eligible to receive as  
2 compensation from the fund a maximum of \$ .

3 (h) If an insurance policy provides coverage for the  
4 losses for which a property owner seeks compensation from the  
5 fund, the property owner shall be eligible to receive as  
6 compensation from the fund an amount up to the lesser of:

7 (1) per cent of the amount by which the property  
8 owner's losses exceed the amount of insurance coverage  
9 for the losses; or

10 (2) per cent of the property owner's insurance  
11 coverage applicable to the losses;

12 provided that the property owner submits adequate documentation  
13 of those losses, as required by this section.

14 § -14 Claims by property insurers. (a) To be eligible  
15 for compensation from the fund, a property insurer shall have  
16 elected to participate in the fund before the annual policy  
17 period in which the catastrophic wildfire occurred. The  
18 administrator shall establish a process for property insurers to  
19 annually submit an election to participate in the fund to the  
20 administrator within a specified time.



1 (b) All property insurers who elect to participate in the  
2 fund shall be eligible to receive as compensation from the  
3 fund per cent of their total payments for property damage  
4 claims in Hawaii as a result of a catastrophic wildfire.

5 (c) Following a catastrophic wildfire, to make a claim for  
6 compensation from the fund based on claims resulting from the  
7 wildfire, an eligible property insurer shall submit to the  
8 administrator documentation establishing the number, nature, and  
9 total value of the insurance claims that the property insurer  
10 paid pursuant to its policies for damage resulting from the  
11 catastrophic wildfire as well as documentation sufficient to  
12 assess the reasonableness of the property insurer's payment of  
13 the claims.

14 (d) After receipt of a property insurer's claim for  
15 compensation from the fund, including the documentation required  
16 in this section, the administrator shall:

- 17 (1) Review via an expedited procedure the property  
18 insurer's claim for compensation from the fund; and  
19 (2) Determine:  
20 (A) Whether the documentation provided is adequate;  
21 and





1           (B) The appropriate amount of the payment to the  
2           property insurer from the fund.

3           § -15 Claims by the State and other governmental  
4 entities. (a) The State may submit claims for compensation  
5 from the fund for damages it incurred resulting from a  
6 catastrophic wildfire, including damage to infrastructure or  
7 other property, costs of fire suppression, and natural resource  
8 damages, to the extent recovery of the losses is authorized by  
9 law.

10           (b) Other governmental entities may submit claims for  
11 compensation from the fund for damages they incurred resulting  
12 from a catastrophic wildfire, including damage to infrastructure  
13 or other property and other losses, to the extent recovery of  
14 the losses is authorized by law; provided that to be eligible  
15 for compensation from the fund related to a catastrophic  
16 wildfire, the other governmental entity shall elect to be a  
17 contributor and shall have satisfied contribution obligations  
18 pursuant to section -8 before the occurrence of the  
19 catastrophic wildfire.



1 (c) To make a claim under this section, the State or other  
2 governmental entity shall submit to the administrator  
3 documentation establishing:

- 4 (1) That the catastrophic wildfire caused the damages;  
5 (2) The extent of the damages caused by the catastrophic  
6 wildfire; and  
7 (3) Any other documentation necessary to establish the  
8 State's or other governmental entity's right to  
9 recover the losses pursuant to law.

10 (d) After receipt of a claim for compensation from the  
11 fund pursuant to this section, the administrator shall determine  
12 whether the State or other governmental entity is authorized to  
13 recover damages under applicable law and, if so, the appropriate  
14 amount of the payment.

15 § -16 **Fund depletion.** (a) Within thirty days of a  
16 catastrophic wildfire, the administrator shall assess whether  
17 the total payments that the fund is projected to make to  
18 eligible property owners, property insurers, the State and other  
19 governmental entities under sections -13, -14, and -15,  
20 respectively, are expected to exceed seventy-five per cent of  
21 the total available money in the fund. The board shall adopt



1 rules pursuant to chapter 91 regarding the performance of this  
2 assessment.

3 (b) If the administrator assesses pursuant to subsection  
4 (a) that the total payments that the fund is projected to make  
5 to eligible property owners, property insurers, the State and  
6 other governmental entities under sections -13, -14,  
7 and -15, respectively, are expected to exceed seventy-five  
8 per cent of the total available money remaining in the fund, the  
9 administrator shall seek to increase the total amount of money  
10 in the fund using all available methods under this chapter.

11 (c) Depletion event. If the administrator is unable,  
12 despite taking the steps under subsection (b), to secure  
13 sufficient additional funding for the fund, including credible  
14 pledges for future funding, to reverse the administrator's  
15 assessment under subsection (b) within forty-five days, the  
16 administrator shall declare the existence of a depletion event.

17 (d) Depletion percentage. If the administrator declares  
18 the existence of a depletion event, the administrator shall  
19 determine what percentage of total eligible payments the fund  
20 can make without the likelihood that the payments will exceed



1 seventy-five per cent of the total available money in the fund.

2 This percentage shall be deemed the depletion percentage.

3 (e) Depletion payment. The administrator shall thereafter  
4 offer all property owners, property insurers, and the State and  
5 other governmental entities that submit claims for compensation  
6 from the fund and would otherwise, under sections -13, -  
7 14, and -15, respectively, be entitled to a particular  
8 payment amount, that amount multiplied by the depletion  
9 percentage. This amount shall be deemed the depletion payment.

10 (f) All claimants that are offered the depletion payment  
11 may choose to accept or decline the payment. Any property owner  
12 or property insurer, other than a contributor, that declines to  
13 accept the depletion payment shall:

14 (1) Be ineligible for any payments by the fund with  
15 respect to the catastrophic wildfire for which the  
16 claim was made; and

17 (2) Not be bound by the limitation on claims under  
18 section -18 with respect to only that catastrophic  
19 wildfire.

20 (g) After the payments to all claimants who accepted the  
21 depletion payment have been made, the administrator may



1 recommend to the board, and the board may decide, in its  
2 discretion, to make a further payment to all claimants who  
3 accepted the depletion payment. The board shall adopt rules  
4 pursuant to chapter 91 for the making of this decision.

5 (h) Multiple catastrophic events. The board shall adopt  
6 rules pursuant to chapter 91 regarding how to pay claims in the  
7 event that one or more catastrophic wildfires occur while the  
8 corporation is in the process of assessing, receiving,  
9 determining, or paying claims from an earlier catastrophic  
10 wildfire.

11 § -17 Hearings and appeals of determinations. (a)  
12 Within thirty days after the administrator's determination of  
13 the amount of payment due to any claimant from the fund pursuant  
14 to sections -13, -14, and -15, respectively, or the  
15 board's determination of a contributor's allocation for any  
16 contribution, the affected person or entity may request a  
17 contested case hearing on that determination before the  
18 department of commerce and consumer affairs pursuant to chapter  
19 91.

20 (b) Upon receipt of a request for a hearing on the  
21 administrator or board's determination, the office of



1 administrative hearings shall schedule a hearing date no later  
2 than            days after its receipt of the request for a hearing.

3            (c) Following the conclusion of any hearing or before the  
4 conclusion of the hearing, with the concurrence of the parties,  
5 the office of administrative hearings shall promptly, and no  
6 later than            days after the hearing, decide the matter and  
7 issue findings of fact, conclusions of law, and a decision in  
8 accordance with the hearings officer's determination.

9            (d) Within            days after the date on which a copy of the  
10 office of administrative hearings' order is mailed to the  
11 parties, a party may seek judicial review of the order by filing  
12 a petition for review in the applicable circuit court, with a  
13 right of appeal as allowed by law. If no petition is timely  
14 filed, the order of the office of administrative hearings shall  
15 be final.

16            § -18 Limitations on claims. (a) No suit, claim, or  
17 other civil legal action may be instituted or maintained against  
18 contributors or their affiliates, employees, agents, or  
19 insurers:

20            (1) For recovery of losses or damages of a type for which  
21            compensation may be sought from the fund; and



1 (2) By persons or entities:

2 (A) Who are contributors, property owners who do not  
3 opt out of the fund, or property insurers who  
4 elect to participate in the fund; or

5 (B) Who seek indemnity or contribution for amounts  
6 paid, or that may be paid, to contributors,  
7 property owners who do not opt out of the fund,  
8 or property insurers who elect to participate in  
9 the fund.

10 (b) Persons or entities who are eligible to seek  
11 compensation from the fund for property damage arising from a  
12 catastrophic wildfire may not seek to recover for damage from  
13 electric utilities, public utilities other than electric  
14 utilities, the State, or private property owners who are  
15 contributors, notwithstanding that the claimed property damage  
16 may exceed the amount of payment by the fund for the damage.

17 (c) The fund shall be subrogated to the rights of the  
18 contributors, property owners who do not opt out of the fund,  
19 and property insurers who elect to participate in the fund, to  
20 the extent of any payment made by the fund to those persons or  
21 entities and may pursue claims against a person or an entity



1 that is not a contributor for damages resulting from the  
2 catastrophic wildfire."

3 SECTION 3. Section 76-16, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) The civil service to which this chapter applies shall  
6 comprise all positions in the State now existing or hereafter  
7 established and embrace all personal services performed for the  
8 State, except the following:

- 9 (1) Commissioned and enlisted personnel of the Hawaii  
10 National Guard as such, and positions in the Hawaii  
11 National Guard that are required by state or federal  
12 laws or regulations or orders of the National Guard to  
13 be filled from those commissioned or enlisted  
14 personnel;
- 15 (2) Positions filled by persons employed by contract where  
16 the director of human resources development has  
17 certified that the service is special or unique or is  
18 essential to the public interest and that, because of  
19 circumstances surrounding its fulfillment, personnel  
20 to perform the service cannot be obtained through





- 1 normal civil service recruitment procedures. Any such  
2 contract may be for any period not exceeding one year;
- 3 (3) Positions that must be filled without delay to comply  
4 with a court order or decree if the director  
5 determines that recruitment through normal recruitment  
6 civil service procedures would result in delay or  
7 noncompliance, such as the Felix-Cayetano consent  
8 decree;
- 9 (4) Positions filled by the legislature or by either house  
10 or any committee thereof;
- 11 (5) Employees in the office of the governor and office of  
12 the lieutenant governor, and household employees at  
13 Washington Place;
- 14 (6) Positions filled by popular vote;
- 15 (7) Department heads, officers, and members of any board,  
16 commission, or other state agency whose appointments  
17 are made by the governor or are required by law to be  
18 confirmed by the senate;
- 19 (8) Judges, referees, receivers, masters, jurors, notaries  
20 public, land court examiners, court commissioners, and



1 attorneys appointed by a state court for a special  
2 temporary service;

3 (9) One bailiff for the chief justice of the supreme court  
4 who shall have the powers and duties of a court  
5 officer and bailiff under section 606-14; one  
6 secretary or clerk for each justice of the supreme  
7 court, each judge of the intermediate appellate court,  
8 and each judge of the circuit court; one secretary for  
9 the judicial council; one deputy administrative  
10 director of the courts; three law clerks for the chief  
11 justice of the supreme court, two law clerks for each  
12 associate justice of the supreme court and each judge  
13 of the intermediate appellate court, one law clerk for  
14 each judge of the circuit court, two additional law  
15 clerks for the civil administrative judge of the  
16 circuit court of the first circuit, two additional law  
17 clerks for the criminal administrative judge of the  
18 circuit court of the first circuit, one additional law  
19 clerk for the senior judge of the family court of the  
20 first circuit, two additional law clerks for the civil  
21 motions judge of the circuit court of the first



1 circuit, two additional law clerks for the criminal  
2 motions judge of the circuit court of the first  
3 circuit, and two law clerks for the administrative  
4 judge of the district court of the first circuit; and  
5 one private secretary for the administrative director  
6 of the courts, the deputy administrative director of  
7 the courts, each department head, each deputy or first  
8 assistant, and each additional deputy, or assistant  
9 deputy, or assistant defined in paragraph (16);

10 (10) First deputy and deputy attorneys general, the  
11 administrative services manager of the department of  
12 the attorney general, one secretary for the  
13 administrative services manager, an administrator and  
14 any support staff for the criminal and juvenile  
15 justice resources coordination functions, and law  
16 clerks;

17 (11) (A) Teachers, principals, vice-principals, complex  
18 area superintendents, deputy and assistant  
19 superintendents, other certificated personnel,  
20 and no more than twenty noncertificated



- 1 administrative, professional, and technical  
2 personnel not engaged in instructional work;
- 3 (B) Effective July 1, 2003, teaching assistants,  
4 educational assistants, bilingual/bicultural  
5 school-home assistants, school psychologists,  
6 psychological examiners, speech pathologists,  
7 athletic health care trainers, alternative school  
8 work study assistants, alternative school  
9 educational/supportive services specialists,  
10 alternative school project coordinators, and  
11 communications aides in the department of  
12 education;
- 13 (C) The special assistant to the state librarian and  
14 one secretary for the special assistant to the  
15 state librarian; and
- 16 (D) Members of the faculty of the University of  
17 Hawaii, including research workers, extension  
18 agents, personnel engaged in instructional work,  
19 and administrative, professional, and technical  
20 personnel of the university;



- 1       (12) Employees engaged in special, research, or
- 2             demonstration projects approved by the governor;
- 3       (13) (A) Positions filled by inmates, patients of state
- 4             institutions, and persons with severe physical or
- 5             mental disabilities participating in the work
- 6             experience training programs;
- 7             (B) Positions filled with students in accordance with
- 8             guidelines for established state employment
- 9             programs; and
- 10       (C) Positions that provide work experience training
- 11            or temporary public service employment that are
- 12            filled by persons entering the workforce or
- 13            persons transitioning into other careers under
- 14            programs such as the federal Workforce Investment
- 15            Act of 1998, as amended, or the Senior Community
- 16            Service Employment Program of the Employment and
- 17            Training Administration of the United States
- 18            Department of Labor, or under other similar state
- 19            programs;
- 20       (14) A custodian or guide at Iolani Palace, the Royal
- 21            Mausoleum, and Hulihee Palace;



- 1           (15) Positions filled by persons employed on a fee,  
2           contract, or piecework basis, who may lawfully perform  
3           their duties concurrently with their private business  
4           or profession or other private employment and whose  
5           duties require only a portion of their time, if it is  
6           impracticable to ascertain or anticipate the portion  
7           of time to be devoted to the service of the State;
- 8           (16) Positions of first deputies or first assistants of  
9           each department head appointed under or in the manner  
10          provided in section 6, article V, of the Hawaii State  
11          Constitution; three additional deputies or assistants  
12          either in charge of the highways, harbors, and  
13          airports divisions or other functions within the  
14          department of transportation as may be assigned by the  
15          director of transportation, with the approval of the  
16          governor; one additional deputy in the department of  
17          human services either in charge of welfare or other  
18          functions within the department as may be assigned by  
19          the director of human services; four additional  
20          deputies in the department of health, each in charge  
21          of one of the following: behavioral health,



1 environmental health, hospitals, and health resources  
2 administration, including other functions within the  
3 department as may be assigned by the director of  
4 health, with the approval of the governor; two  
5 additional deputies in charge of the law enforcement  
6 programs, administration, or other functions within  
7 the department of law enforcement as may be assigned  
8 by the director of law enforcement, with the approval  
9 of the governor; three additional deputies each in  
10 charge of the correctional institutions,  
11 rehabilitation services and programs, and  
12 administration or other functions within the  
13 department of corrections and rehabilitation as may be  
14 assigned by the director [~~of~~] of corrections and  
15 rehabilitation, with the approval of the governor; an  
16 administrative assistant to the state librarian; and  
17 an administrative assistant to the superintendent of  
18 education;

19 (17) Positions specifically exempted from this part by any  
20 other law; provided that:



- 1 (A) Any exemption created after July 1, 2014, shall  
2 expire three years after its enactment unless  
3 affirmatively extended by an act of the  
4 legislature; and
- 5 (B) All of the positions defined by paragraph (9)  
6 shall be included in the position classification  
7 plan;
- 8 (18) Positions in the state foster grandparent program and  
9 positions for temporary employment of senior citizens  
10 in occupations in which there is a severe personnel  
11 shortage or in special projects;
- 12 (19) Household employees at the official residence of the  
13 president of the University of Hawaii;
- 14 (20) Employees in the department of education engaged in  
15 the supervision of students during meal periods in the  
16 distribution, collection, and counting of meal  
17 tickets, and in the cleaning of classrooms after  
18 school hours on a less than half-time basis;
- 19 (21) Employees hired under the tenant hire program of the  
20 Hawaii public housing authority; provided that ~~not~~  
21 no more than twenty-six per cent of the authority's





- 1 workforce in any housing project maintained or  
2 operated by the authority shall be hired under the  
3 tenant hire program;
- 4 (22) Positions of the federally funded expanded food and  
5 nutrition program of the University of Hawaii that  
6 require the hiring of nutrition program assistants who  
7 live in the areas they serve;
- 8 (23) Positions filled by persons with severe disabilities  
9 who are certified by the state vocational  
10 rehabilitation office that they are able to perform  
11 safely the duties of the positions;
- 12 (24) The sheriff;
- 13 (25) A gender and other fairness coordinator hired by the  
14 judiciary;
- 15 (26) Positions in the Hawaii National Guard youth and adult  
16 education programs;
- 17 (27) In the Hawaii state energy office in the department of  
18 business, economic development, and tourism, all  
19 energy program managers, energy program specialists,  
20 energy program assistants, and energy analysts;



- 1       (28) Administrative appeals hearing officers in the
- 2             department of human services;
- 3       (29) In the Med-QUEST division of the department of human
- 4             services, the division administrator, finance officer,
- 5             health care services branch administrator, medical
- 6             director, and clinical standards administrator;
- 7       (30) In the director's office of the department of human
- 8             services, the enterprise officer, information security
- 9             and privacy compliance officer, security and privacy
- 10            compliance engineer, security and privacy compliance
- 11            analyst, information technology implementation
- 12            manager, assistant information technology
- 13            implementation manager, resource manager,
- 14            community/project development director, policy
- 15            director, special assistant to the director, and
- 16            limited English proficiency project
- 17            manager/coordinator;
- 18       (31) The Alzheimer's disease and related dementia services
- 19             coordinator in the executive office on aging;
- 20       (32) In the Hawaii emergency management agency, the
- 21             executive officer, public information officer, civil



1 defense administrative officer, branch chiefs, and  
 2 emergency operations center state warning point  
 3 personnel; provided that for state warning point  
 4 personnel, the director shall determine that  
 5 recruitment through normal civil service recruitment  
 6 procedures would result in delay or noncompliance;

7 (33) The executive director and seven full-time  
 8 administrative positions of the school facilities  
 9 authority;

10 (34) Positions in the Mauna Kea stewardship and oversight  
 11 authority;

12 (35) In the office of homeland security of the department  
 13 of law enforcement, the statewide interoperable  
 14 communications coordinator; [and]

15 (36) In the social services division of the department of  
 16 human services, the business technology analyst[-];  
 17 and

18 (37) The administrator of the wildfire relief fund  
 19 corporation.

20 The director shall determine the applicability of this  
 21 section to specific positions.



1 Nothing in this section shall be deemed to affect the civil  
2 service status of any incumbent as it existed on July 1, 1955."

3 SECTION 4. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$ or so  
5 much thereof as may be necessary for fiscal year 2024-2025 for  
6 deposit into the wildfire relief fund.

7 SECTION 5. There is appropriated out of the general  
8 revenues of the State of Hawaii the sum of \$ or so  
9 much thereof as may be necessary for fiscal year 2024-2025 for  
10 the establishment of full-time equivalent ( FTE)  
11 administrator position, who shall be exempt from chapter 76,  
12 Hawaii Revised Statutes, to support the Hawaii wildfire relief  
13 fund corporation; provided that in all subsequent fiscal years,  
14 all funding for the administrator position shall be paid from  
15 the wildfire relief fund.

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

18 SECTION 6. In accordance with section 9 of article VII of  
19 the Hawaii State Constitution and sections 37-91 and 37-93,  
20 Hawaii Revised Statutes, the legislature has determined that the  
21 appropriations contained in H.B. No. , will cause the state



1 general fund expenditure ceiling for fiscal year 2024-2025 to be  
2 exceeded by \$ or per cent. In addition, the  
3 appropriation contained in this Act will cause the general fund  
4 expenditure ceiling for fiscal year 2024-2025 to be further  
5 exceeded by \$ or per cent. The combined total  
6 amount of general fund appropriations contained in only these  
7 two Acts will cause the state general fund expenditure ceiling  
8 for fiscal year 2024-2025 to be exceeded by  
9 \$ or per cent. The reasons for exceeding the  
10 general fund expenditure ceiling are that:

- 11 (1) The appropriation made in this Act is necessary to  
12 serve the public interest; and
- 13 (2) The appropriation made in this Act meets the needs  
14 addressed by this Act.

15 PART II

16 SECTION 7. The legislature finds that the risk of  
17 catastrophic wildfires has increased, making it imperative that  
18 electric utilities develop, implement, and administer effective  
19 plans for wildfire risk mitigation. Electric utilities should  
20 develop, implement, and administer wildfire protection plans,  
21 and, through a public process, the public utilities commission



1 should review and approve such plans and the recovery of any  
2 related costs to implement the plans.

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

- 5 (1) Identify and prioritize resilience threat scenarios  
6 and potential grid impacts;
- 7 (2) Identify key customer and infrastructure sector  
8 capabilities and needs following a severe event and  
9 loss of power;
- 10 (3) Identify gaps and priorities in grid and customer  
11 capabilities following a severe event and loss of  
12 power;
- 13 (4) Provide recommendations and inputs for investor-owned  
14 utility grid planning to address resilience needs; and
- 15 (5) Recommend additional grid and customer actions to  
16 close gaps and capabilities following severe events.

17 The resilience working group identified wildfires as one of  
18 five types of severe events of utmost importance to consider for  
19 achieving a resilient grid and provided resilience options for  
20 utilities to consider.



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

10           The purpose of this part is to create a process whereby  
11 electric utilities develop and submit effective risk-based  
12 wildfire risk protection plans to the public utilities  
13 commission for approval; the public utilities commission  
14 evaluates those plans and either approves them or does so with  
15 modifications; the electric utilities are able to timely recover  
16 the prudently incurred costs and expenses of developing,  
17 implementing, and administering those plans; and those costs  
18 and expenses are not borne disproportionately by any particular  
19 ratepayer or county.



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

4 "PART . WILDFIRE PROTECTION AND MITIGATION

5 §269-A Definitions. As used in this part:

6 "Ancillary agreement" means a bond insurance policy, letter  
7 of credit, reserve account, surety bond, swap arrangement,  
8 hedging arrangement, liquidity or credit support arrangement, or  
9 other similar agreement or arrangement entered into in  
10 connection with the issuance of bonds that is designed to  
11 promote the credit quality and marketability of the bonds or to  
12 mitigate the risk of an increase in interest rates.

13 "Assignee" means a legally recognized entity:

14 (1) To which an electric utility company assigns, sells,  
15 or transfers, other than as security, all or a portion  
16 of its interest in or right to wildfire protection  
17 property; or

18 (2) Who acquires, by way of assignment or otherwise, all  
19 or a portion of the wildfire protection property  
20 following the exercise of remedies upon a default  
21 under the terms of the bonds.





1 "Assignee" includes a corporation, limited liability company,  
2 general partnership or limited partnership, public authority,  
3 trust, financing entity, or any entity to which an assignee  
4 assigns, sells, or transfers, other than as security, its  
5 interest in or right to wildfire protection property.

6 "Bond" means any bond, note, certificate of participation  
7 or beneficial interest, or other evidence of indebtedness or  
8 ownership that is issued by the financing entity under a  
9 financing order, the proceeds of which are used to recover,  
10 finance, or refinance any wildfire protection costs, and that  
11 are secured by or payable from wildfire protection property.

12 "Catastrophic wildfire" means any wildfire in the State  
13 that damaged or destroyed more than five hundred commercial  
14 buildings or residential structures designed for habitation.

15 "Commission" means the public utilities commission.

16 "Consumer" means any individual, governmental body, trust,  
17 business entity, or nonprofit organization that consumes  
18 electricity that has been transmitted or distributed by means of  
19 electric transmission or distribution facilities, whether those  
20 electric transmission or distribution facilities are owned by  
21 the consumer, the electric utility, or any other party.



1 "Electric utility" means a public utility as defined in  
2 section 269-1 that is engaged in the production, transmission,  
3 or distribution of electricity.

4 "Financing costs" means the costs to issue, service, repay,  
5 or refinance bonds, whether incurred or paid upon issuance of  
6 the bonds or over the life of the bonds, if they are approved  
7 for recovery by the commission in a financing order. "Financing  
8 costs" may include any of the following:

- 9 (1) Principal, interest, and redemption premiums that are  
10 payable on bonds;
- 11 (2) A payment required under an ancillary agreement;
- 12 (3) An amount required to fund or replenish reserve  
13 accounts or other accounts established under an  
14 indenture, ancillary agreement, or other financing  
15 document related to the bonds;
- 16 (4) Taxes, franchise fees, or license fees imposed on a  
17 financing entity as a result of the issuance of the  
18 financing order, the assignment, sale or transfer of  
19 any wildfire property or the sale of the bonds or  
20 imposed on the wildfire protection charges, or  
21 otherwise resulting from the collection of the



1 charges, in any such case whether paid, payable, or  
2 accrued;

3 (5) Costs related to issuing and servicing bonds or the  
4 application for a financing order, including without  
5 limitation servicing fees and expenses, trustee fees  
6 and expenses, legal fees and expenses, accounting  
7 fees, administrative fees, underwriting and placement  
8 fees, financial advisory fees, original issue  
9 discount, capitalized interest, rating agency fees,  
10 and any other related costs that are approved for  
11 recovery in the financing order; and

12 (6) Other costs as specifically authorized by a financing  
13 order.

14 "Financing entity" means an electric utility and an entity  
15 to which an electric utility or an affiliate of an electric  
16 utility sells, assigns or pledges all or a portion of the  
17 electric utility's or its affiliate's interest in wildfire  
18 protection property, including an affiliate of the electric  
19 utility or any unaffiliated entity, in each case as approved by  
20 the commission in a financing order.



1 For this purpose, and subject to section 269-D(c), an  
2 entity to which an electric utility or its affiliate sells,  
3 assigns or pledges all or a portion of the electric utility's  
4 interest in wildfire protection property may include any  
5 governmental entity that is able to issue bonds that are exempt  
6 from federal tax pursuant to section 103 of the Internal Revenue  
7 Code of 1986, including the State or a political subdivision  
8 thereof or any department, agency or instrumentality of the  
9 foregoing; provided that the bonds issued thereby shall not  
10 constitute a debt or liability of the State or any political  
11 subdivision thereof or any department, agency or instrumentality  
12 thereof and shall not constitute a pledge of the full faith and  
13 credit of the entity or of the State or any political  
14 subdivision thereof, but shall be payable solely from the funds  
15 provided under this chapter.

16 "Financing order" means an order of the commission under  
17 this part that has become final as provided by law, and that  
18 authorizes the issuance of bonds and the imposition, adjustment  
19 from time to time, and collection of wildfire protection  
20 charges. "Financing order" includes without limitation a  
21 procedure to require the expeditious approval by the commission



1 of periodic adjustments to wildfire protection charges and any  
2 associated fixed recovery tax amounts included in that financing  
3 order to ensure recovery of all wildfire protection costs and  
4 the costs associated with the proposed recovery, financing, or  
5 refinancing thereof, including the costs of servicing and  
6 retiring the bonds contemplated by the financing order.

7 "Financing party" means any holder of bonds, any party to  
8 or beneficiary of an ancillary agreement, and any trustee,  
9 collateral agent, or other person acting for the benefit of any  
10 of the foregoing.

11 "Fixed recovery tax amounts" means those nonbypassable  
12 rates and other charges, including but not limited to  
13 distribution, connection, disconnection, and termination rates  
14 and charges, that are needed to recover federal and state taxes  
15 associated with wildfire protection charges authorized by the  
16 commission in a financing order, but are not approved as  
17 financing costs financed from proceeds of bonds.

18 "True-up adjustment" means a formulaic adjustment to the  
19 wildfire protection charges as they appear on consumer bills  
20 that is necessary to correct for any overcollection or  
21 undercollection of the wildfire protection charges authorized by



1 a financing order and to otherwise ensure the timely and  
2 complete payment and recovery of wildfire protection costs over  
3 the authorized repayment term.

4 "Wildfire protection charges" means the nonbypassable  
5 charges authorized by section 269-F and in a financing order  
6 authorized under this part to be imposed on and collected from  
7 all existing and future consumers to recover both of the  
8 following:

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

15 "Wildfire protection costs" means any capital costs and  
16 operation and maintenance expenses related to the development,  
17 implementation, and administration of a wildfire protection plan  
18 prepared pursuant to section 269-C(a), but, for the avoidance of  
19 doubt, shall not include any amounts, including, without  
20 limitation, fees, costs, and awards, payable in connection with  
21 any legal claims made in any way related to any wildfire.



1 "Wildfire protection costs" does not include any penalties  
2 levied against an electric utility pursuant to section 269-D.  
3 "Wildfire protection costs" may also include any of the  
4 following:

- 5 (1) Catastrophic wildfire costs or expenses, other than  
6 amounts, for the avoidance of doubt, payable in  
7 connection with any legal claims made in any way  
8 related to any wildfire, that the commission has  
9 determined were prudently incurred, including but not  
10 limited to costs or expenses that have been paid that  
11 the electric utility has a legal obligation to pay or  
12 that the electric utility would be otherwise obligated  
13 to pay;
- 14 (2) Federal and state taxes associated with recovery of  
15 the amounts pursuant to paragraph (1);
- 16 (3) Financing costs; and
- 17 (4) Professional fees, consultant fees, redemption  
18 premiums, tender premiums, and other costs incurred by  
19 the electric utility in using proceeds of bonds to  
20 acquire outstanding securities of the electric



1 utility, as authorized by the commission in a  
2 financing order.

3 "Wildfire protection plan" means the risk-based wildfire  
4 protection plan mandated by section 269-C(a) and approved by the  
5 commission.

6 "Wildfire protection property" means the property right  
7 created pursuant to this part, including without limitation the  
8 right, title, and interest of the public utility, financing  
9 entity, or its assignee:

10 (1) In and to the wildfire protection charge established  
11 pursuant to a financing order, including the right to  
12 impose, bill, collect, and receive fixed recovery  
13 charges under the financing order and all rights to  
14 obtain adjustments to the wildfire protection charge  
15 in accordance with section 269-F and the financing  
16 order; and

17 (2) To be paid the amount that is determined in a  
18 financing order to be the amount that the public  
19 utility or its assignee is lawfully entitled to  
20 receive pursuant to this part and the proceeds  
21 thereof, and in and to all revenues, collections,





1 claims, payments, moneys, or proceeds of, or arising  
2 from, the wildfire protection charge that is the  
3 subject of a financing order.

4 "Wildfire protection property" does not include a right to be  
5 paid fixed recovery tax amounts. "Wildfire protection property"  
6 shall constitute a current property right, notwithstanding the  
7 fact that the value of the property right will depend on  
8 consumers using electricity or, in those instances where  
9 consumers are customers of the public utility, the public  
10 utility performing certain services.

11 **§269-B Electric utility workshops.** The commission may  
12 periodically convene workshops to help electric utilities  
13 develop and share information for the identification, adoption,  
14 and implementation of best practices regarding wildfires,  
15 including but not limited to risk-based wildfire protection and  
16 risk-based wildfire mitigation procedures and standards. The  
17 best practices discussed in these workshops may be incorporated  
18 into the proposed wildfire protection plans and updates  
19 submitted for the approval of the commission pursuant to section  
20 269-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  
4 commission for approval. The risk-based wildfire protection  
5 plan shall be based on reasonable and prudent practices that may  
6 be determined by commission standards adopted by decision or  
7 rule. The electric utility shall design the risk-based wildfire  
8 protection plan to protect public safety, reduce risk to  
9 electric utility customers, and promote resilience of the Hawaii  
10 electric system to wildfire damage. Each electric utility's  
11 wildfire protection plan shall, at a minimum:

- 12           (1) Account for the responsibilities of persons  
13                 responsible 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



- 1                   commission, of the electric utility's generation  
2                   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 electric 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  
11          electric utility infrastructure in areas that the  
12          electric utility identifies under paragraph (3),  
13          including whether those procedures, standards, and  
14          time-frames are already set forth in the electric  
15          utility's existing plans or protocols and in  
16          coordination with any relevant entities;
- 17          (11) Describe the procedures, standards, and time frames  
18          that the electric utility will use to carry out  
19          vegetation management in areas that the electric  
20          utility identifies under paragraph (3), 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 the following:

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 will achieve 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 will use before,  
5 during, and after a wildfire;
- 6 (20) 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 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 rules of the commission;
- 17 (21) Demonstrate elements of data governance, including  
18 enterprise systems; and
- 19 (22) Any modifications to paragraphs (1) through (21), or  
20 other information 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 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 commission shall evaluate each electric utility's  
8 risk-based wildfire protection plan and plan updates according  
9 to the commission's rules of practice and procedure in chapter  
10 16-601, Hawaii Administrative Rules. The commission shall  
11 authorize the department of land and natural resources and local  
12 emergency services agencies to participate in proceedings  
13 evaluating risk-based wildfire protection plans.

14 (e) Not more than ninety days after the last party filing,  
15 and not more than a total of one hundred twenty days after the  
16 initial application for approval of the submitted risk-based  
17 wildfire protection plan or update in the docketed proceeding,  
18 the commission shall approve, approve with conditions, or reject  
19 the plan or update based on whether the commission finds that  
20 the plan or update is based on reasonable and prudent practices  
21 and designed to meet all applicable rules and standards adopted





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

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

16 If the actual costs are less than the amounts that the  
17 commission determined were reasonable in its decision under  
18 subsection (e), the commission shall direct the electric utility  
19 to refund or credit the costs to consumers; provided that any  
20 such refund or credit to consumers shall not affect, alter, or  
21 impair the value of the wildfire protection property, wildfire



1 protection charges, or any bonds secured by wildfire protection  
2 property.

3       If the actual costs are equal to or greater than the  
4 amounts that the commission determined were reasonable in its  
5 decision under subsection (e), the commission shall not direct  
6 the electric utility to refund to ratepayers the amount the  
7 commission previously determined was reasonable and shall limit  
8 its review to any additional costs, which it shall allow the  
9 electric utility to recover from ratepayers if the commission  
10 finds the costs unreasonable.

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

15       (h) 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 (i) In its decision pursuant to subsection (e), the  
2 commission shall determine the reasonable costs to develop,  
3 implement, and administer the plan and shall authorize the  
4 electric utility to recover the costs in rates. The commission  
5 shall establish a method to authorize timely and prompt recovery  
6 of the wildfire protection costs. The commission shall  
7 establish rules for the electric utility to track actual  
8 wildfire protection costs and for the commission to authorize,  
9 as applicable, refunds or credits to ratepayers where actual  
10 wildfire protection costs are ultimately less than those the  
11 commission determined reasonable and authorized for rate  
12 recovery; provided that any such refund or credit to consumers  
13 shall not affect, alter, or impair the value of the wildfire  
14 protection property, wildfire protection charges, or any bonds  
15 secured by wildfire protection property. To the degree actual  
16 wildfire protection costs exceed those the commission determined  
17 were reasonable and authorized for rate recovery, the commission  
18 shall authorize cost recovery in the event that it determines  
19 those additional wildfire protection costs are just and  
20 reasonable. The method established may include the issuance of  
21 bonds under section 269-D.



1 (j) Unless an electric utility acts in a manner that  
2 constitutes willful misconduct, bad faith, or reckless disregard  
3 of its obligations, in each case, in compliance with its  
4 obligations under a financing order and any applicable wildfire  
5 protection plan, no electric utility shall be civilly liable for  
6 the death of or injury to persons, or property damage, as a  
7 result of:

8 (1) Any act taken in accordance with a plan or updated  
9 plan approved by the commission under this part; or

10 (2) Any failure to take an action proposed by an electric  
11 utility in a plan or updated plan and thereafter  
12 removed from the plan by modification of the  
13 commission.

14 (k) There shall be no liability on the part of, and no  
15 cause of action of any nature shall arise against, the  
16 commission or its agents and employees, the State, the  
17 commission commissioners, or the commissioners' representatives  
18 for the death of or injury to persons, or property damage, for  
19 any action taken by such in the performance of their powers and  
20 duties under this part.



1           (1) Any determination by the commission that the electric  
2 utility materially failed to comply with an approved plan or  
3 part of an approved plan, and any imposition of a civil penalty,  
4 shall be inadmissible in any lawsuit or other action against the  
5 electric utility seeking compensation for the alleged death of  
6 or injury to persons, or property damage. In any action seeking  
7 to hold an electric utility civilly liable for the death of or  
8 injury to persons, or property damage, no inference of liability  
9 may be drawn solely based on a failure by the electric utility  
10 to adhere to the requirements of an approved plan.

11           **§269-D Applications to issue bonds and authorize wildfire**  
12 **protection charges.** (a) An electric utility may apply to the  
13 commission for one or more financing orders to issue bonds to  
14 recover any wildfire protection costs, each of which authorizes  
15 the following:

16           (1) The imposition, charging, and collection of a wildfire  
17 protection charge, to become effective upon the  
18 issuance of the bonds, and an adjustment of any such  
19 wildfire protection charge in accordance with a true-  
20 up adjustment mechanism under this part in amounts  
21 sufficient to pay the principal of and interest on the



- 1 bonds and all other associated financing costs on a  
2 timely basis;
- 3 (2) The creation of wildfire protection property under the  
4 financing order; and
- 5 (3) The imposition, charging, and collection of fixed  
6 recovery tax amounts to recover any portion of the  
7 public utility's federal and state taxes associated  
8 with those wildfire protection charges and not  
9 financed from the proceeds of bonds.
- 10 (b) The application shall include all of the following:
- 11 (1) The wildfire protection costs to be financed through  
12 the issuance of bonds;
- 13 (2) The principal amount of the bonds proposed to be  
14 issued;
- 15 (3) An estimate of the date each series of bonds is  
16 expected to be issued;
- 17 (4) The scheduled final payment date, not to exceed thirty  
18 years, and a legal final maturity date, which may be  
19 longer, subject to rating agency and market  
20 considerations, during which term the wildfire  
21 protection charge associated with the issuance of each



- 1 series of bonds is expected to be imposed and  
2 collected;
- 3 (5) An estimate of the financing costs associated with the  
4 issuance of each series of bonds;
- 5 (6) An estimate of the amount of the wildfire protection  
6 charge revenues necessary to pay principal and  
7 interest on the bonds and all other associated  
8 financing costs as set forth in the application and  
9 the calculation for that estimate;
- 10 (7) A proposed design of the wildfire protection charge  
11 and the methodology for allocating the wildfire  
12 protection charge among consumer classes within the  
13 electric utility's service territory;
- 14 (8) A description of the financing entity selected by the  
15 electric utility;
- 16 (9) A description of a proposed true-up mechanism for the  
17 adjustment of the wildfire protection charge to  
18 correct for any overcollection or undercollection of  
19 the wildfire protection charge, and to otherwise  
20 ensure the timely payment of principal and interest on  
21 the bonds and all associated financing costs; and



1 (10) Any other information required by the commission.

2 (c) At the option of the electric utility, the electric  
3 utility may include in its application for a financing order a  
4 request for authorization to sell, transfer, assign, or pledge  
5 wildfire protection property to a governmental financing entity  
6 if it expects bonds issued by a governmental financing entity  
7 would result in a more cost efficient means, taking into account  
8 all financing costs related to such bonds, than using another  
9 financing entity to issue bonds to finance the same wildfire  
10 protection costs, taking into account the costs of issuing such  
11 other financing entity's bonds. If a public utility exercises  
12 such option, the commission may hire a financial advisor in  
13 connection with its review, upon which it may rely.

14 (d) The commission shall issue an approval or denial of  
15 any application for a financing order filed pursuant to this  
16 section within one hundred twenty days of the filing of the  
17 application.

18 (e) In exercising its duties under this section, the  
19 commission shall consider:

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





- 1           (2) Whether the costs are consistent with the public
- 2           interest;
- 3           (3) Whether the structuring, marketing, and pricing of the
- 4           bonds are expected to result in the lowest wildfire
- 5           protection charges consistent with market conditions
- 6           at the time the bonds are priced and the terms of the
- 7           financing order;
- 8           (4) Whether the terms and conditions of any bonds to be
- 9           issued are just and reasonable; and
- 10          (5) Whether the issuance of the bonds would be beneficial,
- 11          including by avoiding or significantly mitigating
- 12          abrupt and significant increases in rates to consumers
- 13          for the applicable time period in the absence of the
- 14          bonds.
- 15          (f) Wildfire protection charges shall be imposed only on
- 16          existing and future consumers within the utility service
- 17          territory who shall continue to pay wildfire protection charges
- 18          until the bonds and associated financing costs are paid in full
- 19          by the financing entity or, in the event the wildfire protection
- 20          property has been assigned to an assignee in connection with the
- 21          exercise of remedies upon a default under the terms of the



1 bonds, until the receipt of proceeds by such assignee in an  
2 amount sufficient to repay the principal amount of, and interest  
3 that would have accrued on, the bonds had they remained  
4 outstanding.

5       **§269-E Wildfire protection plan financing order.** (a) A  
6 financing order shall remain in effect until the bonds issued  
7 under the financing order and all financing costs related to the  
8 bonds have been paid in full or defeased by their terms or, in  
9 the event the wildfire protection property has been assigned to  
10 an assignee in connection with the exercise of remedies upon a  
11 default under the terms of the bonds, until the receipt of  
12 proceeds by such assignee in an amount sufficient to repay  
13 principal and interest on the bonds that would have accrued had  
14 they remained outstanding. A financing order shall remain in  
15 effect and unabated notwithstanding the bankruptcy,  
16 reorganization, or insolvency of the electric utility or the  
17 commencement of any judicial or nonjudicial proceeding on the  
18 financing order.

19       (b) Notwithstanding any other law, and except as otherwise  
20 provided in section 269-C(e), with respect to wildfire  
21 protection property that has been made the basis for the



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

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



- 1           (2) Taking or permitting any action that impairs or would
- 2           impair the value of wildfire protection property or
- 3           the security for the bonds or revises the wildfire
- 4           protection costs for which recovery is authorized;
- 5           (3) In any way impairing 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 (d),
- 9           reducing, altering, or impairing wildfire protection
- 10          charges that are to be imposed, billed, charged,
- 11          collected, and remitted for the benefit of the
- 12          bondholders, any assignee, and any other financing
- 13          parties until any and all principal, interest,
- 14          premium, financing costs and other fees, expenses, or
- 15          charges incurred, and any contracts to be performed,
- 16          in connection with the related bonds have been paid
- 17          and performed in full or, in the event the wildfire
- 18          protection property has been assigned to an assignee
- 19          in connection with the exercise of remedies upon a
- 20          default under the terms of the bonds, until the
- 21          receipt of proceeds by such assignee in an amount



1 sufficient to repay principal and interest on the  
2 bonds that would have accrued had they remained  
3 outstanding.

4 The financing entity is authorized to include this pledge  
5 in the bonds.

6 (c) Under a final financing order, the electric utility  
7 shall retain sole discretion to select the financing entity and  
8 to cause bonds to be issued, including the right to defer or  
9 postpone the issuance, assignment, sale, or transfer of wildfire  
10 protection property. The commission shall not impose any  
11 penalty, disallowance, or other negative consequence on the  
12 electric utility in respect of its exercise of such discretion.

13 (d) The commission may create, pursuant to an application  
14 from an electric utility, a nonbypassable surcharge referred to  
15 as a wildfire protection charge, which shall be applied to  
16 recover financing costs and wildfire protection costs. The  
17 wildfire protection charge shall be a dedicated, discrete tariff  
18 rider. The commission shall, in any financing order, establish  
19 a procedure for periodic true-up adjustments to wildfire  
20 protection charges, which shall be made at least annually and  
21 may be made more frequently. Within thirty days after receiving



1 an electric utility's filing of a true-up adjustment, the  
2 commission's review of the filing shall be limited to  
3 mathematical or clerical errors as determined in accordance with  
4 any true-up adjustment formulas set forth in the applicable  
5 financing order. The commission shall either approve the filing  
6 or inform the electric utility of any mathematical or clerical  
7 errors in its calculation. If the commission informs the  
8 electric utility of mathematical or clerical errors in its  
9 calculation, the electric utility shall correct its error and  
10 refile its true-up adjustment. The timeframes previously  
11 described in this subsection shall apply to a refiled true-up  
12 adjustment.

13 (e) Wildfire protection charges are wildfire protection  
14 property when, and to the extent that, a financing order  
15 authorizing the wildfire protection charges has become effective  
16 in accordance with this part, and the wildfire protection  
17 property shall thereafter continuously exist as property for all  
18 purposes, and all of the rights and privileges relating to that  
19 property shall continuously exist for the period and to the  
20 extent provided in the financing order, but in any event until  
21 the bonds are paid in full, including all principal, premiums,



1 if any, interest with respect to the bonds, and all other  
2 financing costs are paid in full or, in the event the wildfire  
3 protection property has been assigned to an assignee in  
4 connection with the exercise of remedies upon a default under  
5 the terms of the bonds, until the receipt by such assignee of  
6 proceeds in an amount sufficient to repay the principal amount  
7 of, and interest that would have accrued on, the bonds had they  
8 remained outstanding. A financing order may provide that the  
9 creation of wildfire protection property shall be simultaneous  
10 with the sale of the wildfire protection property to an assignee  
11 as provided in the application of the pledge of the wildfire  
12 protection property to secure the bonds.

13 (f) Any successor to a financing entity shall be bound by  
14 the requirements of this chapter and shall perform and satisfy  
15 all obligations of, and have the same rights under a financing  
16 order as, and to the same extent as, the financing entity.

17 (g) Neither financing orders nor bonds issued under this  
18 part shall constitute a debt or liability of the State or of any  
19 political subdivision thereof, nor shall they constitute a  
20 pledge of the full faith and credit of the State or any of its  
21 political subdivisions, but are payable solely from the funds



1 provided therefor under this part. All bonds shall contain on  
2 the face thereof a statement to the following effect: "Neither  
3 the full faith and credit nor the taxing power of the State of  
4 Hawaii is pledged to the payment of the principal of, or  
5 interest on, this bond."

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

10 (i) To the extent that any interest in wildfire protection  
11 property is sold, assigned, or is pledged as collateral pursuant  
12 to subsection (b), the commission shall require the public  
13 utility to contract with the financing entity and its assignees  
14 that it will continue to operate its system to provide service  
15 to consumers within its service territory, will collect amounts  
16 in respect of the wildfire protection charges for the benefit  
17 and account of the financing entity and its assignees, and will  
18 account for and remit these amounts to or for the account of the  
19 financing entity or its assignees. Contracting with the  
20 financing entity and its assignees in accordance with that  
21 authorization shall not impair or negate the characterization of





1 the sale, assignment, or pledge as an absolute transfer, a true  
2 sale, or a security interest, as applicable. To the extent that  
3 billing, collection, and other related services with respect to  
4 the provision of the public utility's services are provided to a  
5 consumer by any person or entity other than the public utility  
6 in whose service territory the consumer is located, that person  
7 or entity shall collect the wildfire protection charges and any  
8 associated fixed recovery tax amounts from the consumer for the  
9 benefit and account of the public utility, financing entity, or  
10 assignees with the associated revenues remitted solely for such  
11 person's benefit as a condition to the provision of electric  
12 service to that consumer. Each financing order shall impose  
13 terms and conditions, consistent with the purposes and  
14 objectives of this chapter, on any person or entity responsible  
15 for billing, collection, and other related services, including  
16 without limitation collection of the wildfire protection charges  
17 and any associated fixed recovery tax amounts, that are the  
18 subject of the financing order.

19 (j) The financing entity may issue bonds upon approval by  
20 the commission in a financing order. Bonds shall be nonrecourse  
21 to the credit or any assets of the public utility, other than



1 the wildfire protection property as specified in that financing  
2 order.

3 (k) Wildfire protection property that is specified in a  
4 financing order shall constitute an existing, present property  
5 right, notwithstanding the fact that the imposition and  
6 collection of wildfire protection charges depend on the electric  
7 utility continuing to provide services or continuing to perform  
8 its servicing functions relating to the collection of wildfire  
9 protection charges or on the level of future service  
10 consumption, including electricity consumption. Wildfire  
11 protection property shall exist whether or not the wildfire  
12 protection charges have been billed, have accrued, or have been  
13 collected and notwithstanding the fact that the value for a  
14 security interest in the wildfire protection property, or amount  
15 of the wildfire protection property, is dependent on the future  
16 provision of service to consumers. All wildfire protection  
17 property specified in a financing order shall continue to exist  
18 until the bonds issued pursuant to a financing order and all  
19 associated financing costs are paid in full or, in the event the  
20 wildfire protection property has been assigned to an assignee in  
21 connection with the exercise of remedies upon a default under



1 the terms of the bonds, until the receipt by such assignee of  
2 proceeds in an amount sufficient to repay the principal amount  
3 of, and interest that would have accrued on, the bonds had they  
4 remained outstanding.

5 (l) Wildfire protection property, wildfire protection  
6 charges, and the interests of an assignee, bondholder, or  
7 financing entity, or any pledgee in wildfire protection property  
8 and wildfire protection charges shall not be subject to setoff,  
9 counterclaim, surcharge, recoupment, or defense by the electric  
10 utility or any other person or in connection with the  
11 bankruptcy, reorganization, or other insolvency proceeding of  
12 the electric utility, any affiliate of the electric utility, or  
13 any other entity.

14 (m) Notwithstanding any other law to the contrary, any  
15 requirement under this part or a financing order that the  
16 commission takes action with respect to the subject matter of a  
17 financing order shall be binding upon the commission, as it may  
18 be constituted from time to time, and any successor agency  
19 exercising functions similar to the commission, and the  
20 commission shall have no authority to rescind, alter, or amend  
21 that requirement in a financing order.



1           (n) The electric utility may sell and assign all or  
2 portions of its interest in wildfire protection property to one  
3 or more financing entities that make that wildfire protection  
4 property the basis for issuance of bonds, to the extent approved  
5 in a financing order. The electric utility or financing entity  
6 may pledge wildfire protection property as collateral, directly  
7 or 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 under the terms of the bonds; 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 charge.** (a) The commission  
19 may create, pursuant to a financing order approved pursuant to  
20 section 269-E, a nonbypassable charge for a financing entity,  
21 referred to as a wildfire protection charge that shall be



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

7 (b) As long as any bonds are outstanding and any financing  
8 costs have not been paid in full or, in the event the wildfire  
9 protection property has been assigned to an assignee in  
10 connection with the exercise of remedies upon a default under  
11 the terms of the bonds, proceeds in an amount sufficient to  
12 repay principal and interest on the bonds that would have  
13 accrued had they remained outstanding have not been received,  
14 any wildfire protection charge and any associated fixed recovery  
15 tax amounts authorized under a financing order shall be  
16 nonbypassable. Subject to any exceptions provided in a  
17 financing order, a wildfire protection charge and any associated  
18 fixed recovery tax amounts shall be paid by all existing and  
19 future consumers within the utility service territory.

20 (c) The wildfire protection charge shall be collected by  
21 an electric utility or its successors, in accordance with



1 subsection (a), in full through a charge that is separate and  
2 apart from the electric utility's rates.

3 (d) An electric utility may exercise the same rights and  
4 remedies under its tariff and applicable law and regulation  
5 based on a consumer's nonpayment of the wildfire protection  
6 charge as it could for a consumer's failure to pay any other  
7 charge payable to that electric utility.

8 **§269-G Security interests in wildfire protection property;**  
9 **financing statements.** (a) A security interest in wildfire  
10 protection property is valid and enforceable against the pledgor  
11 and third parties, subject to the rights of any third parties  
12 holding security interests in the wildfire protection property  
13 perfected in the manner described in this section, and attaches  
14 when all of the following have taken place:

- 15 (1) The commission has issued a financing order  
16 authorizing the wildfire protection charge included in  
17 the wildfire protection property;
- 18 (2) Value has been given by the pledgees of the wildfire  
19 protection property; and
- 20 (3) The pledgor has signed a security agreement covering  
21 the wildfire protection property.



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

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

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



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

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

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





1 the electric utility in which wildfire protection property  
2 revenues have been commingled with other funds.

3 (e) If default occurs under the security agreement  
4 covering the wildfire protection property, the pledgees of the  
5 wildfire protection property, subject to the terms of the  
6 security agreement, shall have all rights and remedies of a  
7 secured party upon default under chapter 490, article 9, and  
8 shall be entitled to foreclose or otherwise enforce their  
9 security interest in the wildfire protection property, subject  
10 to the rights of any third-parties holding prior security  
11 interests in the wildfire protection property perfected in the  
12 manner provided in this section. In addition, the commission  
13 may require in the financing order creating the wildfire  
14 protection property that, in the event of default by the  
15 electric utility in payment of wildfire protection property  
16 revenues, the commission and any successor thereto, upon the  
17 application by the pledgees or transferees, including assignees  
18 of the wildfire protection property, under section 269-H, and  
19 without limiting any other remedies available to the pledgees or  
20 assignees by reason of the default, shall order the  
21 sequestration and payment to the pledgees or assignees of



1 wildfire protection property revenues. Any order shall remain  
2 in full force and effect notwithstanding any bankruptcy,  
3 reorganization, or other insolvency proceedings with respect to  
4 the debtor, pledgor, or transferor of the wildfire protection  
5 property. Any surplus in excess of:

6 (1) Amounts necessary to pay principal, premiums, if any,  
7 interest, costs, and arrearages on the bonds, and  
8 associated financing costs arising under the security  
9 agreement; or

10 (2) In the event the wildfire protection property has been  
11 assigned to an assignee in connection with the  
12 exercise of remedies upon a default under the terms of  
13 the bonds, an amount sufficient to repay the principal  
14 amount of, and interest that would have accrued on,  
15 the bonds had they remained outstanding,  
16 shall be remitted to the debtor or to the pledgor or transferor.

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

20 **§269-H Transfers of wildfire protection property.** (a) A  
21 transfer or assignment of wildfire protection property by the



1 public utility to an assignee or to a financing entity, or by an  
2 assignee of the public utility or a financing entity to another  
3 financing entity, which the parties in the governing  
4 documentation have expressly stated to be a sale or other  
5 absolute transfer, in a transaction approved in a financing  
6 order, shall be treated as an absolute transfer of all of the  
7 transferor's right, title, and interest, as in a true sale, and  
8 not as a pledge or other financing, of the wildfire protection  
9 property, other than for federal and state income and franchise  
10 tax purposes.

11 (b) The characterization of the sale, assignment, or  
12 transfer as an absolute transfer and true sale and the  
13 corresponding characterization of the property interest of the  
14 assignee shall not be affected or impaired by, among other  
15 things, the occurrence of any of the following:

16 (1) Commingling of wildfire protection charge revenues  
17 with other amounts;

18 (2) The retention by the seller of either of the  
19 following:

20 (A) A partial or residual interest, including an  
21 equity interest, in the financing entity or the



1 wildfire protection property, whether direct or  
2 indirect, subordinate or otherwise; or

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

6 (3) Any recourse that an assignee may have against the  
7 seller;

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

10 (5) The obligation of the seller to collect wildfire  
11 protection charges on behalf of an assignee;

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

14 (7) Any true-up adjustment of the wildfire protection  
15 charge as provided in the financing order.

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

19 (1) The commission issues the financing order authorizing  
20 the wildfire protection charge included in the  
21 wildfire protection property; and



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

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 490, 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 commission, and the commission may require the assignor or the  
14 assignee to make other filings with respect to the transfer in  
15 accordance with procedures the commission may establish, but  
16 these filings shall not affect the perfection of the transfer.

17           **§269-I Financing entity successor requirements; default of**  
18 **financing entity.** (a) Any successor to an electric utility  
19 subject to a financing order, whether pursuant to any  
20 bankruptcy, reorganization, or other insolvency proceeding, or  
21 pursuant to any merger, sale, or transfer, by operation of law,



1 or otherwise, shall be bound by the requirements of this part.  
2 The successor of the electric utility shall perform and satisfy  
3 all obligations of the electric utility under the financing  
4 order, in the same manner and to the same extent as the electric  
5 utility, including the obligation to collect and pay the  
6 wildfire protection charge to any financing party as required by  
7 a financing order or any assignee. Any successor to the  
8 electric utility shall be entitled to receive any fixed recovery  
9 tax amounts otherwise payable to the electric utility.

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



1           **§269-J Severability.** If any provision of this part is  
2 held to be invalid or is superseded, replaced, repealed, or  
3 expires for any reason:

4           (1) That occurrence shall not affect any action allowed  
5 under this part that is taken before that occurrence  
6 by the commission, a financing entity, a bondholder,  
7 or any financing party, and any such action shall  
8 remain in full force and effect; and

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

11           SECTION 9. Chapter 269-17, Hawaii Revised Statutes, is  
12 amended to read as follows:

13           "**§269-17 Issuance of securities.** A public utility  
14 corporation may, on securing the prior approval of the public  
15 utilities commission, and not otherwise, except as provided in  
16 section 269-D, issue stocks and stock certificates, bonds,  
17 notes, and other evidences of indebtedness, payable at periods  
18 of more than twelve months after the date thereof, for the  
19 following purposes and no other, namely: for the acquisition of  
20 property or for the construction, completion, extension, or  
21 improvement of or addition to its facilities or service, or for



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





1 All stock and every stock certificate, and every bond,  
2 note, or other evidence of indebtedness of a public utility  
3 corporation not payable within twelve months, issued without an  
4 order of the commission authorizing the same, then in effect,  
5 shall be void."

6 SECTION 10. Each electric utility shall file its first  
7 risk-based wildfire protection plan with the commission required  
8 under section 269-C, Hawaii Revised Statutes, established by  
9 section 8 of this Act, no later than December 31, 2024.

10 SECTION 11. Notwithstanding the provisions of section 39A-  
11 191, Hawaii Revised Statutes, and the provisions of Act 182,  
12 Session Laws of Hawaii 2022, as amended by Act 262, Session Laws  
13 of Hawaii 2023, the legislature authorizes the issuance of  
14 special purpose revenue bonds for wildfire protection costs that  
15 require an allocation of the annual state ceiling under section  
16 39B-2, Hawaii Revised Statutes, for the period of July 1, 2024,  
17 through December 31, 2028. Notwithstanding section 39A-195,  
18 Hawaii Revised Statutes, a project agreement entered into in  
19 connection with the issuance of special purpose revenue bonds to  
20 finance wildfire protection costs may include a project  
21 agreement with an affiliate of an electric or gas utility and



1 may contain provisions limiting the obligation to pay, and the  
2 security for the payment of, debt service and related deposits  
3 and costs in respect of such bonds or loans funded by such bonds  
4 to wildfire protection charges and wildfire protection property.

5 SECTION 12. The legislature authorizes the allocation of  
6 the annual state ceiling under section 39B-2, Hawaii Revised  
7 Statutes, to the issuance of bonds issued pursuant to section 8  
8 of this Act that require such allocation in order for interest  
9 on the bonds to be tax-exempt for federal income tax purposes.

10 SECTION 13. In codifying the new part added to chapter  
11 269, Hawaii Revised Statutes, by section 8 of this Act, the  
12 revisor of statutes shall substitute appropriate section numbers  
13 for the letters used in designating and referring to the new  
14 sections in this Act.

15 PART III

16 SECTION 14. This Act does not affect rights and duties  
17 that matured, penalties that were incurred, and proceedings that  
18 were begun before its effective date.

19 SECTION 15. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 16. This Act shall take effect on July 1, 3000.



**Report Title:**

Hawaii Wildfire Relief Fund and Corporation; Public Utilities Commission; Catastrophic Wildfire; Wildfires; Mitigation; Protection; Electric Utilities; Securitization; Risk Protection Plans; Expenditure Ceiling; Appropriation

**Description:**

Establishes the Hawaii Wildfire Relief Fund and Corporation to provide compensation for property damage resulting from catastrophic wildfires in the State. 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. Declares that the general fund expenditure ceiling is exceeded. Appropriates funds. Effective 7/1/3000. (SD1)

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