

**ACT 7**

H.B. NO. 3080

A Bill for an Act Relating to Property of Public Utilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that it is vital to the State's well-being that public utilities ensure that the property they use in the provision of services to customers is maintained at a certain prescribed level. The public utilities commission, the entity charged by the legislature with responsibility over the condition of public utilities and their property, must keep a watchful eye so that the public interest in steady, reliable utility service is served and preserved. Presently, state law mandates that a public utility seek and secure an order from the public utilities commission

## ACT 7

prior to the disposal or encumbrance of property necessary or useful in performing its duties to the public.

The legislature finds, however, that unusual, exigent circumstances call for a public utility to come to the aid of a customer in a time-sensitive manner. The legislature further finds that these unusual, exigent situations sometimes call for a public utility to transfer, assign, or otherwise dispose of its property to help a customer in distress return to normal operations.

The purpose of this Act is to authorize public utilities to transfer, assign, or otherwise dispose of property, except real property, without prior approval from the public utilities commission to aid a customer whose operations have been disrupted in exigent circumstances.

SECTION 2. Section 269-19, Hawaii Revised Statutes, is amended to read as follows:

**“§269-19 Merger and consolidation of public ~~[utility corporations.]~~ utilities. ~~[No]~~ (a) Except as provided in subsection (b), no public utility ~~[corporation]~~** shall sell, lease, assign, mortgage, or otherwise dispose of or encumber the whole or any part of its road, line, plant, system, or other property necessary or useful in the performance of its duties to the public, or any franchise or permit, or any right thereunder, nor by any means, directly or indirectly, merge or consolidate with any other public utility ~~[corporation]~~ without first having secured from the public utilities commission an order authorizing it so to do. Every such sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation, made other than in accordance with the order of the commission shall be void.

**(b) A public utility, under circumstances that it deems exigent and in its judgment require a response that rapidly restores one of its customers to normal, or near normal, operating status in order to prevent serious disruption of essential public services, or avoid serious risk to public safety, or to mitigate severe economic losses to that customer, may transfer, assign, or otherwise dispose of its property without prior approval from the public utilities commission as required in subsection (a); provided that in so doing:**

- (1) The public utility does not unduly hinder or degrade the public utility’s operation with respect to its services or other customers;**
- (2) The public utility is duly compensated for its property; and**
- (3) The public utility reports in detail to the public utilities commission within thirty days of any such action unless otherwise approved by the public utilities commission for good cause shown.**

**For purposes of this subsection, “property” does not include real property.”**

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 4, 2008.)