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# 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 such fires. Although most  
4 property owners have insurance, some do not, and others'  
5 insurance may not fully cover their losses.

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



1 investments in wildfire prevention, among other priorities.

2 Such an outcome harms everyone.

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

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

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



1 this Act is to serve the public interest in the event of a  
2 devastating wildfire by establishing a response to provide  
3 compensation for property damage resulting from wildfires,  
4 regardless of cause.

5 SECTION 2. The Hawaii Revised Statutes is amended by  
6 adding a new chapter to be appropriately designated and to read  
7 as follows:

8 "CHAPTER

9 WILDFIRE RELIEF FUND

10 § -1 Definitions. As used in this chapter:

11 "Administrator" means the wildfire relief fund  
12 administrator appointed pursuant to section -5.

13 "Board" means the wildfire relief fund board of directors  
14 created pursuant to section -4.

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

18 "Contributor" means any person who contributes to the  
19 wildfire relief fund as provided in section -3.



1 "Cooperative utility" means a public utility owned by  
2 customers and overseen by a board of directors elected by  
3 customers.

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

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

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

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

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

15 "Wildfire relief fund" means the wildfire relief fund  
16 established pursuant to section -2.

17 "Wildfire risk mitigation plan" means a plan approved by  
18 the public utilities commission pursuant to section -9.

19 § -2 **Wildfire relief fund; establishment.** (a) There is  
20 established outside the state treasury a wildfire relief fund



1 and any accounts thereunder to carry out the purposes of this  
2 chapter.

3 (b) The wildfire relief fund shall be placed within the  
4 department of commerce and consumer affairs for administrative  
5 purposes. The fund shall be a public body corporate and  
6 politic.

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

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

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

18 (f) The moneys in the wildfire relief fund shall be  
19 invested according to the same investment plans developed for  
20 the Hawaii retirement savings special fund pursuant to chapter



1 389, and the earnings from such investments shall be credited to  
2 the wildfire relief fund.

3 (g) All moneys in the wildfire relief fund shall be  
4 appropriated and expended exclusively for the uses and purposes  
5 set forth in this chapter; provided that this section shall not  
6 be deemed to amend or impair the force or effect of any law of  
7 this State specifically authorizing the investment of moneys  
8 from the wildfire relief fund.

9 (h) The wildfire relief fund shall not be subject to  
10 chapter 431.

11 **§ -3 Wildfire relief fund corporation; establishment;**

12 **purposes; duties.** (a) The wildfire relief fund corporation is  
13 hereby established as an independent public body corporate and  
14 politic.

15 (b) The corporation shall be established within the  
16 department of commerce and consumer affairs for administrative  
17 purposes.

18 (c) The purpose of the corporation shall be to administer  
19 the payment of:

20 (1) Eligible claims arising from catastrophic wildfires  
21 from the wildfire relief fund; and



- 1 (2) Contributions of contributors to the wildfire relief
- 2 fund.
- 3 (d) The corporation shall:
- 4 (1) Receive, process, and determine payments for eligible
- 5 claims for property damage arising from catastrophic
- 6 wildfires from the wildfire relief fund;
- 7 (2) Determine and enforce the collection of contributions
- 8 from contributors to the wildfire relief fund;
- 9 (3) Retain, employ, or contract with officers; experts;
- 10 employees; accountants; actuaries; financial
- 11 professionals; and other advisers, consultants,
- 12 attorneys, and professionals, as may be necessary in
- 13 the administrator's judgment, for the efficient
- 14 operation, management, and administration of the
- 15 corporation;
- 16 (4) Enter into contracts and other obligations related to
- 17 the operation, management, and administration of the
- 18 corporation;
- 19 (5) Purchase insurance or take other actions to maximize
- 20 the claims-paying resources of the wildfire relief
- 21 fund;



- 1 (6) Pay costs, expenses, and other obligations of the  
2 corporation from the wildfire relief fund's assets;
- 3 (7) Take any actions necessary to collect any amounts owed  
4 to the wildfire relief fund; and
- 5 (8) Undertake other activities related to the operation,  
6 management, and administration of the wildfire relief  
7 fund, as approved by the board.

8 **§ -4 Wildfire relief fund corporation; board of**

9 **directors.** (a) There is established a wildfire relief fund  
10 board of directors, which shall consist of members  
11 appointed by the governor in accordance with section 26-34. The  
12 board shall be the policy-making body of the corporation.  
13 Accordingly, the board shall be responsible for adopting  
14 policies for the administration and operation of the wildfire  
15 relief fund and the performance of other duties and functions  
16 assigned to the fund, to the degree not specified in this  
17 chapter.

18 (b) The members of the board shall serve staggered terms,  
19 with one-half of the members' initial terms ending four years  
20 after the initial appointment, and one-half of the members'  
21 initial terms ending six years after the initial appointment.



1 Thereafter, each member shall serve four-year terms. Vacancies  
2 shall be filled for the remainder of any unexpired term in the  
3 same manner as the original appointments.

4 (c) The chairperson of the board shall be elected from  
5 among the appointed members of the board. A majority of all  
6 members currently appointed to the board shall constitute a  
7 quorum to conduct business, and the concurrence of a majority of  
8 all members currently appointed to the board shall be necessary  
9 to make any action valid, if not otherwise specified in this  
10 chapter.

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

12 (1) A broad and balanced representation, with proper  
13 judgment, character, expertise, skills, and knowledge  
14 useful to the oversight of the corporation; and

15 (2) Diversity with regard to viewpoints, background, work  
16 experience, and demographics.

17 The members of the board shall serve without compensation  
18 but shall be reimbursed for actual and necessary expenses,  
19 including travel expenses, incurred in the discharge of their  
20 duties.



1 (e) The board shall meet at least once every three months  
2 at a time and place determined by the board. The board shall  
3 meet at such other times and places as determined by the call of  
4 the chairperson or by a majority of the members of the board.

5 (f) No later than twenty days before the convening of each  
6 regular session, the board shall submit to the legislature and  
7 governor a report regarding the activities and operations of the  
8 corporation during the preceding year. The report shall  
9 include, at a minimum, a description of:

- 10 (1) The effectiveness of the wildfire relief fund's  
11 claims-payment process; and  
12 (2) The level of participation in the wildfire relief fund  
13 by all eligible participants, including property  
14 owners, property insurers, and contributors.

15 The legislature shall consider the report in determining  
16 whether any adjustments to the wildfire relief fund are  
17 necessary.

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

20 **§ -5 Administrator; wildfire relief fund corporation.**

21 (a) The board shall appoint an administrator and oversee the



1 administrator's management and administration of the  
2 corporation.

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

5 (c) The administrator shall have such powers as are  
6 necessary to carry out the functions of the corporation, subject  
7 to the policy direction of the board.

8 (d) The administrator may employ, terminate, and supervise  
9 employees, including assistants, experts, field personnel, and  
10 clerks, as may be necessary in the administration of the  
11 corporation.

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

14 (f) At the direction of the board, the administrator shall  
15 prepare and present for approval a plan of operations related to  
16 the operations, management, and administration of the wildfire  
17 relief fund on an annual basis. At least annually and at the  
18 direction of the board, the administrator shall present the plan  
19 of operations to the appropriate policy committees of the  
20 legislature. The plan shall include but not be limited to



1 reporting on the wildfire relief fund's assets and projections  
2 for the duration of the fund.

3 (g) At the direction of the board, the administrator shall  
4 at least annually prepare and publish on the corporation's  
5 website a public-facing report that describes the operations and  
6 activities of the corporation and wildfire relief fund during  
7 the preceding year, including a description of the financial  
8 condition of the wildfire relief fund.

9 § -6 **Wildfire relief fund and corporation; audit.** (a)

10 The auditor shall conduct an annual audit of the corporation and  
11 wildfire relief fund pursuant to chapter 23. As part of this  
12 audit, the auditor may contract with a firm qualified to perform  
13 an independent actuarial review.

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

17 (1) A review of the sources and uses of the moneys in the  
18 wildfire relief fund;

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



1 (3) An examination of the development of claim reserve  
2 inadequacies or redundancies over time; and  
3 (4) An assessment of the future financial viability of the  
4 wildfire relief fund.

5 (c) The corporation shall cooperate with the actuarial  
6 firm in all respects and shall permit the firm full access to  
7 all information the firm deems necessary for a true and complete  
8 review. Information provided to the actuarial firm conducting  
9 the annual review is subject to the same limitations on public  
10 inspections as are required for the records of the corporation.

11 (d) The audit required by this section shall be conducted  
12 using both generally accepted accounting principles and the  
13 statutory accounting principles published by the National  
14 Association of Insurance Commissioners.

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

17 (f) The auditor shall issue an annual report to the  
18 governor, president of the senate, and speaker of the house of  
19 representatives on the results of the audit and review. The  
20 audit and report of the review performed by the independent  
21 actuarial firm shall be available for public inspection, in



1 accordance with the auditor's established rules and procedures  
2 governing public disclosure of audit documents.

3 (g) The legislature shall consider whether, after review  
4 of the annual report in subsection (f), any adjustments to the  
5 wildfire relief fund should be implemented.

6 § -7 **Wildfire relief fund; participation.** (a) The  
7 following entities may participate in the wildfire relief fund  
8 as contributors:

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



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

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

8 (2) Have made required contributions to the wildfire  
9 relief fund pursuant to section -8.

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

14 (1) Retains all of the rights, privileges, and obligations  
15 of a contributor; and

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

20 (d) Any person or entity that poses a risk of causing or  
21 exacerbating the severity of a catastrophic wildfire that is not



1 eligible to participate as a contributor in the wildfire relief  
2 fund may submit an application to the board for participation.

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

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

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

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



1 legislature and governor under section -4. The legislature  
2 shall consider that assessment, as well as other information  
3 submitted in the annual report, to determine whether adjustments  
4 to the wildfire relief fund, including to its total  
5 capitalization amount, should be implemented.

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

17 (d) Capitalization amounts. With the exception of the  
18 contribution made by the State in paragraph (4), contribution  
19 amounts shall be divided by the administrator into an initial  
20 contribution amount to be made by , and annual  
21 contribution amounts to be made over a five-year period, subject



1 to the administrator's ability to increase payments under the  
2 insufficient funding provision in subsection (g).

3 The wildfire relief fund shall be capitalized by the  
4 following contributions:

5 (1) From other governmental entities that are eligible to  
6 elect to participate in the wildfire relief fund, an  
7 amount determined by the administrator based on an  
8 actuarial assessment of the risk of payments to these  
9 entities by the fund resulting from catastrophic  
10 wildfires created by such entities, as well as the  
11 risk of potential payments made by the fund resulting  
12 from catastrophic wildfires created by these entities;

13 (2) From public utilities other than electric utilities  
14 and private landowners that are in all cases eligible  
15 to participate in the wildfire relief fund, an amount  
16 determined by the administrator based on an actuarial  
17 assessment of the risk of potential payments by the  
18 wildfire relief fund resulting from catastrophic  
19 wildfires created by these entities;

20 (3) From electric utilities, \$ ; and

21 (4) From the State, \$ .



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

11 (f) If an electric utility, public utility other than an  
12 electric utility, other governmental entity, or private  
13 landowner elects to become a contributor after the initial  
14 capitalization of the wildfire relief fund, the electric  
15 utility, public utility other than an electric utility, other  
16 governmental entity, or private landowner shall provide,  
17 by in the year before the year in which the electric  
18 utility, public utility other than an electric utility, other  
19 governmental entity, or private landowner seeks to become a  
20 contributor, an initial contribution in an amount determined by  
21 the board by a majority vote upon the administrator's



1 recommendation, based on an up-to-date consideration of the  
2 factors identified in subsection (b), such that the previous and  
3 present initial contributions by all contributors reflect their  
4 relative contributions to the risk of future payments from the  
5 wildfire relief fund.

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

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



1 capitalization amount after the fifth year--including, in either  
2 case, as a result of the legislature increasing the total  
3 capitalization amount--the administrator shall recommend that  
4 the board establish a supplemental contribution to be  
5 contributed to the wildfire relief fund. Responsibility among  
6 contributors for the supplemental contribution shall be  
7 allocated as follows:

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

16 (2) The remaining amount of the supplemental amount shall  
17 be paid by the State, subject to legislative  
18 appropriation.

19 (h) The administrator may allow contributors to pay  
20 supplemental contributions via annual contributions, or in part  
21 via an initial contribution followed by annual contributions,



1 unless the administrator determines such a contribution schedule  
2 will create a material risk that the wildfire relief fund will  
3 not reach or return to its total capitalization amount within a  
4 reasonable period of time to perform the functions identified in  
5 this chapter.

6 (i) If the board establishes a supplemental contribution  
7 pursuant to subsection (g), before the wildfire relief fund  
8 receives the supplemental contribution, the wildfire relief fund  
9 may issue revenue bonds up to the amount of the supplemental  
10 contribution, which shall be backed by future contributions to  
11 the wildfire relief fund.

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

19 (k) Utility contribution. A public utility's  
20 contributions to the wildfire relief fund, including initial and



1 supplemental contributions, shall not be recovered from its  
2 customers in rates.

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

9 **§ -9 Replenishment of the wildfire relief fund;**

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

20 (b) The public utilities commission shall evaluate the  
21 prudence of the conduct of the public utility in connection with



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

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

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



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

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

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



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

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

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



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

10 § -10 **Failure to make contributions to wildfire relief**

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

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



1 (c) The administrator shall not refund to an entity that  
2 fails to make a contribution any previous payments made to the  
3 wildfire relief fund. However, the administrator shall credit  
4 all such previous contributions when determining the amount of  
5 payment to be made if a participant rejoins the fund under  
6 subsection (b).

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

14 (b) Refunds shall be made in proportion to the total  
15 amount contributed by the contributors to the wildfire relief  
16 fund as of the date of the refund, excluding any payments made  
17 under the replenishment provisions under section -9.

18 (c) The administrator has no obligation to recommend, and  
19 the board has no obligation to authorize, a refund. The board  
20 shall make a refund only if it takes into consideration all  
21 relevant factors and circumstances and determines that making a



1 refund will be unlikely to result in the wildfire relief fund's  
2 falling below one hundred twenty per cent of total  
3 capitalization within three years after the refund.

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

6 (e) If the board elects to issue a refund or elects not to  
7 do so after receiving a request under subsection (d), the  
8 administrator shall issue an order explaining the board's  
9 decision.

10 § -12 **Processing of claims.** (a) With the approval of  
11 the board, the administrator shall establish and approve  
12 procedures for the review, approval, and timely payment of  
13 claims for reimbursement from the wildfire relief fund. The  
14 procedures may be revised from time to time by the administrator  
15 with the approval of the board.

16 (b) In the event of a catastrophic wildfire within the  
17 State, the administrator shall process claims made for  
18 compensation against the wildfire relief fund related to the  
19 catastrophic wildfire, consistent with the requirements of this  
20 chapter.



1           §   -13   **Claims by property owners.**   (a)   To be eligible  
2 for compensation from the wildfire relief fund for damage to  
3 property from a catastrophic wildfire, a property owner shall  
4 not have opted out from participation in the wildfire relief  
5 fund before the occurrence of the catastrophic wildfire.

6           (b)   County tax assessors shall include, with each real  
7 property tax assessment sent to a property owner in the State, a  
8 prominent notice regarding participation in the wildfire relief  
9 fund. The notice shall be in a form prescribed by the  
10 administrator and shall clearly explain the property owner's  
11 right to opt out of participation in the wildfire relief fund by  
12 submitting a request to opt out to the administrator within a  
13 specific time. A property owner who does not submit a timely  
14 request to opt out shall be deemed to participate in the  
15 wildfire relief fund as of the deadline for submitting a request  
16 to opt out.

17           (c)   Any costs of administering the process described in  
18 subsection (b) shall be reimbursed by the wildfire relief fund.

19           (d)   In order to opt out of participation in the wildfire  
20 relief fund with regard to property either in areas within the  
21 State that have been assigned extreme, high, and moderate



1 wildfire risk classes by \_\_\_\_\_, a property owner shall  
2 submit documentation of insurance coverage for such property  
3 along with the property owner's request to opt out of the  
4 wildfire relief fund, and the administrator shall approve such  
5 documentation as adequate evidence of insurance for the  
6 applicable property.

7 (e) Following a catastrophic wildfire, to make a claim for  
8 compensation from the wildfire relief fund for damage to  
9 property from the wildfire, a property owner shall submit to the  
10 administrator documentation establishing:

11 (1) That the catastrophic wildfire damaged the owner's  
12 property;

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

15 (3) Any insurance policy providing coverage for those  
16 losses.

17 (f) Within ninety days after a property owner submits a  
18 claim for compensation from the wildfire relief fund, including  
19 the documentation required in this section, the administrator  
20 shall determine whether the documentation is adequate and, if  
21 so, the appropriate amount of the payment to the property owner



1 from the wildfire relief fund. If the administrator determines  
 2 that the property owner has not submitted sufficient  
 3 documentation for the administrator to evaluate the claim, the  
 4 administrator may request additional documentation from the  
 5 property owner and may set a date by which the additional  
 6 information shall be provided by the property owner.

7 (g) If no insurance policy provides coverage for the  
 8 losses for which a property owner seeks compensation from the  
 9 wildfire relief fund, the property owner shall be eligible to  
 10 receive as compensation from the wildfire relief fund a maximum  
 11 of \$ .

12 (h) If an insurance policy provides coverage for the  
 13 losses for which a property owner seeks compensation from the  
 14 wildfire relief fund, the property owner shall be eligible to  
 15 receive as compensation from the wildfire relief fund an amount  
 16 up to the lesser of:

17 (1) per cent of the amount by which the property  
 18 owner's losses exceed the amount of insurance coverage  
 19 for such losses; or

20 (2) per cent of the property owner's insurance  
 21 coverage applicable to such losses;



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

3       **§ -14 Claims by property insurers.** (a) To be eligible  
4 for compensation from the wildfire relief fund, a property  
5 insurer shall have elected to participate in the fund prior to  
6 the annual policy period in which the catastrophic wildfire  
7 occurred. The administrator shall establish a process for  
8 property insurers to annually submit an election to participate  
9 in the fund to the administrator within a specified time.

10       (b) All property insurers who elect to participate in the  
11 wildfire relief fund shall be eligible to receive as  
12 compensation from the wildfire relief fund       per cent of  
13 their total payments for property damage claims in Hawaii as a  
14 result of a catastrophic wildfire.

15       (c) Following a catastrophic wildfire, to make a claim for  
16 compensation from the wildfire relief fund based on claims  
17 resulting from the catastrophic wildfire, an eligible property  
18 insurer shall submit to the administrator documentation  
19 establishing the number, nature, and total value of insurance  
20 claims that the property insurer paid pursuant to its policies  
21 for damage resulting from the catastrophic wildfire as well as



1 documentation sufficient to assess the reasonableness of the  
2 property insurer's payment of such claims.

3 (d) After receipt of a property insurer's claim for  
4 compensation from the wildfire relief fund, including the  
5 documentation required in this section, the administrator shall:

6 (1) Review via an expedited procedure the property  
7 insurer's claim for compensation from the wildfire  
8 relief fund; and

9 (2) Determine:

10 (A) Whether the documentation provided is adequate;  
11 and

12 (B) The appropriate amount of the payment to the  
13 property insurer from the fund.

14 **§ -15 Claims by the State and other governmental**

15 **entities.** (a) The State may submit claims for compensation  
16 from the wildfire relief fund for damages it incurred resulting  
17 from a catastrophic wildfire, including damage to infrastructure  
18 or other property, costs of fire suppression, and natural  
19 resource damages, to the extent recovery of such losses is  
20 authorized by law.



1 (b) Other governmental entities may submit claims for  
2 compensation from the wildfire relief fund for damages they  
3 incurred resulting from a catastrophic wildfire, including  
4 damage to infrastructure or other property and other losses, to  
5 the extent recovery of such losses is authorized by law;  
6 provided that to be eligible for compensation from the wildfire  
7 relief fund related to a catastrophic wildfire, the other  
8 governmental entity shall elect to be a contributor and shall  
9 have satisfied contribution obligations pursuant to  
10 section -8 before the occurrence of the catastrophic  
11 wildfire.

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

- 15 (1) That the catastrophic wildfire caused the damages;  
16 (2) The extent of the damages caused by the catastrophic  
17 wildfire; and  
18 (3) Any other documentation necessary to establish the  
19 State's or other governmental entity's right to  
20 recover such losses pursuant to law.



1 (d) After receipt of a claim for compensation from the  
2 wildfire relief fund pursuant to this section, the administrator  
3 shall determine whether the State or other governmental entity  
4 is authorized to recover damages under applicable law and, if  
5 so, the appropriate amount of the payment.

6 § -16 **Fund depletion.** (a) Within thirty days of a  
7 catastrophic wildfire, the administrator shall assess whether  
8 the total payments that the wildfire relief fund is projected to  
9 make to eligible property owners, property insurers, and the  
10 State and other governmental entities under  
11 sections -13, -14, and -15, respectively, are expected  
12 to exceed seventy-five per cent of the total available money in  
13 the wildfire relief fund. The board shall adopt rules pursuant  
14 to chapter 91 regarding the performance of this assessment.

15 (b) If the administrator assesses pursuant to subsection  
16 (a) that the total payments that the wildfire relief fund is  
17 projected to make to eligible property owners, property  
18 insurers, and the State and other governmental entities under  
19 sections -13, -14, and -15, respectively, are expected  
20 to exceed seventy-five per cent of the total available money in  
21 the wildfire relief fund, the administrator shall seek to



1 increase the total amount of money in the fund using all  
2 available methods under this chapter.

3 (c) Depletion event. If the administrator is unable,  
4 despite taking the steps under subsection (b), to secure  
5 sufficient additional funding for the wildlife relief fund,  
6 including credible pledges for future funding, to reverse the  
7 administrator's assessment under subsection (a) within forty-  
8 five days, the administrator shall declare the existence of a  
9 depletion event.

10 (d) Depletion percentage. If the administrator declares  
11 the existence of a depletion event, the administrator shall  
12 determine what percentage of total eligible payments the  
13 wildlife relief fund can make without the likelihood that the  
14 payments will exceed seventy-five per cent of the total  
15 available money in the wildlife relief fund. This percentage  
16 shall be deemed the depletion percentage.

17 (e) Depletion payment. The administrator shall thereafter  
18 offer all property owners, property insurers, the State, and  
19 other governmental entities that submit claims for compensation  
20 from the wildfire relief fund and would otherwise, under  
21 sections -13, -14, and -15, respectively, be entitled



1 to a particular payment amount, that amount multiplied by the  
2 depletion percentage. This amount shall be deemed the depletion  
3 payment.

4 (f) All claimants that are offered the depletion payment  
5 may choose to accept or decline the payment. Any property owner  
6 or property insurer, other than a contributor, that declines to  
7 accept the depletion payment shall:

8 (1) Be ineligible for any payments by the wildfire relief  
9 fund with respect to the catastrophic wildfire for  
10 which the claim was made; and

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

14 (g) After the payments to all claimants who accepted the  
15 depletion payment have been made, the administrator may  
16 recommend to the board, and the board may decide, in its  
17 discretion, to make a further payment to all claimants who  
18 accepted the depletion payment. The board shall adopt rules  
19 pursuant to chapter 91 for the making of this decision.

20 (h) Multiple catastrophic events. The board shall adopt  
21 rules pursuant to chapter 91 regarding how to pay claims in the



1 event that one or more catastrophic wildfires occur while the  
2 corporation is in the process of assessing, receiving,  
3 determining, or paying claims from an earlier catastrophic  
4 wildfire.

5       §   -17   **Hearings and appeals of determinations.**   (a)

6 Within thirty days after the administrator's determination of  
7 the amount of payment due to any claimant from the wildfire  
8 relief fund pursuant to sections   -13,   -14, and   -15,  
9 respectively, or the board's determination of a contributor's  
10 allocation for any contribution, the affected person or entity  
11 may request a contested case hearing on that determination  
12 before the department of commerce and consumer affairs pursuant  
13 to chapter 91.

14       (b) Upon receipt of a request for a hearing on the  
15 administrator or board's determination, the office of  
16 administrative hearings shall schedule a hearing date no later  
17 than       days after its receipt of the request for a hearing.

18       (c) Following the conclusion of any hearing or prior to  
19 the conclusion of the hearing, with the concurrence of the  
20 parties, the office of administrative hearings shall promptly,  
21 and no later than       days after the hearing, decide the matter



1 and issue findings of fact, conclusions of law, and a decision  
2 in accordance with the hearing officer's determination.

3 (d) Within days after the date on which a copy of the  
4 office of administrative hearings' order is mailed to the  
5 parties, a party may seek judicial review of the order by filing  
6 a petition for review in the applicable circuit court, with a  
7 right of appeal as allowed by law. If no such petition is  
8 timely filed, the order of the office of administrative hearings  
9 shall be final.

10 § -18 **Limitations on claims.** (a) No suit, claim, or  
11 other civil legal action may be instituted or maintained against  
12 contributors or their affiliates, employees, agents, or  
13 insurers:

14 (1) For recovery of losses or damages of a type for which  
15 compensation may be sought from the wildfire relief  
16 fund; and

17 (2) By persons or entities:

18 (A) Who are contributors, property owners who do not  
19 opt out of the wildfire relief fund, or property  
20 insurers who elect to participate in the wildfire  
21 relief fund; or



1           (B) Who seek indemnity or contribution for amounts  
2           paid, or that may be paid, to contributors,  
3           property owners who do not opt out of the  
4           wildfire relief fund, or property insurers who  
5           elect to participate in the wildfire relief fund.

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

14          (c) The wildfire relief fund shall be subrogated to the  
15          rights of the contributors, property owners who do not opt out  
16          of the wildfire relief fund, and property insurers who elect to  
17          participate in the wildfire relief fund, to the extent of any  
18          payment made by the wildfire relief fund to such person or  
19          entity, such that the wildfire relief fund may pursue claims  
20          against a person or entity that is not a contributor for damages  
21          resulting from the catastrophic wildfire."



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

5 SECTION 4. There is appropriated out of the general  
 6 revenues of the State of Hawaii the sum of \$ or so  
 7 much thereof as may be necessary for fiscal year 2024-2025 for  
 8 the establishment of one full-time equivalent (1.0 FTE)  
 9 administrator position, who shall be exempt from chapter 76,  
 10 Hawaii Revised Statutes, to support the Hawaii wildfire relief  
 11 fund corporation; provided that in all subsequent fiscal years,  
 12 all funding for the administrator position shall be paid from  
 13 the wildfire relief fund.

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

16 SECTION 5. In accordance with section 9 of article VII of  
 17 the Hawaii State Constitution and sections 37-91 and 37-93,  
 18 Hawaii Revised Statutes, the legislature has determined that the  
 19 appropriations contained in H.B. No. , will cause the state  
 20 general fund expenditure ceiling for fiscal year 2024-2025 to be  
 21 exceeded by \$ or per cent. In addition, the



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

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

13       SECTION 6. This Act shall take effect on July 1, 3000.



**Report Title:**

Hawaii Wildfire Relief Fund and Corporation; Public Utilities Commission; Catastrophic Wildfire; Appropriation; Expenditure Ceiling

**Description:**

Establishes the Hawaii Wildfire Relief Fund and Corporation to provide compensation for property damage resulting from catastrophic wildfires in the State. Appropriates funds. Effective 7/1/3000. (HD1)

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