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# A BILL FOR AN ACT

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RELATING TO ENERGY.

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

PART I

SECTION 1. Chapter 269, Hawaii Revised Statutes, is amended by adding two new sections to part I to be appropriately designated and to read as follows:

**§269-A Electric cooperative cost recovery for wildfire mitigation, repair, and restoration costs.** (a) An electric cooperative may recover commission-approved wildfire mitigation, repair, and restoration costs through an automatic rate adjustment clause or other tariff recovery mechanism to be established by the commission.

(b) For purposes of this section, "electric cooperative" means a public utility that satisfies the requirements under section 269-31(c).

**§269-B Determination of limitation on liability.** (a) The commission shall initiate a proceeding for the adoption of rules pursuant to chapter 91 to establish the maximum amount each electric utility may pay to resolve claims arising from any



1 covered catastrophic wildfires, as defined in section 663-,  
2 for set periods of time established by rules in accordance with  
3 this section. The commission shall have sole discretion to  
4 establish the maximum payable amounts and applicable periods of  
5 time. The rules adopted by the commission under this section  
6 shall have the force and effect of law.

7 (b) The commission shall adopt rules as soon as is  
8 practicable. The rules shall authorize the maximum payable  
9 amount each electric utility may pay to resolve qualifying  
10 damages arising from any covered catastrophic wildfires, as  
11 those terms are defined in section 663-, that occur within a  
12 set period of time, or per event, as determined by the  
13 commission, without harming ratepayers or materially impacting  
14 each electric utility's ability to provide adequate and safe  
15 service consistent with the public interest. In adopting rules  
16 to establish the maximum payable amount, the commission shall  
17 consider, at a minimum:

18 (1) Whether the maximum payable amount shall be delineated  
19 by the qualifying damages arising from covered  
20 catastrophic wildfires that occur:



1           (A) Within a set period of time that is determined by  
2           the commission; or

3           (B) Per event;

4           (2) Different approaches to establishing the maximum  
5           payable amount, such as a flat dollar limit for the  
6           set period of time, or per event; one based upon a  
7           percentage of the electric utility's market  
8           capitalization or rate base; or hybrid approaches,  
9           including examining frameworks adopted or considered  
10           in other wildfire-prone states and their  
11           effectiveness;

12           (3) Impacts on the electric utility's credit ratings,  
13           borrowing costs, and customer's electricity rates, and  
14           how the establishment of the maximum payable amount  
15           will help to achieve intended outcomes of improving  
16           the utility's credit rating and lowering costs passed  
17           on to customers;

18           (4) Impacts of the maximum payable amount upon the  
19           insurance market in the State;



- 1        (5) Impacts of the maximum payable amount on the  
2        indemnity, contribution, and subrogation rights of any  
3        person or entity;
- 4        (6) Impacts on the liability exposure of other  
5        hypothetical future co-defendants with respect to  
6        claims arising from a catastrophic wildfire;
- 7        (7) Impacts on potential future plaintiffs who could be  
8        negatively impacted by the establishment of the  
9        maximum payable amount;
- 10       (8) The affordability of electric utility service and the  
11       potential impacts on customer's electricity rates by  
12       the establishment of the maximum payable amount;
- 13       (9) Requirements to maintain or improve the quality of  
14       service to the electric utility's customers;
- 15       (10) Requirements to improve the management of the electric  
16       utility doing business in the State;
- 17       (11) Requirements to meet state policy goals for clean  
18       energy and climate;
- 19       (12) Requirements to implement wildfire mitigation plans  
20       and improve safety;



1        (13) Requirements to improve interconnection costs and  
2        timeliness; and

3        (14) The restriction or reduction of compensation packages  
4        and bonuses to officers and employees of the electric  
5        utility.

6        (c) The rules adopted pursuant to this section shall also  
7        include:

8            (1) Conditions to ensure that the establishment of the  
9            maximum payable amount is consistent with the public  
10          interest;

11          (2) Annual reporting requirements for compliance with any  
12          conditions established; and

13          (3) Procedures for corrective actions if the electric  
14          utility is not in compliance.

15        Rules required to be adopted under this section shall be adopted  
16        in a single rulemaking proceeding. Upon request by the  
17        commission, the electric utility or any state or county agency  
18        shall provide any information that is relevant to the rulemaking  
19        proceedings under this section.

20          (d) Notwithstanding any other law to the contrary, the  
21        rules adopted under this section shall be presented to, and

1 subject to the approval of, the governor. If the governor  
2 approves the rules, the governor shall sign the rules, and the  
3 rules shall be adopted as provided in section 91-3. If the  
4 governor does not approve the rules, the governor may return the  
5 rules to the commission with the governor's reasons for  
6 disapproval. The governor shall have twenty-one days to  
7 consider the rules after the rules are presented to the  
8 governor, and if the rules are neither signed nor returned by  
9 the governor within that time, the rules shall be adopted as if  
10 the governor had signed them.

11 If the rules are returned to the commission, the commission  
12 may start anew the rule-making process set forth in subsection  
13 (b).

14 (e) On or before the last day of the preceding set period  
15 of time established by the commission with respect to each  
16 electric utility, the commission shall adopt rules pursuant to  
17 subsection (b) and (c) for the next subsequent proposed period  
18 of time.

19 (f) Notwithstanding any other law to the contrary, the  
20 supreme court shall have original jurisdiction over any petition  
21 to obtain a judicial determination as to the validity of the



rules adopted under this section. The petition shall be filed with the clerk of the supreme court within thirty days of the filing of the rules with the lieutenant governor pursuant to section 91-4(b). After an action is filed pursuant to this paragraph, the supreme court shall give priority to the action over all other civil or administrative appeals or matters and shall render a final judgment and opinion as expeditiously as possible. No action challenging the validity of the rules may be brought except as provided in this subsection.

In all collateral proceedings, including any civil action to recover damages for a covered catastrophic wildfire, the maximum payable amounts established by the rules shall be conclusive and not subject to judicial review. Nothing in this section or rules adopted under this section shall be construed to create any property interest or entitlement of any kind in the electric utility, and no claim by any party, whether sounding in law or equity, or under article I, section 20, of the Hawaii State Constitution, may be brought against the commission, its commissioners, officials, and employees, or the State relating to rulemaking under this section.

(g) For purposes of this section:



1       "Electric utility" includes an electric cooperative, as  
2       defined in section 269-A(b).

3       "Wildfire mitigation plan" means the plan that each  
4       electric utility shall file with the commission, and which shall  
5       be periodically updated at a frequency determined by the  
6       commission, that sets forth the utility's practices to protect  
7       public safety and reduce risk to customers from wildfires and to  
8       promote the resilience of the electric system to wildfire  
9       damage, pursuant to requirements established by the commission."

10       SECTION 2. Chapter 663, Hawaii Revised Statutes, is  
11       amended by adding a new section to be appropriately designated  
12       and to read as follows:

13       "**§663-       Limitation on aggregate liability; electric**  
14       **utilities.** (a) The aggregate liability of an electric utility,  
15       including its affiliates, collectively, for qualifying damages  
16       arising from a covered catastrophic wildfire shall not exceed  
17       the least of the maximum payable amount authorized by the rules,  
18       adopted pursuant to section 269-B, for either the set period of  
19       time in which the covered catastrophic wildfire began or per  
20       event, as determined by the commission, or for the remainder of  
21       the maximum payable amount to the extent that the electric





1 utility has already paid qualifying damages for the same time  
2 period or event.

3 (b) An electric utility that seeks to assert the  
4 limitation on aggregate liability set forth in subsection (a)  
5 shall:

6 (1) Have a wildfire mitigation plan, as defined in section  
7 269-B, that is approved by the commission and shall  
8 have sought and received a determination from the  
9 commission that the plan is being implemented on the  
10 timeline approved by the commission; and

11 (2) Be in full compliance with any conditions and  
12 reporting requirements established by rule pursuant to  
13 subsection 269-B(c).

14 (c) All civil actions arising out of a catastrophic  
15 wildfire shall be brought in the circuit in which the  
16 catastrophic wildfire occurred. The court shall adopt  
17 procedures to equitably apply the limit set forth in  
18 subsection (a) to all filed civil claims, and notwithstanding  
19 any law to the contrary, joint and several liability shall not  
20 apply to qualifying damages, even as to any amount of qualifying  
21 damages in excess of the aggregate liability of an electric

1 utility; provided that in any action to recover from a person or  
2 an entity in connection with a covered catastrophic wildfire,  
3 the person or entity may claim, in defense, apportionment of  
4 fault to any other person, entity, electric utility, or electric  
5 cooperative, even as to those who are not a party to the action.  
6 The exceptions to the abolition of joint and several liability  
7 set forth in section 663-10.9 shall not apply to any suit,  
8 claim, arbitration, or other civil action arising out of a  
9 covered catastrophic wildfire. All settlements or judgments for  
10 claims for qualifying damages shall be subject to approval by  
11 the court. The court shall not approve any settlement or  
12 judgment that would cause the aggregate liability of electric  
13 utilities to exceed the aggregate liability limit prescribed by  
14 the commission if the utility is entitled to invoke the  
15 limitation under subsection (a). No liability allocable to the  
16 electric utility that is not payable because of the aggregate  
17 liability limit shall be shifted, in any manner, to any other  
18 alleged tortfeasor or obligor.

19 (d) A court may consolidate cases arising from a covered  
20 catastrophic wildfire. Any circuit court that is not the

1 consolidating court shall transfer any civil case to facilitate  
2 the consolidation.

3 (e) No later than twenty days prior to the convening of  
4 each regular session, the commission shall study and submit a  
5 report to the legislature that includes:

6 (1) An assessment of whether the factors considered  
7 pursuant to section 269-B(b) adequately balance the  
8 solvency interests of electric utilities with the  
9 compensation owed in the previous year to catastrophic  
10 wildfire victims, or whether additional factors should  
11 be considered; and

12 (2) Any other findings and recommendations, including any  
13 necessary proposed legislation.

14 (f) For the purposes of this section:

15 "Catastrophic wildfire" means a wildfire occurring in the  
16 State on or after the effective date of this Act that  
17 substantially damages or destroys more than five hundred  
18 commercial structures or residential structures designed for  
19 habitation or, for an electric cooperative, a wildfire that  
20 substantially damages or destroys more than fifty commercial  
21 structures or residential structures designed for habitation.

1 "Covered catastrophic wildfire" means a catastrophic  
2 wildfire that may have been caused, or whose severity may have  
3 been increased, by an electric utility's facilities or actions.

4 "Electric utility" means a public utility that exists for  
5 the furnishing of electrical power, including an electric  
6 cooperative.

7 "Electric cooperative" is an electric utility that has the  
8 same meaning as in section 269-31(c).

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

10 "Qualifying damages" means economic damages arising out of  
11 the loss of or damage to real or personal property from a  
12 covered catastrophic wildfire. "Qualifying damages" does not  
13 include claims for physical bodily harm or emotional harm."

14 PART II

15 SECTION 3. The Hawaii Revised Statutes is amended by  
16 adding a new chapter to be appropriately designated and to read  
17 as follows:

18 "CHAPTER

19 SECURITIZATION

20 § -1 **Definitions.** As used in this chapter, unless the  
21 context otherwise requires:



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

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

17 "Bond" means any bond, note, certificate of participation  
18 or beneficial interest, or other evidence of indebtedness or  
19 ownership that is issued by the financing entity under a  
20 financing order, the proceeds of which are used directly or  
21 indirectly to recover, finance, or refinance financing costs of



1 any infrastructure resilience costs, and that are directly or  
2 indirectly secured by or payable from infrastructure resilience  
3 property.

4 "Commission" means the public utilities commission.

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

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

13 "Executive officer" means any person who performs policy  
14 making functions and is employed by an electric utility subject  
15 to the approval of the board of directors, and includes the  
16 president, secretary, treasurer, and any vice president in  
17 charge of a principal business unit, division, or function of  
18 the electric utility.

19 "Financing costs" means the costs to issue, service, repay,  
20 or refinance bonds, whether incurred or paid upon issuance of  
21 the bonds or over the life of the bonds, if they are approved



1 for recovery by the commission in a financing order. "Financing  
2 costs" may include any of the following:

3 (1) Principal, interest, and redemption premiums that are  
4 payable on bonds;

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

6 (3) An amount required to fund or replenish reserve  
7 accounts or other accounts established under an  
8 indenture, ancillary agreement, or other financing  
9 document related to the bonds;

10 (4) Taxes, franchise fees, or license fees imposed on a  
11 financing entity as a result of the issuance of the  
12 financing order; the assignment, sale, or transfer of  
13 any infrastructure resilience property; or the sale of  
14 the bonds, or imposed on the infrastructure resilience  
15 charges, or otherwise resulting from the collection of  
16 the infrastructure resilience charge, in any such case  
17 whether paid, payable, or accrued;

18 (5) Costs related to issuing and servicing bonds or the  
19 application for a financing order, including without  
20 limitation servicing fees and expenses, trustee fees  
21 and expenses, legal fees and expenses, accounting



1 fees, administrative fees, underwriting and placement  
2 fees, financial advisory fees, original issue  
3 discount, capitalized interest, rating agency fees,  
4 and any other related costs that are approved for  
5 recovery in the financing order;

6 (6) Costs related to the engagement of services of a  
7 financial advisor by the commission; and

8 (7) Other costs as specifically authorized by a financing  
9 order.

10 "Financing entity" means an electric utility or an entity  
11 to which an electric utility or an affiliate of an electric  
12 utility sells, assigns, or pledges all or a portion of the  
13 electric utility's interest in infrastructure resilience  
14 property, including an affiliate of the electric utility or any  
15 unaffiliated entity, in each case as approved by the commission  
16 in a financing order.

17 Subject to section -6(c), an entity to which an electric  
18 utility sells, assigns, or pledges all or a portion of the  
19 electric utility's interest in infrastructure resilience  
20 property may include any governmental entity that is able to  
21 issue bonds that are exempt from federal tax pursuant to





1 section 103 of the Internal Revenue Code of 1986, as amended,  
2 including the State or a political subdivision thereof or any  
3 department, agency, or instrumentality of the State or political  
4 subdivision; provided that the bonds issued shall not constitute  
5 a general obligation of the State or any political subdivision  
6 thereof or any department, agency, or instrumentality of the  
7 State or political subdivision and shall not constitute a pledge  
8 of the full faith and credit of the entity or of the State or  
9 any political subdivision thereof, but shall be payable solely  
10 from the funds provided under this chapter.

11 "Financing order" means an order of the commission under  
12 this chapter that has become final and no longer subject to  
13 appeal as provided by law and that authorizes the issuance of  
14 bonds and the imposition, adjustment from time to time, and  
15 collection of infrastructure resilience charges, and that shall  
16 include a procedure to require the expeditious approval by the  
17 commission of periodic adjustments to infrastructure resilience  
18 charges and to any associated fixed recovery tax amounts  
19 included in that financing order to ensure recovery of all  
20 infrastructure resilience costs and the costs associated with  
21 the proposed recovery, financing, or refinancing thereof,

1 including the costs of servicing and retiring the bonds  
2 contemplated by the financing order.

3 "Financing party" means any holder of the bonds; any party  
4 to or beneficiary of an ancillary agreement; and any trustee,  
5 collateral agent, or other person acting for the benefit of any  
6 of the foregoing.

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

14 "Infrastructure resilience charges" means the nonbypassable  
15 charges, including but not limited to distribution, connection,  
16 disconnection, and termination rates and charges, that are  
17 authorized in a financing order authorized under this chapter to  
18 be imposed on and collected from all existing and future  
19 consumers of an electric utility or any successor to recover  
20 principal, interest, and other financing costs relating to the  
21 bonds issued by its financing entity.



1 "Infrastructure resilience costs" means an electric  
2 utility's costs to implement its wildfire risk mitigation plan  
3 and other investments in infrastructure improvements,  
4 modernization, and replacement needed to reduce wildfire risks  
5 and increase reliability and resilience to natural disasters and  
6 weather-related events, as approved by the commission.

7 "Infrastructure resilience property" means the property  
8 right created pursuant to this chapter, including but not  
9 limited to the right, title, and interest of an electric  
10 utility, financing entity, or its assignee:

11 (1) In and to the infrastructure resilience charge  
12 established pursuant to a financing order, including  
13 the right to impose, bill, collect, and receive the  
14 infrastructure resilience charges under the financing  
15 order and all rights to obtain adjustments to the  
16 infrastructure resilience charge in accordance with  
17 section -3 and the financing order; and

18 (2) To be paid the amount that is determined in a  
19 financing order to be the amount that the electric  
20 utility or its assignee is lawfully entitled to  
21 receive pursuant to this chapter and the proceeds



1           thereof, and in and to all revenues, collections,  
2           claims, payments, moneys, or proceeds of, or arising  
3           from, the infrastructure resilience charge that is the  
4           subject of a financing order.

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

12        "Investor-owned electric utility" means an electric utility  
13   that is owned by shareholders and overseen by a board of  
14   directors elected by shareholders.

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

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



1 timely and complete payment and recovery of infrastructure  
2 resilience costs over the authorized repayment term.

3 "Wildfire risk mitigation plan" means a plan, which may  
4 include a natural hazard mitigation report, in which an electric  
5 utility addresses how the electric utility will mitigate the  
6 risk to its equipment in the event of a wildfire.

7 § -2 **Applications to issue bonds and authorize**  
8 **infrastructure resilience charges.** (a) An electric utility may  
9 apply to the commission for one or more financing orders to  
10 issue bonds to recover any infrastructure resilience costs, each  
11 of which authorizes the following:

12 (1) The imposition, charging, and collection of an  
13 infrastructure resilience charge, to become effective  
14 upon the issuance of the bonds, and an adjustment of  
15 any such infrastructure resilience charge in  
16 accordance with a true-up adjustment mechanism under  
17 this chapter in amounts sufficient to pay the  
18 principal and interest on the bonds and all other  
19 associated financing costs on a timely basis;

20 (2) The creation of infrastructure resilience property  
21 under the financing order; and

1 (3) The imposition, charging, and collection of fixed  
2 recovery tax amounts to recover any portion of the  
3 electric utility's federal and state taxes associated  
4 with those infrastructure resilience charges and not  
5 financed from the proceeds of bonds.

6 (b) The commission may issue a financing order that  
7 authorizes the issuance of bonds under subsection (a) only if:

8 (1) The electric utility, in good faith, has sought the  
9 maximum federal funding to offset the costs of  
10 infrastructure;

11 (2) After the effective date of this Act, the first  
12 \$500,000,000 in infrastructure resilience capital  
13 investments, in the aggregate, must be made under this  
14 Act; and

15 (3) Any assets that are to be financed under  
16 securitization should not already be included in the  
17 electric utility's rate base.

18 (c) The application shall include all of the following:

19 (1) The infrastructure resilience costs to be financed  
20 through the issuance of bonds;



- 1           (2) The principal amount of the bonds proposed to be  
2           issued and the selection of a financing entity;
- 3           (3) An estimate of the date on which each series of bonds  
4           is expected to be issued;
- 5           (4) The scheduled final payment date, which shall not  
6           exceed thirty years, and a legal final maturity date,  
7           which may be longer, subject to rating agency and  
8           market considerations, during which term the  
9           infrastructure resilience charge associated with the  
10          issuance of each series of bonds is expected to be  
11          imposed and collected;
- 12          (5) An estimate of the financing costs associated with the  
13          issuance of each series of bonds;
- 14          (6) An estimate of the amount of the infrastructure  
15          resilience charge revenues necessary to pay principal  
16          and interest on the bonds and all other associated  
17          financing costs as set forth in the application and  
18          calculation for that estimate;
- 19          (7) A proposed design of the infrastructure resilience  
20          charge and a proposed methodology for allocating the  
21          infrastructure resilience charge among customer



1 classes within the electric utility's service  
2 territory;

3 (8) A description of the financing entity selected by the  
4 electric utility;

5 (9) A description of a proposed true-up adjustment  
6 mechanism for the adjustment of the infrastructure  
7 resilience charge to correct for any overcollection or  
8 undercollection of the infrastructure resilience  
9 charge, and to otherwise ensure the timely payment of  
10 principal and interest on the bonds and all other  
11 associated financing costs; and

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

13 (d) An electric utility may file an application for a  
14 financing order, or as a joint applicant with one or more  
15 affiliate electric utilities, to issue bonds to recover  
16 infrastructure resilience costs. The application shall include  
17 a description of:

18 (1) How the infrastructure resilience charges will be  
19 allocated among the applicant electric utilities in a  
20 manner that is equitable and that need not correspond





1 to the incurrence of infrastructure resilience costs  
2 by each electric utility; and

3 (2) Whether and how the consumers of any of the applicant  
4 electric utilities will be responsible for the payment  
5 of infrastructure resilience charges allocated to  
6 consumers of affiliate electric utilities.

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



1 electric utility credit payments proposed to be subject to the  
2 concurrent commission order.

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

7 (f) In exercising its duties under this section, the  
8 commission shall consider:

9 (1) Whether the issuance of the bonds, and the imposition  
10 and collection of infrastructure resilience charges,  
11 are consistent with the public interest;

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

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

19 (4) With respect to an application by an investor-owned  
20 electric utility, whether the recovery of  
21 infrastructure resilience costs through the

1 designation of the infrastructure resilience charges  
2 and any associated fixed recovery tax amounts, and the  
3 issuance of bonds in connection with the  
4 infrastructure resilience charges, would result in net  
5 savings or mitigate rate impacts to consumers, as  
6 compared to rate recovery without securitization; and  
7 (5) Any other factors that the commission deems reasonable  
8 and in the public interest.

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

16 An electric utility may include in its application for a  
17 financing order a request for authorization to sell, transfer,  
18 assign, or pledge infrastructure resilience property to a  
19 governmental entity if the electric utility expects bonds issued  
20 by a governmental entity to result in a more cost-efficient  
21 means, taking into account all financing costs related to the



1 bonds, than using another financing entity to issue bonds to  
2 finance the same infrastructure resilience costs, taking into  
3 account the costs of issuing the other financing entity's bonds.

4 (g) Infrastructure resilience charges and any associated  
5 fixed recovery tax amounts shall be imposed only on existing and  
6 future consumers in the utility service territory of the  
7 electric utility that is subject to such financing order.

8 Consumers within the utility service territory of the electric  
9 utility that are subject to the financing order shall continue  
10 to pay infrastructure resilience charges and any associated  
11 fixed recovery tax amounts until the bonds and associated  
12 financing costs are paid in full by the financing entity.

13 § -3 **Infrastructure resilience financing order.** (a) A  
14 financing order shall remain in effect until the bonds issued  
15 under the financing order and all financing costs related to the  
16 bonds have been paid in full or defeased by their terms. The  
17 aggregate of the financing orders shall be for no greater than  
18 \$500,000,000 of the infrastructure resilience costs for a  
19 corporate family of the electric utility.

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

18 (1) Alter the provisions of this chapter, which authorize  
19 the commission to create an irrevocable contract right  
20 or choose in action by the issuance of a financing  
21 order, to create infrastructure resilience property

1 and make the infrastructure resilience charges imposed  
2 by a financing order irrevocable, binding,  
3 nonbypassable charges for all existing and future  
4 consumers;

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

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

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

1 The financing entity may include this pledge in the bonds.

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

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

13 The commission, in any financing order, shall establish a  
14 procedure for periodic true-up adjustments to infrastructure  
15 resilience charges, which shall be made at least annually and  
16 may be made more frequently. Within thirty days after receiving  
17 an electric utility's filing of a true-up adjustment, the  
18 commission's review of the filing shall be limited to  
19 mathematical or clerical errors as determined in accordance with  
20 any true-up adjustment formulas set forth in the applicable  
21 financing order.

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

8       (e) The commission may include in the financing order a  
9   requirement that, if the electric utility fails to transfer the  
10   wildfire recovery charges it has collected, the commission will  
11   order that those funds shall be withheld and paid directly to  
12   the applicable financing entity. Any order shall remain in full  
13   force and effect notwithstanding any bankruptcy, reorganization,  
14   or other insolvency proceedings with respect to the electric  
15   utility.

16       (f) Neither financing orders nor bonds issued under this  
17   chapter shall constitute a general obligation of the State or  
18   any of its political subdivisions, nor shall they constitute a  
19   pledge of the full faith and credit of the State or any of its  
20   political subdivisions, but shall be payable solely from the  
21   infrastructure resilience property provided under this chapter.





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

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

10 (g) Infrastructure resilience charges are infrastructure  
11 resilience property when, and to the extent that, a financing  
12 order authorizing the infrastructure resilience charges has  
13 become effective in accordance with this chapter, and the  
14 infrastructure resilience property shall thereafter continuously  
15 exist as property for all purposes, and all of the rights and  
16 privileges relating to that property shall continuously exist  
17 for the period and to the extent provided in the financing  
18 order, but in any event until the bonds, including all  
19 principal; premiums, if any; interest with respect to the bonds;  
20 and all other financing costs are paid in full. A financing  
21 order may provide that the creation of infrastructure resilience

1 property shall be simultaneous with the sale of the  
2 infrastructure resilience property to an assignee as provided in  
3 the application of the pledge of the infrastructure resilience  
4 property to secure the bonds.

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

9 (i) No electric utility approved for a financing order  
10 shall increase compensation for its executive officers unless  
11 the utility's wildfire risk mitigation plan compliance reports  
12 have been approved by the commission for five consecutive years;  
13 provided that the commission may consider an alternative  
14 symmetric performance incentive mechanism, if the commission  
15 deems appropriate. For the purposes of this subsection,  
16 "wildfire risk mitigation plan" has the same meaning as in  
17 section -1.

18 (j) As used in this section, "corporate family" means a  
19 group of corporations consisting of a parent corporation and all  
20 subsidiaries in which the parent corporation owns directly or  
21 indirectly a controlling interest.

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

6 § -4 Bonds; issuance; infrastructure resilience property  
7 interests. (a) The electric utility may sell and assign all or  
8 portions of its interest in infrastructure resilience property  
9 to one or more financing entities that make that infrastructure  
10 resilience property the basis for issuance of bonds, to the  
11 extent approved in a financing order. The electric utility or  
12 financing entity may pledge infrastructure resilience property  
13 as collateral, directly or indirectly, for bonds to the extent  
14 approved in the pertinent financing orders providing for a  
15 security interest in the infrastructure resilience property, in  
16 the manner set forth in this section. In addition,  
17 infrastructure resilience property may be sold or assigned by  
18 either of the following:

19 (1) The financing entity or a trustee for the holders of  
20 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 infrastructure resilience  
4 property after a sale or assignment pursuant to this  
5 chapter.

6 (b) To the extent that any interest in infrastructure  
7 resilience property is sold, assigned, or is pledged as  
8 collateral pursuant to subsection (a), the commission shall  
9 require the electric utility to contract with the financing  
10 entity or its assignees that the electric utility will:

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

13 (2) Collect amounts in respect of the infrastructure  
14 resilience charges for the benefit and account of the  
15 financing entity or its assignees; and

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

18 Contracting with the financing entity or its assignees in  
19 accordance with that authorization shall not impair or negate  
20 the characterization of the sale, assignment, or pledge as an  
21 absolute transfer, a true sale, or a security interest, as

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

12 Each financing order shall impose terms and conditions,  
13 consistent with the purposes and objectives of this chapter, on  
14 any person or entity responsible for billing, collection, and  
15 other related services, including but not limited to collection  
16 of the infrastructure resilience charges and any associated  
17 fixed recovery tax amounts, that are the subject of the  
18 financing order.

19 (c) 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 electric utility, other than



1 the infrastructure resilience property as specified in that  
2 financing order.

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



(e) Infrastructure resilience property; infrastructure resilience charges; and the interests of an assignee, bondholder, or financing entity, or any pledgee in infrastructure resilience property and infrastructure resilience charges shall not be subject to setoff, counterclaim, surcharge, recoupment, or defense by the electric utility or any other person or in connection with the bankruptcy, reorganization, or other insolvency proceeding of the electric utility, any affiliate of the electric utility, or any other entity.

(f) Notwithstanding any law to the contrary, any requirement under this chapter or a financing order that the commission acts upon shall be binding upon the commission, as it may be constituted from time to time, and any successor agency exercising functions similar to the commission, and the commission shall have no authority to rescind, alter, or amend that requirement in a financing order.

**§ -5 Infrastructure resilience charge.** (a) The infrastructure resilience charge created pursuant to a financing order approved pursuant to section -2 shall be a nonbypassable charge of a financing entity that shall be applied to the repayment of bonds and related financing costs as

1 described in this chapter. The infrastructure resilience charge  
2 and any associated fixed recovery tax amounts may be a  
3 usage-based charge, a flat user charge, or a charge based upon  
4 customer revenues as determined by the commission for each  
5 consumer class in any financing order.

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

14 (c) The infrastructure resilience charge shall be  
15 collected by an electric utility or its successors, in  
16 accordance with section -8(a), in full through a charge that  
17 is separate and apart from the electric utility's rates. The  
18 infrastructure resilience charge shall be collected by the  
19 public utilities or their successors as collection agents for  
20 the applicable financing entity, and such amounts shall be held  
21 in trust until transferred to the applicable financing entity.



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

6 § -6 Security interests in infrastructure resilience  
7 property; financing statements. (a) A security interest in  
8 infrastructure resilience property is valid and enforceable  
9 against the pledgor and third parties, subject to the rights of  
10 any third parties holding security interests in the  
11 infrastructure resilience property perfected in the manner  
12 described in this section, and attaches when all of the  
13 following have occurred:

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

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

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

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

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

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

19 Subject to the terms of the security agreement, upon  
20 compliance with the requirements of section 490:9-312(b)(1), the  
21 pledgees of the infrastructure resilience property shall have a

1 perfected security interest in all cash and deposit accounts of  
2 the electric utility in which infrastructure resilience property  
3 revenues have been commingled with other funds.

4 (e) If default occurs under the security agreement  
5 covering the infrastructure resilience property, the pledgees of  
6 the infrastructure resilience property, subject to the terms of  
7 the security agreement, and upon receiving approval from the  
8 commission for a foreclosure request, shall be entitled to  
9 foreclose or otherwise enforce their security interest in the  
10 infrastructure resilience property, subject to the rights of any  
11 third parties holding prior security interests in the  
12 infrastructure resilience property perfected in the manner  
13 provided in this section.

14 In addition, the commission may require in the financing  
15 order creating the infrastructure resilience property that in  
16 the event of default by the electric utility in payment of  
17 infrastructure resilience property revenues, the commission and  
18 any successor thereto, upon the application by the pledgees or  
19 assignees, including assignees under section -4 of the  
20 infrastructure resilience property, and without limiting any  
21 other remedies available to the pledgees or assignees by reason



1 of the default, shall order the sequestration and payment to the  
2 pledgees or assignees of infrastructure resilience property  
3 revenues. Any financing order shall remain in full force and  
4 effect notwithstanding any bankruptcy, reorganization, or other  
5 insolvency proceedings with respect to the debtor, pledgor, or  
6 transferor of the infrastructure resilience property. Any  
7 surplus in excess of amounts necessary to pay principal;  
8 premiums, if any; interest, costs, and arrearages on the bonds;  
9 and associated financing costs arising under the security  
10 agreement, shall be remitted to the debtor, pledgor, or  
11 transferor, for the purpose of remitting such amounts to  
12 customers via the electric utility.

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

17 **§ -7 Transfers of infrastructure resilience property.**

18 (a) A transfer or assignment of infrastructure resilience  
19 property by the electric utility to an assignee or to a  
20 financing entity, or by an assignee of the electric utility or a  
21 financing entity to another financing entity, which the parties

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

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

13 (1) Commingling of infrastructure resilience charge  
14 revenues with other amounts;

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

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

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

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

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

8 (5) The obligation of the seller to collect infrastructure  
9 resilience charges on behalf of an assignee;

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

12 (7) Any true-up adjustment of the infrastructure  
13 resilience charge as provided in the financing order.

14 (c) A transfer of infrastructure resilience property shall  
15 be deemed perfected against third parties when:

16 (1) The commission issues the financing order authorizing  
17 the infrastructure resilience charge included in the  
18 infrastructure resilience property; and

19 (2) An assignment of the infrastructure resilience  
20 property in writing has been executed and delivered to  
21 the assignee.

(d) As between bona fide assignees of the same right for value without notice, the assignee first filing a financing statement with the bureau of conveyances in accordance with part 5 of article 9 of chapter 490, naming the assignor of the infrastructure resilience property as debtor and identifying the infrastructure resilience property, shall have priority. Any description of the infrastructure resilience property shall be sufficient if it refers to the financing order creating the infrastructure resilience property. A copy of the financing statement shall be filed by the assignee with the commission, and the commission may require the assignor or the assignee to make other filings with respect to the transfer in accordance with procedures the commission may establish; provided that these filings shall not affect the perfection of the transfer.

**§ -8 Financing entity successor requirements; default of financing entity.** (a) Any successor to an electric utility subject to a financing order, whether pursuant to any bankruptcy, reorganization, or other insolvency proceeding, or pursuant to any merger, sale, or transfer, by operation of law, or otherwise, shall be bound by the requirements of this chapter. The successor of the electric utility shall perform



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

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

1       §   **-9 Report to legislature.** No later than twenty days  
2 prior to the convening of each regular session, the commission  
3 shall submit a report to the legislature that includes:

4       (1) An update on its activities under this chapter,  
5 including how the securitization authorized under this  
6 chapter is being utilized; and

7       (2) Any other findings and recommendations, including any  
8 necessary proposed legislation.

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

12       (1) That occurrence shall not affect any action allowed  
13 under this chapter that is taken prior to that  
14 occurrence by the commission, a financing entity, a  
15 bondholder, or any financing party, and any such  
16 action shall remain in full force and effect; and

17       (2) The validity and enforceability of the rest of this  
18 chapter shall remain unaffected."

19       SECTION 4. Section 269-17, Hawaii Revised Statutes, is  
20 amended to read as follows:



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



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

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

15 PART III

16 SECTION 5. (a) The public utilities commission shall  
17 conduct a study to examine the establishment and implementation  
18 of a wildfire recovery fund to:

- 19 (1) Provide efficient compensation for damage resulting  
20 from a future wildfire that was allegedly caused or  
21 exacerbated by an electric utility; and

1 (2) Help protect the financial integrity of Hawaii's  
2 regulated utilities.

3 (b) The public utilities commission shall review, examine,  
4 and consider the following:

5 (1) How a fund would impact utility credit ratings and  
6 costs to customers, including comparing how funds in  
7 other states have performed;

8 (2) Whether the establishment of a fund is recommended;

9 (3) If a fund is recommended, a determination of the size  
10 of the wildfire recovery fund, which may include  
11 commissioning of an actuarial study;

12 (4) If a fund is recommended, a determination of the best  
13 approach to capitalizing the fund and whether moneys  
14 used to capitalize the fund should come from  
15 ratepayers or shareholders, or both;

16 (5) If a fund is recommended, a determination of the  
17 proper governance of the public corporation that would  
18 oversee the wildfire recovery fund;

19 (6) If a fund is recommended, a consideration of the  
20 benefits of an administrative process to provide  
21 efficient and low-cost recovery for claimants, and the

1 proper mechanism for providing such an administrative  
2 process; and

3 (7) A consideration of who can participate in the fund and  
4 if parties other than an electric utility should be  
5 considered for participation.

6 (c) The public utilities commission shall submit a report  
7 of its findings and recommendations, including any proposed  
8 legislation, to the legislature no later than twenty days prior  
9 to the convening of the regular session of 2026.

10 PART IV

11 SECTION 6. There is appropriated out of the general  
12 revenues of the State of Hawaii the sum of \$500,000 or so  
13 much thereof as may be necessary for fiscal year 2025-2026 for  
14 consultant contracts.

15 The sum appropriated shall be expended by the public  
16 utilities commission for the purposes of this Act.

17 SECTION 7. There is appropriated out of the public  
18 utilities commission special fund established under section  
19 269-33, Hawaii Revised Statutes, the sum of \$900,000 or so much  
20 thereof as may be necessary for fiscal year 2025-2026 for  
21 consultant contracts for utility dockets.

1 The sum appropriated shall be expended by the division of  
2 consumer advocacy for the purposes of this section.

3 SECTION 8. There is appropriated out of the public  
4 utilities commission special fund established under section  
5 269-33, Hawaii Revised Statutes, the sum of \$300,000 or so much  
6 thereof as may be necessary for fiscal year 2025-2026 for  
7 consultant contracts for utility dockets.

8 The sum appropriated shall be expended by the public  
9 utilities commission for the purposes of this section.

10 SECTION 9. There is appropriated out of the public  
11 utilities commission special fund established under section  
12 269-33, Hawaii Revised Statutes, the sum of \$900,000 or so much  
13 thereof as may be necessary for fiscal year 2025-2026 for other  
14 current expenses related to the Maui wildfires.

15 The sum appropriated shall be expended by the public  
16 utilities commission for the purposes of this section.

17 PART V

18 SECTION 10. In codifying the new sections added by  
19 section 1 of this Act, the revisor of statutes shall substitute  
20 appropriate section numbers for the letters used in designating  
21 the new sections in this Act.

- 1        SECTION 11. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.  
3        SECTION 12. This Act shall take effect on July 1, 2025.





**Report Title:**

DCCA; PUC; Energy; Electric Utilities; Aggregate Liability  
Limit; Securitization; Electric Utility Infrastructure  
Resilience; Study; Report; Appropriation

**Description:**

Allows electric cooperatives to recover wildfire mitigation, repair, and restoration costs through an automatic rate adjustment or other mechanism. Requires the Public Utilities Commission to initiate a proceeding for the adoption of rules, subject to the Governor's approval, to determine an aggregate limit for liability for economic damages from a covered catastrophic wildfire. Authorizes securitization of certain costs for electric utilities. Requires the Public Utilities Commission to conduct studies on whether the framework established in the measure adequately balances electric utility interests and compensation owed to catastrophic wildfire victims and on the establishment and implementation of a wildfire recovery fund and report its findings and recommendations to the Legislature. Appropriates moneys. (CD1)

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

