

JAN 17 2025

A BILL FOR AN ACT

RELATING TO WILDFIRES.

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

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

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



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

6 This Act:

7 (1) Preserves claimants' right to pursue litigation if
8 they choose to reject the amount offered through the
9 administrative claims process;

10 (2) Limits the total amount that can be paid for property
11 damage through both the administrative claims process
12 and litigation, balancing the interests of those
13 affected by a catastrophic fire in obtaining
14 compensation and the interests of the public utilities
15 in mitigating the risk of financial instability that
16 can result from unlimited liability;

17 (3) Requires the public utilities commission to review the
18 conduct of the public utility and to order the utility
19 to replenish the fund, up to a cap, if it finds that
20 the utility acted imprudently; and



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

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



1 priorities that may affect the health and safety of the State's
2 residents.

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

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

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

17 **"CHAPTER A**

18 **WILDFIRE RECOVERY FUND**

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



1 "Catastrophic wildfire" means a wildfire occurring in the
2 State on or after the operation date that destroys more than
3 five hundred commercial structures or residential structures
4 designed for habitation.

5 "Commission" means the public utilities commission.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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



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

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

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

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

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



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

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

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

10 (1) Be a public utility that has a wildfire risk
11 mitigation plan that has been approved or accepted by
12 the commission;

13 (2) Notify the executive director, in the year before the
14 person or entity becomes a contributor, that it
15 intends to participate in the wildfire recovery fund;
16 and

17 (3) Agree to make an initial contribution, the payment of
18 which is thereafter a binding commitment enforceable
19 by the executive director.

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



1 (1) \$1,000,000,000 plus interest as provided in subsection
2 (c) for amounts not securitized, which amounts shall
3 be recovered from its customers in nonbypassable
4 rates; and

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

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

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



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

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

7 (f) If a contributor fails to pay any part of an initial
8 contribution or a supplemental contribution that it agreed to
9 make, or elects not to agree to make a supplemental
10 contribution, that contributor will no longer be a contributor
11 as of the date on which the payment was due, and the contributor
12 shall not receive any refund of payments previously made;
13 provided that a contributor that elects not to make a
14 supplemental contribution shall be a contributor as to any
15 catastrophic wildfire that occurs prior to the election date.

16 After failing to, or electing not to, make a payment, a public
17 utility may rejoin the wildfire recovery fund as a contributor
18 on a prospective basis if it makes owed payments with interest.

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



1 retrospective payments (i.e., payments made after a wildfire
2 occurs).

3 (h) Initial and supplemental contributions of investor-
4 owned electric utilities shall constitute "wildfire recovery
5 costs" as defined in section B-1.

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

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

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



1 prudence of the public utility's conduct leading to the
2 catastrophic wildfire.

3 (b) The commission shall determine whether the contributor
4 acted prudently:

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

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

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



1 contributor's imprudence and factors within and beyond the
2 contributor's control that may have led to or exacerbated the
3 costs from the covered catastrophic wildfire, including but not
4 limited to humidity, temperature, winds, fuel, merged wildfires
5 with independent ignitions, third-party actions that affected
6 the spread of the wildfire, and fire suppression activities.

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

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

14 **§A-6 Claims for payment by qualified claimants;**
15 **presentment requirement.** (a) The executive director shall
16 adopt rules pursuant to chapter 91 to create a process through
17 which a qualified claimant that is not a government entity may
18 submit to the wildfire recovery fund a claim for payment of
19 economic damages arising out of property damage resulting from a
20 covered catastrophic wildfire, including a deadline to submit
21 claims.



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

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

- 18 (1) The economic damages sought by all qualified claimants
19 in the aggregate;
- 20 (2) The amount available to the wildfire recovery fund
21 relative to the amount under paragraph (1);



1 (3) The strength of any evidence of contributor liability;
2 and

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

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

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



1 contributions that contributors are obligated to make to the
2 wildfire recovery fund under payment schedules.

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

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

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

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

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



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

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

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

17 **SA-9 Limitations on claims.** (a) No qualifying action may
18 be instituted or maintained by a qualified claimant against
19 contributors or their affiliates, employees, agents, or insurers
20 if the qualified claimant accepts an offer under section A-6;
21 provided that the rights of a property insurer to sue as a



1 subrogee of its policyholder shall not be affected by a property
2 owner's or tenant's acceptance of an offer under section A-6 and
3 the subrogation rights shall be affected only if the property
4 insurer elects to accept an offer under section A-6.

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

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

17 **§A-11 Reporting; refunds authorized by legislature.** (a)
18 The executive director shall submit to the legislature an annual
19 report regarding the wildfire recovery fund no later than ninety
20 days prior to the beginning of each regular session until 2034.
21 The annual plan submitted by the executive director shall



1 include an update on the activities of the wildfire recovery
2 fund.

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

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

17 **SA-12 Inadmissible evidence.** Any findings made or
18 evidence submitted for purposes of proceedings under sections A-
19 4, A-6, and A-7 shall be subject to the limits on admissibility
20 under rule 408, section 626-1.

21 **CHAPTER B**



SECURITIZATION

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

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

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

"Bond" means any bond, note, certificate of participation or beneficial interest, or other evidence of indebtedness or



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

6 "Commission" means the public utilities commission.

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

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

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



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

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

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



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

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

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

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



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

16 "Financing order" means an order of the commission under
17 this chapter that has become final and no longer subject to
18 appeal as provided by law and that authorizes the issuance of
19 bonds and the imposition, adjustment from time to time, and
20 collection of wildfire recovery charges, and that shall include
21 a procedure to require the expeditious approval by the



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

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

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

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



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

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

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

17 "Wildfire recovery costs" means an investor-owned electric
18 utility's contributions to the wildfire recovery fund, as set
19 forth in section A-3, and electric cooperative wildfire claims
20 costs. Wildfire recovery costs shall also include professional
21 fees, consultant fees, redemption premiums, tender premiums, and



1 other costs incurred by the electric utility in using proceeds
2 of bonds to acquire outstanding securities of the electric
3 utility that the commission has determined were or will be
4 prudently incurred.

5 "Wildfire recovery fund" means the wildfire recovery fund
6 established by chapter A.

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

11 (1) In and to the wildfire recovery charge established
12 pursuant to a financing order, including the right to
13 impose, bill, collect, and receive such wildfire
14 recovery charges under the financing order and all
15 rights to obtain adjustments to the wildfire recovery
16 charge in accordance with section B-3 and the
17 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 wildfire recovery charge that is the subject
4 of a financing order.

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

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

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



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



1 recovery charge associated with the issuance of each
2 series of bonds is expected to be imposed and
3 collected;

4 (5) An estimate of the financing costs associated with the
5 issuance of each series of bonds;

6 (6) An estimate of the amount of the wildfire recovery
7 charge revenues necessary to pay principal and
8 interest on the bonds and all other associated
9 financing costs as set forth in the application and
10 the calculation for that estimate;

11 (7) A proposed design of the wildfire recovery charge and
12 a proposed methodology for allocating the wildfire
13 recovery charge among customer classes within the
14 electric utility's service territory;

15 (8) A description of the financing entity selected by the
16 electric utility;

17 (9) A description of a proposed true-up adjustment
18 mechanism for the adjustment of the wildfire recovery
19 charge to correct for any overcollection or
20 undercollection of the wildfire recovery charge, and
21 to otherwise ensure the timely payment of principal



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

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

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

9 (1) How the wildfire recovery charges will be allocated
10 among the applicant electric utilities in a manner
11 that is equitable and that need not correspond to the
12 incurrence of wildfire recovery costs by each electric
13 utility; and

14 (2) Whether and how the consumers of any of the applicant
15 electric utilities will be responsible for the payment
16 of wildfire recovery charges allocated to consumers of
17 affiliate electric utilities.

18 In the alternative, an electric utility may apply for a
19 financing order to issue bonds to recover wildfire recovery
20 costs, including wildfire recovery costs incurred, or to be
21 incurred, by the applicant and one or more of its affiliate



1 electric utilities. In connection with the issuance of a
2 financing order pursuant to this subsection, the commission
3 shall issue a concurrent order to the affiliate electric utility
4 or electric utilities directing such affiliate electric utility
5 or electric utilities to impose rates on its or their consumers
6 designed to generate revenue sufficient to pay credits over the
7 life of the bonds to the applicant electric utility in such
8 amount as the commission determines is equitable, just, and
9 reasonable. Such an application shall describe the allocation
10 method and adjustment mechanism for the affiliate electric
11 utility credit payments proposed to be subject to the concurrent
12 commission order.

13 (d) The commission shall issue an approval or denial of
14 any application for a financing order filed pursuant to this
15 section within ninety days of the last filing in the applicable
16 docket but no later than one year after the application is
17 filed.

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

20 (1) Whether the recovery of such costs is consistent with
21 the public interest;



1 (2) Whether the structuring, marketing, and pricing of the
2 bonds are expected to result in the lowest wildfire
3 recovery charges consistent with market conditions at
4 the time at which the bonds are priced and the terms
5 of the financing order;

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

8 (4) With respect to an application by an investor-owned
9 utility, whether the recovery of wildfire recovery
10 costs through the designation of the wildfire recovery
11 charges and any associated fixed recovery tax amounts,
12 and the issuance of bonds in connection with the
13 wildfire recovery charges, would result in net savings
14 or mitigate rate impacts to consumers, as compared to
15 rate recovery without securitization; and

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

18 If the commission makes the determination specified in this
19 section, the commission shall establish, as part of the
20 financing order, a procedure for the electric utility to submit
21 applications from time to time to request the issuance of



1 additional financing orders designating wildfire recovery
2 charges and any associated fixed recovery tax amounts as
3 recoverable.

4 At the option of the electric utility, the electric utility
5 may include in its application for a financing order a request
6 for authorization to sell, transfer, assign, or pledge wildfire
7 recovery property to a governmental entity if the electric
8 utility expects bonds issued by a governmental entity would
9 result in a more cost-efficient means, taking into account all
10 financing costs related to the bonds, than using another
11 financing entity to issue bonds to finance the same wildfire
12 recovery costs, taking into account the costs of issuing the
13 other financing entity's bonds.

14 (f) Wildfire recovery charges and any associated fixed
15 recovery tax amounts shall be imposed only on existing and
16 future consumers in the utility service territory. Consumers
17 within the utility service territory of the electric utility
18 that are subject to the financing order shall continue to pay
19 wildfire recovery charges and any associated fixed recovery tax
20 amounts until the bonds and associated financing costs are paid
21 in full by the financing entity.



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

5 A financing order shall remain in effect and unabated
6 notwithstanding the bankruptcy, reorganization, or insolvency of
7 the electric utility or the commencement of any judicial or
8 nonjudicial proceeding on the financing order.

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



1 the wildfire recovery property. The prohibited actions shall be
2 the following:

3 (1) Alter the provisions of this chapter, which authorize
4 the commission to create an irrevocable contract right
5 or choice in action by the issuance of a financing
6 order, to create wildfire recovery property and make
7 the wildfire recovery charges imposed by a financing
8 order irrevocable, binding, nonbypassable charges for
9 all existing and future consumers;

10 (2) Take or permit any action that impairs or would impair
11 the value of wildfire recovery property or the
12 security for the bonds or revise the wildfire recovery
13 costs for which recovery is authorized;

14 (3) In any way impair the rights and remedies of the
15 bondholders, assignees, and other financing parties;

16 (4) Except for changes made pursuant to the formula-based
17 true-up mechanism authorized under subsection (d),
18 reduce, alter, or impair wildfire recovery charges
19 that are to be imposed, billed, charged, collected,
20 and remitted for the benefit of the bondholders, any
21 assignee, and any other financing parties until any



1 and all principal, interest, premium, financing costs,
2 and other fees, expenses, or charges incurred, and any
3 contracts to be performed, in connection with the
4 related bonds have been paid and performed in full.

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

7 (c) Under a financing order, the electric utility shall
8 retain sole discretion to select the financing entity and to
9 cause bonds to be issued, including the right to defer or
10 postpone the issuance, assignment, sale, or transfer of wildfire
11 recovery property.

12 (d) The commission may create, pursuant to an application
13 from an electric utility, a nonbypassable charge referred to as
14 a wildfire recovery charge, which shall be applied to recover
15 principal, interest, and other financing costs relating to the
16 bonds. The wildfire recovery charge shall be a dedicated,
17 discrete tariff rider.

18 The commission shall, in any financing order, establish a
19 procedure for periodic true-up adjustments to wildfire recovery
20 charges, which shall be made at least annually and may be made
21 more frequently. Within thirty days after receiving an electric



1 utility's filing of a true-up adjustment, the commission's
2 review of the filing shall be limited to mathematical or
3 clerical errors as determined in accordance with any true-up
4 adjustment formulas set forth in the applicable financing order.

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

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

18 All bonds shall contain on the face thereof a statement to
19 the following effect: "Neither the full faith and credit nor
20 the taxing power of the State of Hawaii is pledged to the



1 payment of the principal of, or interest and premium on, this
2 bond."

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

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



1 (g) Any successor to a financing entity shall be bound by
2 the requirements of this chapter and shall perform and satisfy
3 all obligations of and have the same rights under a financing
4 order as, and to the same extent as, the financing entity.

5 **SB-4 Bonds; issuance; wildfire recovery property interests.**

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

17 (1) The financing entity or a trustee for the holders of
18 bonds or the holders of an ancillary agreement in
19 connection with the exercise of remedies upon a
20 default under the terms of the bonds; or



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

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

8 (1) Continue to operate its system to provide service to
9 consumers within its service territory;

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

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

15 Contracting with the financing entity or its assignees in
16 accordance with that authorization shall not impair or negate
17 the characterization of the sale, assignment, or pledge as an
18 absolute transfer, a true sale, or a security interest, as
19 applicable. To the extent that billing, collection, and other
20 related services with respect to the provision of the electric
21 utility's services are provided to a consumer by any person or



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

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

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



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

18 (e) Wildfire recovery property; wildfire recovery charges;
19 and the interests of an assignee, bondholder, or financing
20 entity, or any pledgee in wildfire recovery property and
21 wildfire recovery charges shall not be subject to setoff,



1 counterclaim, surcharge, recoupment, or defense by the electric
2 utility or any other person or in connection with the
3 bankruptcy, reorganization, or other insolvency proceeding of
4 the electric utility, any affiliate of the electric utility, or
5 any other entity.

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

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



1 charge based upon customer revenues as determined by the
2 commission for each consumer class in any financing order.

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

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

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

20 **§B-6 Security interests in wildfire recovery property;**
21 **financing statements.** (a) A security interest in wildfire



1 recovery property is valid and enforceable against the pledgor
2 and third parties, subject to the rights of any third parties
3 holding security interests in the wildfire recovery property
4 perfected in the manner described in this section, and attaches
5 when all of the following have occurred:

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

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

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

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

19 Any description of the wildfire recovery property shall be
20 sufficient if it refers to the financing order creating the
21 wildfire recovery property. A copy of the financing statement



1 shall be filed with the commission by the electric utility that
2 is the pledgor or transferor of the wildfire recovery property,
3 and the commission may require the electric utility to make
4 other filings with respect to the security interest in
5 accordance with procedures that the commission may establish;
6 provided that the filings shall not affect the perfection of the
7 security interest.

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

17 (d) Subject to the terms of the security agreement
18 covering the wildfire recovery property and the rights of any
19 third parties holding security interests in the wildfire
20 recovery property, perfected in the manner described in this
21 section, the validity and relative priority of a security



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

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

14 (e) If default occurs under the security agreement
15 covering the wildfire recovery property, the pledgees of the
16 wildfire recovery property, subject to the terms of the security
17 agreement, shall have all rights and remedies of a secured party
18 upon default under article 9 of chapter 490 and shall be
19 entitled to foreclose or otherwise enforce their security
20 interest in the wildfire recovery property, subject to the
21 rights of any third parties holding prior security interests in



1 the wildfire recovery property perfected in the manner provided
2 in this section.

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



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

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

16 (b) The characterization of the sale, assignment, or
17 transfer as an absolute transfer and true sale and the
18 corresponding characterization of the property interest of the
19 assignee shall not be affected or impaired by, among other
20 things, the occurrence of any of the following:



- 1 (1) Commingling of wildfire recovery charge revenues with
- 2 other amounts;
- 3 (2) The retention by the seller of either of the
- 4 following:
- 5 (A) A partial or residual interest, including an
- 6 equity interest, in the financing entity or the
- 7 wildfire recovery property, whether direct or
- 8 indirect, subordinate or otherwise; or
- 9 (B) The right to recover costs associated with taxes,
- 10 franchise fees, or license fees imposed on the
- 11 collection of wildfire recovery charge;
- 12 (3) Any recourse that an assignee may have against the
- 13 seller;
- 14 (4) Any indemnification rights, obligations, or repurchase
- 15 rights made or provided by the seller;
- 16 (5) The obligation of the seller to collect wildfire
- 17 recovery charges on behalf of an assignee;
- 18 (6) The treatment of the sale, assignment, or transfer for
- 19 tax, financial reporting, or other purpose; or
- 20 (7) Any true-up adjustment of the wildfire recovery charge
- 21 as provided in the financing order.



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

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

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

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



1 procedures the commission may establish, but these filings shall
2 not affect the perfection of the transfer.

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

17 (b) The commission may require in a financing order that
18 if a default by the electric utility in remittance of the
19 wildfire recovery charge collected arising with respect to
20 wildfire recovery property occurs, the commission, without
21 limiting any other remedies available to any financing party by



1 reason of the default, shall order the sequestration and payment
2 to the beneficiaries of the wildfire recovery charge collected
3 arising with respect to the wildfire recovery property. Any
4 order shall remain in full force and effect notwithstanding any
5 bankruptcy, reorganization, or other insolvency proceedings with
6 respect to the electric utility.

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

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

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

19 **"§269-17 Issuance of securities.** A public utility
20 corporation may, on securing the prior approval of the public
21 utilities commission, and not otherwise, except as provided in



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



1 utility operations or rate base. A public utility corporation
2 may not issue securities to acquire property or to construct,
3 complete, extend or improve or add to its facilities or service
4 if the commission determines that the proposed purpose will have
5 a material adverse effect on its public utility operations.

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

11 SECTION 4. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect on July 1, 2025.

14

INTRODUCED BY: _____

A large, stylized handwritten signature in black ink is written over a horizontal line. The signature is cursive and appears to be the name of the legislator who introduced the bill.

S.B. NO. 1201

Report Title:

Wildfire Recovery Fund; Securitization

Description:

Establishes the Wildfire Recovery Fund. Allows securitization for electric utilities.

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

