
A BILL FOR AN ACT

RELATING TO WILDFIRES.

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

1 SECTION 1. The legislature finds that as the risk of
2 catastrophic wildfires in Hawaii has increased, so has the
3 threat of property damage from these fires. The legislature
4 further finds that the public interest is served by providing a
5 rapid, efficient, and low-cost process for property owners,
6 renters, businesses, and their insurers to obtain compensation
7 if a regulated utility is alleged to have caused or contributed
8 to the damage resulting from a catastrophic wildfire. The
9 legislature also finds that under existing law, individuals and
10 businesses must pursue civil litigation, which is a lengthy,
11 costly, and contentious process.

12 This Act would help individuals and businesses recover by
13 giving them the option to obtain payment quickly through an
14 administrative claims process similar to the One Ohana Fund,
15 also known as the Maui Wildfires Compensation Fund. The
16 administrative claims process will begin based on a preliminary
17 determination that a utility was involved, without waiting for



1 the conclusion of a comprehensive investigation of the origin
2 and cause of a catastrophic wildfire. Claimants are not
3 required to prove that the regulated utility was negligent in
4 order to receive payment through the administrative claims
5 process.

6 This Act:

- 7 (1) Preserves claimants' right to pursue litigation if
8 they choose to reject the amount offered through the
9 administrative claims process;
- 10 (2) Limits the total amount that can be paid for property
11 damage through both the administrative claims process
12 and litigation, balancing the interests of those
13 affected by a catastrophic fire in obtaining
14 compensation and the interests of the public utilities
15 in mitigating the risk of financial instability that
16 can result from unlimited liability;
- 17 (3) Requires the public utilities commission to review the
18 conduct of the public utility and to order the utility
19 to replenish the fund, up to a cap, if it finds that
20 the utility acted imprudently; and



1 (4) Provides for the legislature to re-evaluate the risk
2 of catastrophic wildfires in 2035 and to refund to
3 customers the amounts they contributed, plus earnings
4 on those funds, to the extent the legislature
5 concludes that the size of the fund can be reduced
6 based on actions taken to reduce risk.

7 The legislature also finds that the public interest is
8 served by establishing a compensation mechanism that does not
9 expose regulated utilities to the financial instability that can
10 result from the existing litigation process. Regulated
11 utilities alleged to have caused a catastrophic wildfire face
12 massive costs from litigation. Those costs can overwhelm those
13 utilities, undermining their ability to make investments that
14 the State needs. Indeed, even the possibility of litigation
15 regarding a future catastrophic wildfire can create a cloud of
16 uncertainty that can impair a utility's ability to attract
17 capital on reasonable terms. These costs and uncertainties
18 result in increased rates paid by customers and may reduce
19 utilities' ability to make investments in wildfire prevention
20 and resilience initiatives, among other priorities that may
21 affect the health and safety of the State's residents.



1 The legislature additionally finds that securitization may
2 be the most efficient, least costly way for a utility to finance
3 the contributions to the wildfire recovery fund. Utility
4 securitization transactions have an extensive track record of
5 success.

6 Therefore, the purpose of this Act is to serve the public
7 interest by establishing a mechanism to provide efficient
8 compensation for property damage resulting from a future
9 catastrophic wildfire allegedly caused by a regulated utility,
10 while also protecting the financial integrity of Hawaii's
11 regulated utilities.

12 SECTION 2. The Hawaii Revised Statutes is amended by
13 adding two new chapters to be appropriately designated and to
14 read as follows:

15 **"CHAPTER A**

16 **WILDFIRE RECOVERY FUND**

17 **§A-1 Definitions.** As used in this chapter, unless the
18 context otherwise requires:

19 "Catastrophic wildfire" means a wildfire occurring in the
20 State on or after the operation date that destroys more than
21 five hundred commercial structures or residential structures



1 designed for habitation, or, for an electric cooperative with
2 less than fifty thousand residential members, meets a threshold
3 dollar amount of potential claims to be determined by the
4 executive director.

5 "Commission" means the public utilities commission.

6 "Contributor" means a public utility that satisfies all
7 requirements to participate in the wildfire recovery fund.

8 "Covered catastrophic wildfire" means a catastrophic
9 wildfire that may have been caused, or whose severity may have
10 been increased, by a contributor's facilities or actions.

11 "Electric utility" means a public utility that exists for
12 the furnishing of electrical power.

13 "Executive director" means the executive director of the
14 wildfire recovery fund.

15 "Government entity" means any government agency,
16 department, division, subdivision, unit, component, bureau,
17 commission, office, board, or instrumentality of any kind,
18 including federal, state, and municipal entities.

19 "Investor-owned utility" means a public utility that is
20 owned by shareholders and overseen by a board of directors
21 elected by shareholders.



1 "Operation date" means the first date for contributors to
2 elect to participate in the wildfire recovery fund under section
3 A-3(a) and the rules adopted to implement it.

4 "Property insurer" means a person or entity that
5 indemnifies another by a contract of insurance for loss of or
6 damage to real or personal property in the State.

7 "Property owner" means an owner of real property in the
8 State.

9 "Public utility" has the same meaning as in section 269-1.

10 "Qualified action" means a civil action by a qualified
11 claimant to recover qualifying damages.

12 "Qualified claimant" means any property owner, property
13 insurer, or tenant who alleges any qualifying damages.

14 "Qualified damages" means economic damages arising out of
15 the loss of or damage to real or personal property from a
16 covered catastrophic wildfire.

17 "Tenant" means a person or entity lawfully entitled to
18 occupy real property that the person or entity does not own in
19 the State.

20 "Wildfire recovery fund" means the wildfire recovery fund
21 established by section A-2.



1 "Wildfire risk mitigation plan" means a plan, which may
2 include a natural hazard mitigation report, in which a public
3 utility addresses how it will mitigate the risk of its equipment
4 in causing or exacerbating a wildfire.

5 **§A-2 Wildfire recovery fund; establishment; executive**
6 **director.** (a) There is established outside the state treasury
7 a wildfire recovery fund and any accounts thereunder to carry
8 out the purposes of this chapter. All moneys in the wildfire
9 recovery fund shall be expended exclusively for the uses and
10 purposes set forth in this chapter. The wildfire recovery fund
11 shall not be subject to chapter 431. The moneys in the wildfire
12 recovery fund not required for immediate use shall be invested
13 by the executive director for the benefit of the wildfire
14 recovery fund; provided that no assets of the program shall be
15 transferred to the general fund of the State or to any other
16 fund of the State or otherwise encumbered or used for any
17 purpose other than those specified for the wildfire recovery
18 fund.

19 (b) The wildfire recovery fund shall be placed within the
20 department of commerce and consumer affairs for administrative



1 purposes. The fund shall be a public body corporate and
2 politic.

3 (c) The governor shall appoint an executive director of
4 the wildfire recovery fund, who shall be exempt from chapter 76,
5 and shall fix the executive director's compensation. The
6 executive director may be removed only by the governor.

7 (d) The executive director shall be responsible for the
8 day-to-day operations and management of the wildfire recovery
9 fund and shall perform all functions necessary to implement this
10 chapter, including entering into contracts and other obligations
11 related to the operation, management, and administration of the
12 wildfire recovery fund.

13 (e) The executive director may retain, employ, or contract
14 with officers; experts; employees; accountants; actuaries;
15 financial professionals; and other advisers, consultants,
16 attorneys, and professionals, as may be necessary in the
17 executive director's judgment, for the efficient operation,
18 management, and administration of the wildfire recovery fund.

19 (f) The executive director shall have the power to issue
20 revenue bonds, from time to time, in such principal amounts as
21 the executive director may deem advisable for the purpose of



1 this chapter, backed by future payments to the wildfire recovery
2 fund that contributors have committed to make. These bonds
3 shall be issued pursuant to part III of chapter 39, except as
4 provided in this chapter.

5 (g) The executive director shall adopt rules pursuant to
6 chapter 91 to implement this chapter.

7 **§A-3 Wildfire recovery fund; eligibility for participation**
8 **as a contributor; contributions.** (a) To be eligible to
9 participate as a contributor, a person or entity shall:

- 10 (1) Be a public utility that has a wildfire risk
11 mitigation plan that has been approved or accepted by
12 the commission;
- 13 (2) Notify the executive director, in the year before the
14 person or entity becomes a contributor, that it
15 intends to participate in the wildfire recovery fund;
- 16 (3) Agree to make an initial contribution, the payment of
17 which is thereafter a binding commitment enforceable
18 by the executive director; and
- 19 (4) Provide a comparison of costs for current commercial
20 insurance coverage compared to wildfire property
21 damage and loss.



1 (b) The initial contributions from investor-owned electric
2 utilities collectively shall be:

3 (1) \$500,000,000, which amount shall be recovered from its
4 customers in nonbypassable rates; and

5 (2) \$505,000,000, which amount shall be funded by
6 shareholders of those investor-owned electric
7 utilities and used exclusively for the payment of
8 salaries of the executive director and of all other
9 persons retained by the executive director to
10 implement this chapter, with any funds remaining in
11 2035 to be transferred to the wildfire recovery fund.

12 (c) The investor-owned electric utilities may elect to
13 make the initial contributions set forth in subsection (b) (1),
14 to the degree not paid for through securitization pursuant to
15 chapter B, over a period not to exceed five years; provided that
16 interest shall be added to any amounts paid after the first
17 year, at an interest rate equal to the investor-owned electric
18 utilities' incremental cost of long-term debt, with such
19 interest recovered from customers in rates.

20 (d) The executive director shall determine the initial
21 contributions from other public utilities based on an actuarial



1 assessment of the risk of potential payments by the wildfire
2 recovery fund resulting from covered catastrophic wildfires
3 created by such public utility.

4 (e) The executive director may propose supplemental
5 contributions to the wildfire recovery fund by participating
6 public utilities.

7 (f) If a contributor fails to pay any part of an initial
8 contribution or a supplemental contribution that it agreed to
9 make, or elects not to agree to make a supplemental
10 contribution, that contributor shall no longer be a contributor
11 as of the date on which the payment was due, and the contributor
12 shall not receive any refund of payments previously made;
13 provided that a contributor that elects not to make a
14 supplemental contribution shall be a contributor as to any
15 catastrophic wildfire that occurs before the election date.
16 After failing to, or electing not to, make a payment, a public
17 utility may rejoin the wildfire recovery fund as a contributor
18 on a prospective basis if it makes owed payments with interest.

19 (g) The executive director shall adopt rules pursuant to
20 chapter 91 regarding the timing of initial and supplemental
21 contributions, which may include upfront, annual, and



1 retrospective payments, specifically payments made after a
2 wildfire occurs.

3 **§A-4 Determination of a covered catastrophic wildfire.**

4 The executive director shall adopt rules pursuant to chapter 91
5 regarding how to determine whether a wildfire is a covered
6 catastrophic wildfire. These rules shall include a requirement
7 that a wildfire shall be determined to be a covered catastrophic
8 wildfire if a party makes non-frivolous allegations in a legal
9 action that a contributor's facilities caused or contributed to
10 the severity of a catastrophic wildfire.

11 **§A-5 Replenishment of the wildfire recovery fund.** (a) If
12 the wildfire recovery fund has made payments with respect to a
13 covered catastrophic wildfire and after resolution of
14 substantially all third-party liability claims that were brought
15 or could be brought against contributors arising from that
16 covered catastrophic wildfire, each contributor whose facilities
17 were implicated in the covered catastrophic wildfire shall
18 initiate a proceeding before the commission to review the
19 prudence of the public utility's conduct leading to the
20 catastrophic wildfire.



1 (b) The commission shall determine whether the contributor
2 acted prudently:

3 (1) Considering only acts that may have caused the
4 occurrence or contributed to the severity of the
5 covered catastrophic wildfire; and

6 (2) Evaluating the contributor's actions in the context of
7 its overall systems, processes, and programs, such
8 that an error by a contributor's employee would not be
9 a basis for a finding of imprudence, unless that error
10 resulted from the failure of a system, process, or
11 program to prevent the error.

12 (c) If the commission determines that imprudent conduct by
13 the contributor caused the occurrence or contributed to the
14 severity of a covered catastrophic wildfire, the commission
15 shall determine whether to order the contributor to replenish
16 the wildfire recovery fund in whole or in part for payments from
17 the wildfire recovery fund in connection with the catastrophic
18 wildfire. In determining the amount of replenishment, if any,
19 the commission shall consider the extent and severity of the
20 contributor's imprudence and factors within and beyond the
21 contributor's control that may have led to or exacerbated the



1 costs from the covered catastrophic wildfire, including but not
2 limited to humidity, temperature, winds, fuel, merged wildfires
3 with independent ignitions, third-party actions that affected
4 the spread of the wildfire, and fire suppression activities.

5 (d) Over any three-year period, the commission shall not
6 order the contributor to reimburse the wildfire recovery fund in
7 an amount that exceeds twenty per cent of the contributor's
8 transmission and distribution equity rate base.

9 (e) A contributor shall not recover in regulated rates any
10 amount that the commission orders it to pay to the wildfire
11 recovery fund as a replenishment under this section.

12 **§A-6 Claims for payment by qualified claimants;**

13 **presentment requirement.** (a) The executive director shall
14 adopt rules pursuant to chapter 91 to create a process through
15 which a qualified claimant that is not a government entity may
16 submit to the wildfire recovery fund a claim for payment of
17 economic damages arising out of property damage resulting from a
18 covered catastrophic wildfire, including a deadline to submit
19 claims.

20 (b) A qualified claimant shall file a claim for payment
21 for economic damages arising out of the loss of or damage to



1 real or personal property from a covered catastrophic wildfire
2 pursuant to this section. The claim of a qualified claimant
3 that is not a property insurer shall be limited to uninsured
4 economic damages. A qualified claimant shall not file or
5 maintain a civil action against a contributor unless and until
6 it rejects an offer of settlement from the wildfire recovery
7 fund. A qualified claimant who fails to file a claim by the
8 deadline established by the executive director pursuant to rule
9 shall be ineligible to receive payment from the wildfire
10 recovery fund and shall be barred from instituting or
11 maintaining any qualifying action against a contributor.

12 (c) The executive director shall make an offer to settle
13 each claim submitted, which the claimant may accept or reject.
14 In determining the amount of each offer, the executive director
15 shall consider, at a minimum:

- 16 (1) The economic damages sought by all qualified claimants
17 in the aggregate;
- 18 (2) The amount available to the wildfire recovery fund
19 relative to the amount under paragraph (1);
- 20 (3) The strength of any evidence of contributor liability;
21 and



1 (4) The strength of any evidence of involvement of non-
2 contributor third-parties.

3 (d) If the amount available to the wildfire recovery fund,
4 including assets held by the wildfire recovery fund and all
5 payments contributors are obligated to make to the wildfire
6 recovery fund, is less than fifty per cent of the aggregate
7 liability limit as calculated in section A-8, the wildfire
8 recovery fund shall make payment only to contributors pursuant
9 to section A-7.

10 **§A-7 Claims for payment by contributors.** The executive
11 director shall adopt rules pursuant to chapter 91 to create a
12 process through which a contributor may obtain payment from the
13 wildfire recovery fund to satisfy settled or finally adjudicated
14 claims for recovery of qualifying damages after exhausting the
15 contributor's available insurance. The rules shall establish
16 the standard for approving any settlement. To the extent that
17 the wildfire recovery fund lacks sufficient funds to make a
18 payment to a contributor when sought, the wildfire recovery fund
19 shall make such payment upon receipt of contributions that
20 contributors are obligated to make to the wildfire recovery fund
21 under payment schedules.



1 **SA-8 Limitation on aggregate liability.** (a) The
2 aggregate liability of all contributors for qualifying damages
3 arising from a covered catastrophic wildfire, including economic
4 and non-economic damages, shall not exceed the greater of:

5 (1) Fifty per cent of the amount available to the wildfire
6 recovery fund at the time of the covered catastrophic
7 wildfire, including amounts in and obligated to the
8 wildfire recovery fund; or

9 (2) The average assessed value of commercial structures
10 and residential structures designed for habitation in
11 the county in which the covered catastrophic wildfire
12 ignited, multiplied by the number of commercial
13 structures or residential structures designed for
14 habitation that were destroyed.

15 (b) The following amounts shall be added to determine
16 whether the aggregate liability limit has been reached:

17 (1) Payments from the wildfire recovery fund under section
18 A-6; and

19 (2) Payments by a contributor in connection with any
20 settlement or judgment on a claim for qualifying
21 damages.



1 (c) All civil actions arising out of a catastrophic
2 wildfire shall be brought in the circuit in which the
3 catastrophic wildfire occurred. The court shall adopt
4 procedures to equitably apply the limit set forth in subsection
5 (a) to all civil claims that are filed. All settlements or
6 judgments for claims for qualifying damages shall be subject to
7 approval by the court. The court shall not approve any
8 settlement or judgment that would cause the aggregate liability
9 of contributors to exceed the aggregate liability limit.

10 (d) A court shall consolidate cases arising from a covered
11 catastrophic wildfire. Any circuit court that is not the
12 consolidating court shall transfer any civil case to facilitate
13 such consolidation.

14 **§A-9 Limitations on claims.** (a) No qualifying action may
15 be instituted or maintained by a qualified claimant against
16 contributors or their affiliates, employees, agents, or insurers
17 if the qualified claimant accepts an offer under section A-6;
18 provided that the rights of a property insurer to sue as a
19 subrogee of its policyholder shall not be affected by a property
20 owner's or tenant's acceptance of an offer under section A-6 and



1 the subrogation rights shall be affected only if the property
2 insurer elects to accept an offer under section A-6.

3 (b) No suit, claim, arbitration, or other civil legal
4 action for indemnity or contribution for amounts paid, or that
5 may be paid, as a result of a covered catastrophic wildfire, may
6 be instituted or maintained by any persons or entities against
7 contributors or their affiliates, employees, agents, or insurers
8 for qualifying damages.

9 **SA-10 Several liability.** Any law to the contrary
10 notwithstanding, joint and several liability is abolished for
11 any qualifying damages. Any person or entity that is sued for
12 qualifying damages may argue for apportionment of fault to any
13 other person or entity regardless of whether that person or
14 entity is a party to the action.

15 **SA-11 Reporting; refunds authorized by the legislature.**

16 (a) The executive director shall submit to the legislature and
17 commission an annual report regarding the wildfire recovery fund
18 no later than ninety days prior to the beginning of each regular
19 session until 2034. The annual plan submitted by the executive
20 director shall include an update on the activities of the
21 wildfire recovery fund.



1 (b) No later than ninety days prior to the regular session
2 of 2035, the executive director shall submit a report regarding
3 the financial status and resources of the wildfire recovery fund
4 relative to the then-current assessment of actuarial risk of a
5 catastrophic wildfire.

6 (c) Based on the report in subsection (b), the legislature
7 may determine that the wildfire recovery fund is overfunded and
8 direct the executive director to return contributions, in whole
9 or in part, with associated investment earnings, to
10 contributors. Any payments made to the wildfire recovery fund
11 that were recovered in regulated rates from customers, and any
12 investment earnings associated with those payments, shall, in
13 the event that the legislature orders a refund, be returned to
14 those customers.

15 **§A-12 Inadmissible evidence.** Any findings made or
16 evidence submitted for purposes of proceedings under sections A-
17 4, A-6, and A-7 shall be subject to the limits on admissibility
18 under rule 408, Hawaii rules of evidence, as set forth in
19 section 626-1.

20 **CHAPTER B**

21 **SECURITIZATION**



1 **§B-1 Definitions.** As used in this chapter, unless the
2 context otherwise requires:

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

10 "Assignee" means a legally recognized entity to which an
11 electric utility assigns, sells, or transfers, other than as
12 security, all or a portion of the electric utility's interest in
13 or right to wildfire recovery property. "Assignee" includes a
14 corporation, limited liability company, general partnership or
15 limited partnership, public authority, trust, financing entity,
16 or any other legal entity to which an assignee assigns, sells,
17 or transfers, other than as security, its interest in or right
18 to wildfire recovery property.

19 "Bond" means any bond, note, certificate of participation
20 or beneficial interest, or other evidence of indebtedness or
21 ownership that is issued by the financing entity under a



1 financing order, the proceeds of which are used directly or
2 indirectly to recover, finance, or refinance financing costs of
3 any wildfire recovery costs, and that are directly or indirectly
4 secured by or payable from wildfire recovery property.

5 "Commission" means the public utilities commission.

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

12 "Electric cooperative" means an electric utility that
13 satisfies the requirements under section 269-31(c).

14 "Electric cooperative wildfire claims costs" means costs
15 incurred by an electric cooperative to resolve third-party
16 liability claims arising from any wildfire occurring in the
17 State that are not covered by insurance and that the commission
18 finds to be just and reasonable. Electric cooperative wildfire
19 claims costs do not include costs incurred by an investor-owned
20 electric utility.



1 "Electric utility" means a public utility that exists for
2 the furnishing of electrical power.

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

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



1 wildfire recovery charge, in any such case whether
2 paid, payable, or 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;

12 (6) Costs related to the engagement of services of a
13 financial advisor by the commission pursuant to
14 section B-3(h); and

15 (7) Other costs as specifically authorized by a financing
16 order.

17 "Financing entity" means an electric utility or an entity
18 to which an electric utility or an affiliate of an electric
19 utility sells, assigns, or pledges all or a portion of the
20 electric utility's interest in wildfire recovery property,
21 including an affiliate of the electric utility or any



1 unaffiliated entity, in each case as approved by the commission
2 in a financing order.

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

18 "Financing order" means an order of the commission under
19 this chapter that has become final and no longer subject to
20 appeal as provided by law and that authorizes the issuance of
21 bonds and the imposition, adjustment from time to time, and



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

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

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



1 "Investor-owned utility" means a public utility that is
2 owned by shareholders and overseen by a board of directors
3 elected by shareholders.

4 "Public utility" has the same meaning as in section 269-1.

5 "True-up adjustment" means a formulaic adjustment to the
6 wildfire recovery charges as they appear on consumer bills that
7 is necessary to correct for any overcollection or
8 undercollection of the wildfire recovery charges authorized by a
9 financing order and to otherwise ensure the timely and complete
10 payment and recovery of wildfire recovery costs over the
11 authorized repayment term.

12 "Wildfire recovery charges" means the nonbypassable
13 charges, including but not limited to distribution, connection,
14 disconnection, and termination rates and charges, that are
15 authorized by section B-2 and in a financing order authorized
16 under this chapter to be imposed on and collected from all
17 existing and future consumers of a financing entity or any
18 successor to recover principal, interest, and other financing
19 costs relating to the bonds.

20 "Wildfire recovery costs" means an investor-owned electric
21 utility's initial and supplemental contributions to the wildfire



1 recovery fund, as set forth in section A-3, and electric
2 cooperative wildfire claims costs.

3 "Wildfire recovery fund" means the wildfire recovery fund
4 established by chapter A.

5 "Wildfire recovery property" means the property right
6 created pursuant to this chapter, including without limitation
7 the right, title, and interest of the electric utility,
8 financing entity, or its assignee:

9 (1) In and to the wildfire recovery charge established
10 pursuant to a financing order, including the right to
11 impose, bill, collect, and receive such wildfire
12 recovery charges under the financing order and all
13 rights to obtain adjustments to the wildfire recovery
14 charge in accordance with section B-3 and the
15 financing order; and

16 (2) To be paid the amount that is determined in a
17 financing order to be the amount that the electric
18 utility or its assignee is lawfully entitled to
19 receive pursuant to this chapter and the proceeds
20 thereof, and in and to all revenues, collections,
21 claims, payments, moneys, or proceeds of, or arising



1 from, the wildfire recovery charge that is the subject
2 of a financing order.

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

10 **SB-2 Applications to issue bonds and authorize wildfire**
11 **recovery charges.** (a) An electric utility may apply to the
12 commission for one or more financing orders to issue bonds to
13 recover any wildfire recovery costs, each of which authorizes
14 the following:

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



1 bonds and all other associated financing costs on a
2 timely basis;

3 (2) The creation of wildfire recovery 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 electric utility's federal and state taxes associated
8 with those wildfire recovery charges and not financed
9 from the proceeds of bonds.

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

11 (1) The wildfire recovery costs to be financed through the
12 issuance of bonds;

13 (2) The principal amount of the bonds proposed to be
14 issued and the selection of a financing entity;

15 (3) An estimate of the date on which each series of bonds
16 is expected to be issued;

17 (4) The scheduled final payment date, which shall not
18 exceed thirty years, and a legal final maturity date,
19 which may be longer, subject to rating agency and
20 market considerations, during which term the wildfire
21 recovery 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 recovery
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 recovery charge and
11 a proposed methodology for allocating the wildfire
12 recovery charge among customer 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 adjustment
17 mechanism for the adjustment of the wildfire recovery
18 charge to correct for any overcollection or
19 undercollection of the wildfire recovery charge, and
20 to otherwise ensure the timely payment of principal



1 and interest on the bonds and all other associated
2 financing costs; and

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

4 (c) An electric utility may file an application for a
5 financing order, including as a joint application with one or
6 more affiliate electric utilities, to issue bonds to recover
7 wildfire recovery costs. The application shall include a
8 description of how the wildfire recovery costs will be allocated
9 among consumers of the applicant electric utilities.

10 In the alternative, an electric utility may apply for a
11 financing order to issue bonds to recover wildfire recovery
12 costs, including wildfire recovery costs incurred, or to be
13 incurred, by the applicant and one or more of its affiliate
14 electric utilities. In connection with the issuance of a
15 financing order pursuant to this subsection, the commission
16 shall issue a concurrent order to the affiliate electric utility
17 or electric utilities directing such affiliate electric utility
18 or electric utilities to impose rates on its or their consumers
19 designed to generate revenue sufficient to pay credits over the
20 life of the bonds to the applicant electric utility in such
21 amount as the commission determines is equitable, just, and



1 reasonable. Such an application shall describe the allocation
2 method and adjustment mechanism for the affiliate electric
3 utility credit payments proposed to be subject to the concurrent
4 commission order.

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

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

11 (1) Whether the issuance of the bonds, and the imposition
12 and collection of wildfire recovery charges are
13 consistent with the public interest;

14 (2) Whether the structuring, marketing, and pricing of the
15 bonds are expected to result in the lowest wildfire
16 recovery charges consistent with market conditions at
17 the time at which the bonds are priced and the terms
18 of the financing order;

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



1 (4) With respect to an application by an investor-owned
2 utility, whether the recovery of wildfire recovery
3 costs through the designation of the wildfire recovery
4 charges and any associated fixed recovery tax amounts,
5 and the issuance of bonds in connection with the
6 wildfire recovery charges, would result in net savings
7 or mitigate rate impacts to consumers, as compared to
8 rate recovery without securitization; and

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

11 If the commission makes the determination specified in this
12 section, the commission shall establish, as part of the
13 financing order, a procedure for the electric utility to submit
14 applications from time to time to request the issuance of
15 additional financing orders designating wildfire recovery
16 charges and any associated fixed recovery tax amounts as
17 recoverable.

18 At the option of the electric utility, the electric utility
19 may include in its application for a financing order a request
20 for authorization to sell, transfer, assign, or pledge wildfire
21 recovery property to a governmental entity if the electric



1 utility expects bonds issued by a governmental entity would
2 result in a more cost-efficient means, taking into account all
3 financing costs related to the bonds, than using another
4 financing entity to issue bonds to finance the same wildfire
5 recovery costs, taking into account the costs of issuing the
6 other financing entity's bonds.

7 (f) Wildfire recovery charges and any associated fixed
8 recovery tax amounts shall be imposed only on existing and
9 future consumers in the utility service territory of the
10 electric utility that is subject to such financing order.
11 Consumers within the utility service territory of the electric
12 utility that is subject to the financing order shall continue to
13 pay wildfire recovery charges and any associated fixed recovery
14 tax amounts until the bonds and associated financing costs are
15 paid in full by the financing entity.

16 **SB-3 Wildfire recovery financing order.** (a) A financing
17 order shall remain in effect until the bonds issued under the
18 financing order and all financing costs related to the bonds
19 have been paid in full or defeased by their terms.

20 A financing order shall remain in effect and unabated
21 notwithstanding the bankruptcy, reorganization, or insolvency of



1 the electric utility or the commencement of any judicial or
2 nonjudicial proceeding on the financing order.

3 (b) Notwithstanding any other law to the contrary, with
4 respect to wildfire recovery property that has been made the
5 basis for the issuance of bonds and with respect to any
6 associated fixed recovery tax amounts, the financing order, the
7 wildfire recovery charges, and any associated fixed recovery tax
8 amounts shall be irrevocable. The State and its agencies,
9 including the commission, pledge and agree with bondholders, the
10 owners and assignees of the wildfire recovery property, and
11 other financing parties, that the State and its agencies shall
12 not take any action listed in this subsection. This subsection
13 shall not preclude an action if such action would not adversely
14 affect the interests of the electric utility, of assignees of
15 the wildfire recovery property, and of bondholders. The
16 prohibited actions shall be the following:

17 (1) Alter the provisions of this chapter, which authorize
18 the commission to create an irrevocable contract right
19 or choice in action by the issuance of a financing
20 order, to create wildfire recovery property and make
21 the wildfire recovery charges imposed by a financing



1 order irrevocable, binding, nonbypassable charges for
2 all existing and future consumers;

3 (2) Take or permit any action that impairs or would impair
4 the value of wildfire recovery property or the
5 security for the bonds or revise the wildfire recovery
6 costs for which recovery is authorized;

7 (3) In any way impair the rights and remedies of the
8 bondholders, assignees, and other financing parties;
9 and

10 (4) Except for changes made pursuant to the formula-based
11 true-up mechanism authorized under subsection (d),
12 reduce, alter, or impair wildfire recovery charges
13 that are to be imposed, billed, charged, collected,
14 and remitted for the benefit of the bondholders, any
15 assignee, and any other financing parties until any
16 and all principal, interest, premium, financing costs,
17 and other fees, expenses, or charges incurred, and any
18 contracts to be performed, in connection with the
19 related bonds have been paid and performed in full.

20 The financing entity is authorized to include this pledge
21 in the bonds.



1 (c) Under a financing order, the electric utility shall
2 retain sole discretion to select the financing entity and to
3 cause bonds to be issued, including the right to defer or
4 postpone the issuance, assignment, sale, or transfer of wildfire
5 recovery property.

6 (d) The commission may create, pursuant to an application
7 from an electric utility, a nonbypassable charge referred to as
8 a wildfire recovery charge, which shall be applied to recover
9 principal, interest, and other financing costs relating to the
10 bonds. The wildfire recovery charge shall be a dedicated,
11 discrete tariff rider.

12 The commission shall, in any financing order, establish a
13 procedure for periodic true-up adjustments to wildfire recovery
14 charges, which shall be made at least annually and may be made
15 more frequently. The periodic true-up adjustment to wildfire
16 recovery charges shall also consider interest on ratepayer
17 investments into the fund. Within thirty days after receiving
18 an electric utility's filing of a true-up adjustment, the
19 commission's review of the filing shall be limited to
20 mathematical or clerical errors as determined in accordance with



1 any true-up adjustment formulas set forth in the applicable
2 financing order.

3 The commission shall either approve the filing or inform
4 the electric utility of any mathematical or clerical errors in
5 its calculation. If the commission informs the electric utility
6 of mathematical or clerical errors in its calculation, the
7 electric utility shall correct its error and refile its true-up
8 adjustment. The timeframes previously described in this
9 subsection shall apply to a refiled true-up adjustment.

10 (e) Neither financing orders nor bonds issued under this
11 chapter shall constitute a general obligation of the State or
12 any of its political subdivisions, nor shall they constitute a
13 pledge of the full faith and credit of the State or any of its
14 political subdivisions, but shall be payable solely from the
15 wildfire recovery property provided under this chapter.

16 All bonds shall contain on the face thereof a statement to
17 the following effect: "Neither the full faith and credit nor
18 the taxing power of the State of Hawaii is pledged to the
19 payment of the principal of, or interest and premium on, this
20 bond."



1 The issuance of bonds under this chapter shall not
2 directly, indirectly, or contingently obligate the State or any
3 of its political subdivisions to levy or pledge any form of
4 taxation or to make any appropriation for their payment.

5 (f) Wildfire recovery charges are wildfire recovery
6 property when, and to the extent that, a financing order
7 authorizing the wildfire recovery charges has become effective
8 in accordance with this chapter, and the wildfire recovery
9 property shall thereafter continuously exist as property for all
10 purposes, and all of the rights and privileges relating to that
11 property shall continuously exist for the period and to the
12 extent provided in the financing order, but in any event until
13 the bonds, including all principal; premiums, if any; interest
14 with respect to the bonds; and all other financing costs are
15 paid in full. A financing order may provide that the creation
16 of wildfire recovery property shall be simultaneous with the
17 sale of the wildfire recovery property to an assignee as
18 provided in the application of the pledge of the wildfire
19 recovery property to secure the bonds.

20 (g) Any successor to a financing entity shall be bound by
21 the requirements of this chapter and shall perform and satisfy



1 all obligations of and have the same rights under a financing
2 order as, and to the same extent as, the financing entity.

3 (h) The commission, in its discretion, may engage the
4 services of a financial adviser for the purposes of assisting
5 the commission in its consideration of an application for a
6 financing order and a subsequent issuance of bonds pursuant to a
7 financing order.

8 **§B-4 Bonds; issuance; wildfire recovery property**

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

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



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

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

5 (b) To the extent that any interest in wildfire recovery
6 property is sold, assigned, or is pledged as collateral pursuant
7 to subsection (a), the commission may authorize the electric
8 utility to contract with the financing entity or its assignees
9 that the electric utility will:

10 (1) Continue to operate its system to provide service to
11 consumers within its service territory;

12 (2) Collect amounts in respect of the wildfire recovery
13 charges for the benefit and account of the financing
14 entity or its assignees; and

15 (3) Account for and remit these amounts to or for the
16 account of the financing entity or its assignees.

17 Contracting with the financing entity or its assignees in
18 accordance with that authorization shall not impair or negate
19 the characterization of the sale, assignment, or pledge as an
20 absolute transfer, a true sale, or a security interest, as
21 applicable. To the extent that billing, collection, and other



1 related services with respect to the provision of the electric
2 utility's services are provided to a consumer by any person or
3 entity other than the electric utility in whose service
4 territory the consumer is located, that person or entity shall
5 collect the wildfire recovery charges and any associated fixed
6 recovery tax amounts from the consumer for the benefit and
7 account of the electric utility, financing entity, or assignees
8 with the associated revenues remitted solely for such person's
9 benefit as a condition to the provision of electric service to
10 that consumer.

11 Each financing order shall impose terms and conditions,
12 consistent with the purposes and objectives of this chapter, on
13 any person or entity responsible for billing, collection, and
14 other related services, including without limitation collection
15 of the wildfire recovery charges and any associated fixed
16 recovery tax amounts, that are the subject of the financing
17 order.

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



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

3 (d) Wildfire recovery 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 recovery charges depend on the electric
7 utility's continuing to provide services or continuing to
8 perform its servicing functions relating to the collection of
9 wildfire recovery charges or on the level of future service
10 consumption, such as electricity consumption. Wildfire recovery
11 property shall exist whether or not the wildfire recovery
12 charges have been billed, have accrued, or have been collected
13 and notwithstanding the fact that the value for a security
14 interest in the wildfire recovery property, or amount of the
15 wildfire recovery property, is dependent on the future provision
16 of service to consumers. All wildfire recovery property
17 specified in a financing order shall continue to exist until the
18 bonds issued pursuant to a financing order and all associated
19 financing costs are paid in full.

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



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

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

16 **§B-5 Wildfire recovery charge.** (a) The wildfire recovery
17 charge created pursuant to a financing order approved pursuant
18 to section B-2 shall be a nonbypassable charge of a financing
19 entity that shall be applied to the repayment of bonds and
20 related financing costs as described in this chapter. The
21 wildfire recovery charge and any associated fixed recovery tax



1 amounts may be a usage-based charge, a flat user charge, or a
2 charge based upon customer revenues as determined by the
3 commission for each consumer class in any financing order.

4 (b) As long as any bonds are outstanding and any financing
5 costs have not been paid in full, any wildfire recovery charge
6 and any associated fixed recovery tax amounts authorized under a
7 financing order shall be nonbypassable. Subject to any
8 exceptions provided in a financing order, a wildfire recovery
9 charge and any associated fixed recovery tax amounts shall be
10 paid by all existing and future consumers within the utility
11 service territory.

12 (c) The wildfire recovery charge shall be collected by an
13 electric utility or its successors, in accordance with section
14 B-8(a), in full through a charge that is separate and apart from
15 the electric utility's rates.

16 (d) An electric utility may exercise the same rights and
17 remedies under its tariff and applicable law and regulation
18 based on a consumer's nonpayment of the wildfire recovery charge
19 as it could for a consumer's failure to pay any other charge
20 payable to that electric utility.



1 **§B-6 Security interests in wildfire recovery property;**
2 **financing statements.** (a) A security interest in wildfire
3 recovery property is valid and enforceable against the pledgor
4 and third parties, subject to the rights of any third parties
5 holding security interests in the wildfire recovery property
6 perfected in the manner described in this section, and attaches
7 when all of the following have occurred:

8 (1) The commission has issued a financing order
9 authorizing the wildfire recovery charge to be
10 included in the wildfire recovery property;

11 (2) Value has been given by the pledgees of the wildfire
12 recovery property; and

13 (3) The pledgor has signed a security agreement covering
14 the wildfire recovery property.

15 (b) A valid and enforceable security interest in wildfire
16 recovery property is perfected when it has attached and when a
17 financing statement has been filed with the bureau of
18 conveyances of the State of Hawaii naming the pledgor of the
19 wildfire recovery property as "debtor" and identifying the
20 wildfire recovery property.



1 Any description of the wildfire recovery property shall be
2 sufficient if it refers to the financing order creating the
3 wildfire recovery property. A copy of the financing statement
4 shall be filed with the commission by the electric utility that
5 is the pledgor or transferor of the wildfire recovery property,
6 and the commission may require the electric utility to make
7 other filings with respect to the security interest in
8 accordance with procedures that the commission may establish;
9 provided that the filings shall not affect the perfection of the
10 security interest.

11 (c) A perfected security interest in wildfire recovery
12 property shall be a continuously perfected security interest in
13 all wildfire recovery property revenues and proceeds arising
14 with respect thereto, whether or not the revenues or proceeds
15 have accrued. Conflicting security interests shall rank
16 according to priority in time of perfection. Wildfire recovery
17 property shall constitute property for all purposes, including
18 for contracts securing bonds, whether or not the wildfire
19 recovery property revenues and proceeds have accrued.

20 (d) Subject to the terms of the security agreement
21 covering the wildfire recovery property and the rights of any



1 third parties holding security interests in the wildfire
2 recovery property, perfected in the manner described in this
3 section, the validity and relative priority of a security
4 interest created under this section shall not be defeated or
5 adversely affected by the commingling of revenues arising with
6 respect to the wildfire recovery property with other funds of
7 the electric utility that is the pledgor or transferor of the
8 wildfire recovery property, or by any security interest in a
9 deposit account of that electric utility perfected under article
10 9 of chapter 490, into which the revenues are deposited.

11 Subject to the terms of the security agreement, upon
12 compliance with the requirements of section 490:9-312(b)(1), the
13 pledgees of the wildfire recovery property shall have a
14 perfected security interest in all cash and deposit accounts of
15 the electric utility in which wildfire recovery property
16 revenues have been commingled with other funds.

17 (e) If default occurs under the security agreement
18 covering the wildfire recovery property, the pledgees of the
19 wildfire recovery property, subject to the terms of the security
20 agreement, shall have all rights and remedies of a secured party
21 upon default under article 9 of chapter 490 and shall be



1 entitled to foreclose or otherwise enforce their security
2 interest in the wildfire recovery property, subject to the
3 rights of any third parties holding prior security interests in
4 the wildfire recovery property perfected in the manner provided
5 in this section.

6 In addition, the commission may require in the financing
7 order creating the wildfire recovery property that in the event
8 of default by the electric utility in payment of wildfire
9 recovery property revenues, the commission and any successor
10 thereto, upon the application by the pledgees or assignees,
11 including assignees under section B-5 of the wildfire recovery
12 property, and without limiting any other remedies available to
13 the pledgees or assignees by reason of the default, shall order
14 the sequestration and payment to the pledgees or assignees of
15 wildfire recovery property revenues. Any financing order shall
16 remain in full force and effect notwithstanding any bankruptcy,
17 reorganization, or other insolvency proceedings with respect to
18 the debtor, pledgor, or transferor of the wildfire recovery
19 property. Any surplus in excess of amounts necessary to pay
20 principal; premiums, if any; interest, costs, and arrearages on
21 the bonds; and associated financing costs arising under the



1 security agreement, shall be remitted to the debtor, pledgor, or
2 transferor, for the purpose of remitting such amounts to
3 customers via the electric utility.

4 (f) Sections 490:9-204 and 490:9-205 shall apply to a
5 pledge of wildfire recovery property by the electric utility, an
6 affiliate of the electric utility, or a financing entity.

7 **§B-7 Transfers of wildfire recovery property.** (a) A
8 transfer or assignment of wildfire recovery property by the
9 electric utility to an assignee or to a financing entity, or by
10 an assignee of the electric utility or a financing entity to
11 another financing entity, which the parties in the governing
12 documentation have expressly stated to be a sale or other
13 absolute transfer, in a transaction approved in a financing
14 order, shall be treated as an absolute transfer of all of the
15 transferor's right, title, and interest, as in a true sale, and
16 not as a pledge or other financing, of the wildfire recovery
17 property, other than for federal and state income and franchise
18 tax purposes.

19 (b) The characterization of the sale, assignment, or
20 transfer as an absolute transfer and true sale and the
21 corresponding characterization of the property interest of the



1 assignee shall not be affected or impaired by, among other
2 things, the occurrence of any of the following:

3 (1) Commingling of wildfire recovery charge revenues with
4 other amounts;

5 (2) The retention by the seller of either of the
6 following:

7 (A) A partial or residual interest, including an
8 equity interest, in the financing entity or the
9 wildfire recovery property, whether direct or
10 indirect, subordinate or otherwise; or

11 (B) The right to recover costs associated with taxes,
12 franchise fees, or license fees imposed on the
13 collection of wildfire recovery charge;

14 (3) Any recourse that an assignee may have against the
15 seller;

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

18 (5) The obligation of the seller to collect wildfire
19 recovery charges on behalf of an assignee;

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



1 (7) Any true-up adjustment of the wildfire recovery charge
2 as provided in the financing order.

3 (c) A transfer of wildfire recovery property shall be
4 deemed perfected against third parties when both of the
5 following occur:

6 (1) The commission issues the financing order authorizing
7 the wildfire recovery charge included in the wildfire
8 recovery property; and

9 (2) An assignment of the wildfire recovery property in
10 writing has been executed and delivered to the
11 assignee.

12 (d) As between bona fide assignees of the same right for
13 value without notice, the assignee first filing a financing
14 statement with the bureau of conveyances of the State of Hawaii
15 in accordance with part 5 of article 9 of chapter 490, naming
16 the assignor of the wildfire recovery property as debtor and
17 identifying the wildfire recovery property, shall have priority.
18 Any description of the wildfire recovery property shall be
19 sufficient if it refers to the financing order creating the
20 wildfire recovery property. A copy of the financing statement
21 shall be filed by the assignee with the commission, and the



1 commission may require the assignor or the assignee to make
2 other filings with respect to the transfer in accordance with
3 procedures the commission may establish, but these filings shall
4 not affect the perfection of the transfer.

5 **SB-8 Financing entity successor requirements; default of**
6 **financing entity.** (a) Any successor to an electric utility
7 subject to a financing order, whether pursuant to any
8 bankruptcy, reorganization, or other insolvency proceeding, or
9 pursuant to any merger, sale, or transfer, by operation of law,
10 or otherwise, shall be bound by the requirements of this
11 chapter. The successor of the electric utility shall perform
12 and satisfy all obligations of the electric utility under the
13 financing order, in the same manner and to the same extent as
14 the electric utility, including the obligation to collect and
15 pay the wildfire recovery charge to any financing party as
16 required by a financing order or any assignee. Any successor to
17 the electric utility shall be entitled to receive any fixed
18 recovery tax amounts otherwise payable to the electric utility.

19 (b) The commission may require in a financing order that
20 if a default by the electric utility in remittance of the
21 wildfire recovery charge collected arising with respect to



wildfire recovery property occurs, the commission, without limiting any other remedies available to any financing party by reason of the default, shall order the sequestration and payment to the beneficiaries of the wildfire recovery charge collected arising with respect to the wildfire recovery property. Any order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the electric utility.

§B-9 Severability. If any provision of this chapter is held to be invalid or is superseded, replaced, repealed, or expires for any reason:

- (1) That occurrence shall not affect any action allowed under this chapter that is taken prior to that occurrence by the commission, a financing entity, a bondholder, or any financing party, and any such action shall remain in full force and effect; and
- (2) The validity and enforceability of the rest of this chapter shall remain unaffected."

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



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



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

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

14 SECTION 4. Notwithstanding the provisions of section 39A-
15 191, Hawaii Revised Statutes, and the provisions of Act 182
16 Session Laws of Hawaii 2022, as amended by Act 262, Session Laws
17 of Hawaii 2023, the legislature authorizes the issuance of
18 special purpose revenue bonds for costs that require an
19 allocation of the annual state ceiling under section 39B-2,
20 Hawaii Revised Statutes, for the period of July 1, 2024, through
21 December 31, 2028. Notwithstanding section 39A-195, Hawaii



1 Revised Statutes, a project agreement entered into in connection
2 with the issuance of special purpose revenue bonds to finance
3 costs may include a project agreement with an affiliate of an
4 electric or gas utility and may contain provisions limiting the
5 obligation to pay, and the security for the payment of, debt
6 service and related deposits and costs in respect of such bonds
7 or loans funded by such bonds to recovery charges and recovery
8 property.

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

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

17 SECTION 7. In codifying the new sections added by section
18 2 of this Act, the revisor of statutes shall substitute
19 appropriate section numbers for the letters used in designating
20 the new sections in this Act.



1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
3 SECTION 9. This Act shall take effect on July 1, 3000.



Report Title:

Wildfire Recovery Fund; Securitization

Description:

Establishes the Wildfire Recovery Fund. Allows securitization for electric utilities. Effective 7/1/3000. (HD1)

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

