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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 the State 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 §A-1 Definitions. As used in this chapter:

20 "Catastrophic wildfire" means a wildfire occurring in the  
21 State on or after the operation date that:



- 1 (1) Destroys more than five hundred commercial structures  
2 or residential structures designed for habitation; or  
3 (2) For an electric cooperative with less than fifty  
4 thousand residential members, meets a threshold dollar  
5 amount of potential claims to be determined by the  
6 executive director.

7 "Commission" means the public utilities commission.

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

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

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

15 "Electric utility" means a public utility that exists for  
16 the furnishing of electrical power.

17 "Executive director" means the executive director of the  
18 wildfire recovery fund.

19 "Government entity" means any government agency,  
20 department, division, subdivision, unit, component, bureau,



1 commission, office, board, or instrumentality of any kind,  
2 including federal, state, and municipal entities.

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

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

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

12 "Property owner" means an owner of real property in the  
13 State.

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

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

18 "Qualifying action" means a civil action by a qualifying  
19 claimant to recover qualifying damages.



1 "Qualifying damages" means damages arising out of the loss  
2 of or damage to real or personal property from a covered  
3 catastrophic wildfire.

4 "Tenant" means a person or entity lawfully entitled to  
5 occupy real property that the person or entity does not own in  
6 the State.

7 "Wildfire mitigation plan compliance report" means an  
8 annual report reviewed and approved by the commission that  
9 documents utility compliance with an approved or accepted  
10 wildfire risk mitigation plan. "Wildfire mitigation plan  
11 compliance report" includes a quantitative analysis of wildfire  
12 risk reduction implemented by the electric utility in each year.

13 "Wildfire recovery fund" means the wildfire recovery fund  
14 established by section A-2.

15 "Wildfire risk mitigation plan" means a plan, which may  
16 include a natural hazard mitigation report, in which a public  
17 utility addresses how it will mitigate the risk of its equipment  
18 in causing or exacerbating a wildfire.

19 **§A-2 Wildfire recovery fund; establishment; executive**  
20 **director.** (a) There is established outside the state treasury a  
21 wildfire recovery fund and any accounts thereunder to carry out



1 the purposes of this chapter. All moneys in the wildfire  
2 recovery fund shall be expended exclusively for the uses and  
3 purposes set forth in this chapter. The wildfire recovery fund  
4 shall not be subject to chapter 431. The moneys in the wildfire  
5 recovery fund not required for immediate use shall be invested  
6 by the executive director for the benefit of the wildfire  
7 recovery fund; provided that no assets of the program shall be  
8 transferred to the general fund of the State or to any other  
9 fund of the State or otherwise encumbered or used for any  
10 purpose other than those specified for the wildfire recovery  
11 fund.

12 (b) The wildfire recovery fund shall be placed within the  
13 department of commerce and consumer affairs for administrative  
14 purposes. The fund shall be a public body corporate and  
15 politic.

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

20 (d) The executive director shall be responsible for the  
21 day-to-day operations and management of the wildfire recovery



1 fund and shall perform all functions necessary to implement this  
2 chapter, including entering into contracts and other obligations  
3 related to the operation, management, and administration of the  
4 wildfire recovery fund.

5 (e) The executive director may retain, employ, or contract  
6 with officers; experts; employees; accountants; actuaries;  
7 financial professionals; and other advisers, consultants,  
8 attorneys, and professionals, as may be necessary in the  
9 executive director's judgment, for the efficient operation,  
10 management, and administration of the wildfire recovery fund.

11 (f) The executive director shall have the power to issue  
12 revenue bonds, from time to time, in such principal amounts as  
13 the executive director may deem advisable for the purpose of  
14 this chapter, backed by future payments to the wildfire recovery  
15 fund that contributors have committed to make. These bonds  
16 shall be issued pursuant to part III of chapter 39, except as  
17 provided in this chapter.

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



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

4           (1) Be a public utility that has a wildfire risk  
5 mitigation plan that has been approved or accepted by  
6 the commission;

7           (2) Notify the executive director, in the year before the  
8 person or entity becomes a contributor, that it  
9 intends to participate in the wildfire recovery fund;  
10 and

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

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

16           (1) \$           plus interest as provided in subsection  
17           (c) for amounts not securitized, which amounts shall  
18 be recovered from its customers in nonbypassable  
19 rates; and



1           (2)   \$                    which amount shall be funded by  
2                   shareholders of those investor-owned electric  
3                   utilities.

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

12          (d)   The executive director shall determine the initial  
13   contributions from other public utilities based on an actuarial  
14   assessment of the risk of potential payments by the wildfire  
15   recovery fund resulting from covered catastrophic wildfires  
16   created by the public utility.

17          (e)   The executive director may propose supplemental  
18   contributions to the wildfire recovery fund by participating  
19   public utilities.

20          (f)   If a contributor fails to pay any part of an initial  
21   contribution or a supplemental contribution that it agreed to



1 make, or elects not to agree to make a supplemental  
2 contribution, that contributor will no longer be a contributor  
3 as of the date on which the payment was due, and the contributor  
4 shall not receive any refund of payments previously made;  
5 provided that a contributor that elects not to make a  
6 supplemental contribution shall be a contributor as to any  
7 catastrophic wildfire that occurs prior to the election date.  
8 After failing to, or electing not to, make a payment, a public  
9 utility may rejoin the wildfire recovery fund as a contributor  
10 on a prospective basis if it makes owed payments with interest.

11 (g) The executive director shall adopt rules pursuant to  
12 chapter 91 regarding the timing of initial and supplemental  
13 contributions, which may include upfront, annual, and  
14 retrospective payments (i.e., payments made after a wildfire  
15 occurs).

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

19 **SA-4 Determination of a covered catastrophic wildfire.**

20 The executive director shall adopt rules pursuant to chapter 91  
21 regarding how to determine whether a wildfire is a covered



1 catastrophic wildfire. These rules shall include a requirement  
2 that a wildfire shall be determined to be a covered catastrophic  
3 wildfire if a party makes non-frivolous allegations in a legal  
4 action that a contributor's facilities caused or contributed to  
5 the severity of a catastrophic wildfire.

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

16 (b) The commission shall determine whether the contributor  
17 acted prudently:

18 (1) Considering only acts that may have caused the  
19 occurrence or contributed to the severity of the  
20 covered catastrophic wildfire; and



1           (2) Evaluating the contributor's actions in the context of  
2           its overall systems, processes, and programs, such  
3           that an error by a contributor's employee would not be  
4           a basis for a finding of imprudence, unless that error  
5           resulted from an imprudent system, process, or  
6           program.

7           (c) If the commission determines that imprudent conduct by  
8           the contributor caused the occurrence or contributed to the  
9           severity of a covered catastrophic wildfire, the commission  
10          shall determine whether to order the contributor to replenish  
11          the wildfire recovery fund in whole or in part for payments from  
12          the wildfire recovery fund in connection with the catastrophic  
13          wildfire. In determining the amount of replenishment, if any,  
14          the commission shall consider the extent and severity of the  
15          contributor's imprudence and factors within and beyond the  
16          contributor's control that may have led to or exacerbated the  
17          costs from the covered catastrophic wildfire, including but not  
18          limited to humidity, temperature, winds, fuel, merged wildfires  
19          with independent ignitions, third-party actions that affected  
20          the spread of the wildfire, and fire suppression activities.



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

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

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

16 (b) A qualified claimant shall file a claim for payment  
17 for economic damages arising out of the loss of or damage to  
18 real or personal property from a covered catastrophic wildfire  
19 pursuant to this section. The claim of a qualified claimant  
20 that is not a property insurer shall be limited to uninsured  
21 economic damages. A qualified claimant shall not file or



1 maintain a civil action against a contributor unless and until  
2 it rejects an offer of settlement from the wildfire recovery  
3 fund.

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

- 8 (1) The economic damages sought by all qualified claimants  
9 in the aggregate;
- 10 (2) The amount available to the wildfire recovery fund  
11 relative to the amount under paragraph (1);
- 12 (3) The strength of any evidence of contributor liability;  
13 and
- 14 (4) The strength of any evidence of involvement of non-  
15 contributor third-parties.

16 **SA-7 Claims for payment by contributors.** The executive  
17 director shall adopt rules pursuant to chapter 91 to create a  
18 process through which a contributor may obtain payment from the  
19 wildfire recovery fund to satisfy settled or finally adjudicated  
20 claims for recovery of qualifying damages after exhausting the  
21 contributor's available insurance. The rules shall establish



1 the standard for approving any settlement. To the extent that  
2 the wildfire recovery fund lacks sufficient funds to make a  
3 payment to a participating utility when sought, the wildfire  
4 recovery fund shall make such payment upon receipt of  
5 contributions that contributors are obligated to make to the  
6 wildfire recovery fund under payment schedules.

7 **SA-8 Limitations on claims.** (a) No qualifying action may  
8 be instituted or maintained by a qualified claimant against  
9 contributors or their affiliates, employees, agents, or insurers  
10 if the qualified claimant accepts an offer under section A-6;  
11 provided that the rights of a property insurer to sue as a  
12 subrogee of its policyholder shall not be affected by a property  
13 owner's or tenant's acceptance of an offer under section A-6 and  
14 the subrogation rights shall be affected only if the property  
15 insurer elects to accept an offer under section A-6.

16 (b) No suit, claim, arbitration, or other civil legal  
17 action for indemnity or contribution for amounts paid, or that  
18 may be paid, as a result of a covered catastrophic wildfire, may  
19 be instituted or maintained by any persons or entities against  
20 contributors or their affiliates, employees, agents, or insurers  
21 for qualifying damages.



1           **SA-9 Several liability.** Any law to the contrary  
2 notwithstanding, joint and several liability is abolished for  
3 any qualifying damages. Any person or entity that is sued for  
4 qualifying damages may argue for apportionment of fault to any  
5 other person or entity regardless of whether that person or  
6 entity is a party to the action.

7           **SA-10 Reporting; refunds authorized by legislature.** (a)  
8 The executive director shall submit to the legislature an annual  
9 report regarding the wildfire recovery fund no later than ninety  
10 days prior to the beginning of each regular session until 2034.  
11 The annual report submitted by the executive director shall  
12 include an update on the activities of the wildfire recovery  
13 fund.

14           (b) No later than ninety days prior to the regular session  
15 of 2035, the executive director shall submit a report regarding  
16 the financial status and resources of the wildfire recovery fund  
17 relative to the then-current assessment of actuarial risk of a  
18 catastrophic wildfire.

19           (c) Based on the report in subsection (b), the legislature  
20 may determine that the wildfire recovery fund is overfunded and  
21 direct the executive director to return contributions, in whole



1 or in part, with associated investment earnings, to  
 2 contributors. Any payments made to the wildfire recovery fund  
 3 that were recovered in regulated rates from customers, and any  
 4 investment earnings associated with those payments, shall, in  
 5 the event that the legislature orders a refund, be returned to  
 6 those customers.

7 **§A-11 Inadmissible evidence.** Any findings made or  
 8 evidence submitted for purposes of proceedings under sections A-  
 9 4, A-6, and A-7 shall be subject to the limits on admissibility  
 10 under rule 408, section 626-1.

11 **CHAPTER B**

12 **SECURITIZATION**

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

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



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

10 "Bond" means any bond, note, certificate of participation  
11 or beneficial interest, or other evidence of indebtedness or  
12 ownership that is issued by the financing entity under a  
13 financing order, the proceeds of which are used directly or  
14 indirectly to recover, finance, or refinance financing costs of  
15 any wildfire recovery costs, and that are directly or indirectly  
16 secured by or payable from wildfire recovery property.

17 "Commission" means the public utilities commission.

18 "Consumer" means any individual, governmental body, trust,  
19 business entity, or nonprofit organization that consumes  
20 electricity that has been transmitted or distributed by means of  
21 electric transmission or distribution facilities, whether those



1 electric transmission or distribution facilities are owned by  
2 the consumer, the electric utility, or any other party.

3 "Electric cooperative" means an electric utility that  
4 satisfies the requirements under section 269-31(c):

5 "Electric cooperative wildfire claims costs" means costs  
6 incurred by an electric cooperative to resolve third-party  
7 liability claims arising from any wildfire occurring in the  
8 State that are not covered by insurance and that the commission  
9 finds to be just and reasonable. "Electric cooperative wildfire  
10 claims costs" do not include costs incurred by an investor-owned  
11 electric utility.

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

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

20 "Financing costs" means the costs to issue, service, repay,  
21 or refinance bonds, whether incurred or paid upon issuance of



1 the bonds or over the life of the bonds, if they are approved  
2 for recovery by the commission in a financing order. "Financing  
3 costs" may include any of the following:

- 4 (1) Principal, interest, and redemption premiums that are  
5 payable on bonds;
- 6 (2) A payment required under an ancillary agreement;
- 7 (3) An amount required to fund or replenish reserve  
8 accounts or other accounts established under an  
9 indenture, ancillary agreement, or other financing  
10 document related to the bonds;
- 11 (4) Taxes, franchise fees, or license fees imposed on a  
12 financing entity as a result of the issuance of the  
13 financing order; the assignment, sale, or transfer of  
14 any wildfire recovery property; or the sale of the  
15 bonds, or imposed on the wildfire recovery charges, or  
16 otherwise resulting from the collection of the  
17 wildfire recovery charge, in any such case whether  
18 paid, payable, or accrued;
- 19 (5) Costs related to issuing and servicing bonds or the  
20 application for a financing order, including without  
21 limitation servicing fees and expenses, trustee fees



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

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

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

16          Subject to section B-6(c), an entity to which an electric  
17          utility sells, assigns, or pledges all or a portion of the  
18          electric utility's interest in wildfire recovery property may  
19          include any governmental entity that is able to issue bonds that  
20          are exempt from federal tax pursuant to section 103 of the  
21          Internal Revenue Code of 1986, as amended, including the State



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

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



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

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

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

14 "Investor-owned utility" means a public utility that is  
15 owned by shareholders and overseen by a board of directors  
16 elected by shareholders.

17 "Public utility" has the same meaning as defined in section  
18 269-1.

19 "True-up adjustment" means a formulaic adjustment to the  
20 wildfire recovery charges as they appear on consumer bills that  
21 is necessary to correct for any overcollection or



1 undercollection of the wildfire recovery charges authorized by a  
2 financing order and to otherwise ensure the timely and complete  
3 payment and recovery of wildfire recovery costs over the  
4 authorized repayment term.

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

13 "Wildfire recovery costs" means an investor-owned electric  
14 utility's contributions to the wildfire recovery fund, as set  
15 forth in section A-3, and electric cooperative wildfire claims  
16 costs.

17 "Wildfire recovery fund" means the wildfire recovery fund  
18 established by chapter A.

19 "Wildfire recovery property" means the property right  
20 created pursuant to this chapter, including without limitation



1 the right, title, and interest of the electric utility,  
2 financing entity, or its assignee:

3 (1) In and to the wildfire recovery charge established  
4 pursuant to a financing order, including the right to  
5 impose, bill, collect, and receive such wildfire  
6 recovery charges under the financing order and all  
7 rights to obtain adjustments to the wildfire recovery  
8 charge in accordance with section B-3 and the  
9 financing order; and

10 (2) To be paid the amount that is determined in a  
11 financing order to be the amount that the electric  
12 utility or its assignee is lawfully entitled to  
13 receive pursuant to this chapter and the proceeds  
14 thereof, and in and to all revenues, collections,  
15 claims, payments, moneys, or proceeds of, or arising  
16 from, the wildfire recovery charge that is the subject  
17 of a financing order.

18 "Wildfire recovery property" does not include a right to be paid  
19 fixed recovery tax amounts. "Wildfire recovery property" shall  
20 constitute a current property right, notwithstanding the fact  
21 that the value of the property right will depend on consumers



1 using electricity or, in those instances where consumers are  
2 customers of the electric utility, the electric utility  
3 performing certain services.

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

- 9       (1) The imposition, charging, and collection of a wildfire  
10       recovery charge, to become effective upon the issuance  
11       of the bonds, and an adjustment of any such wildfire  
12       recovery charge in accordance with a true-up  
13       adjustment mechanism under this chapter in amounts  
14       sufficient to pay the principal and interest on the  
15       bonds and all other associated financing costs on a  
16       timely basis;
- 17       (2) The creation of wildfire recovery property under the  
18       financing order; and
- 19       (3) The imposition, charging, and collection of fixed  
20       recovery tax amounts to recover any portion of the  
21       electric utility's federal and state taxes associated



1 with those wildfire recovery charges and not financed  
2 from the proceeds of bonds.

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

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

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

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

10 (4) The scheduled final payment date, which shall not  
11 exceed thirty years, and a legal final maturity date,  
12 which may be longer, subject to rating agency and  
13 market considerations; during which term the wildfire  
14 recovery charge associated with the issuance of each  
15 series of bonds is expected to be imposed and  
16 collected;

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

19 (6) An estimate of the amount of the wildfire recovery  
20 charge revenues necessary to pay principal and  
21 interest on the bonds and all other associated



- 1 financing costs as set forth in the application and  
2 the calculation for that estimate;
- 3 (7) A proposed design of the wildfire recovery charge and  
4 a proposed methodology for allocating the wildfire  
5 recovery charge among customer classes within the  
6 electric utility's service territory;
- 7 (8) A description of the financing entity selected by the  
8 electric utility;
- 9 (9) A description of a proposed true-up adjustment  
10 mechanism for the adjustment of the wildfire recovery  
11 charge to correct for any overcollection or  
12 undercollection of the wildfire recovery charge, and  
13 to otherwise ensure the timely payment of principal  
14 and interest on the bonds and all other associated  
15 financing costs; and
- 16 (10) Any other information required by the commission.
- 17 (c) An electric utility may file an application for a  
18 financing order, or as a joint applicant with one or more  
19 affiliate electric utilities, to issue bonds to recover wildfire  
20 recovery costs. The application shall include a description of:



1           (1) How the wildfire recovery charges will be allocated  
2           among the applicant electric utilities in a manner  
3           that is equitable and that need not correspond to the  
4           incurrence of wildfire recovery costs by each electric  
5           utility; and

6           (2) Whether and how the consumers of any of the applicant  
7           electric utilities will be responsible for the payment  
8           of wildfire recovery charges allocated to consumers of  
9           affiliate electric utilities.

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



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

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

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

- 12 (1) Whether the recovery of such costs is consistent with  
13 the public interest;
- 14 (2) Whether the structuring, marketing, and pricing of the  
15 bonds are expected to result in the lowest wildfire  
16 recovery charges consistent with market conditions at  
17 the time at which the bonds are priced and the terms  
18 of the financing order;
- 19 (3) Whether the terms and conditions of any bonds to be  
20 issued are just and reasonable;



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

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

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

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



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

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

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

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



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

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

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



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

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

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

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

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



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

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

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

20 The commission shall either approve the filing or inform  
21 the electric utility of any mathematical or clerical errors in



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

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

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

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



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

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

20 (h) No electric utility approved for a financing order  
21 shall increase compensation for its executive officers unless



1 the utility's wildfire mitigation plan compliance reports have  
2 been approved by the commission for five consecutive years;  
3 provided that the commission may consider an alternative  
4 symmetric performance incentive mechanism, if the commission  
5 deems appropriate. For the purposes of this subsection,  
6 "wildfire mitigation plan compliance report" has the same  
7 meaning as defined in section A-1.

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

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



1 connection with the exercise of remedies upon a  
2 default under the terms of the bonds; or  
3 (2) Any person acquiring the wildfire recovery property  
4 after a sale or assignment pursuant to this chapter.  
5 (b) To the extent that any interest in wildfire recovery  
6 property is sold, assigned, or is pledged as collateral pursuant  
7 to subsection (a), the commission may authorize the electric  
8 utility to contract with the financing entity or its assignees  
9 that the electric utility will:  
10 (1) Continue to operate its system to provide service to  
11 consumers within its service territory;  
12 (2) Collect amounts in respect of the wildfire recovery  
13 charges for the benefit and account of the financing  
14 entity or its assignees; and  
15 (3) Account for and remit these amounts to or for the  
16 account of the financing entity or its assignees.  
17 Contracting with the financing entity or its assignees in  
18 accordance with that authorization shall not impair or negate  
19 the characterization of the sale, assignment, or pledge as an  
20 absolute transfer, a true sale, or a security interest, as  
21 applicable. To the extent that billing, collection, and other



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

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

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



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

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

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



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

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

15 **§B-5 Wildfire recovery charge.** (a) The wildfire recovery  
16 charge created pursuant to a financing order approved pursuant  
17 to section B-2 shall be a nonbypassable charge of a financing  
18 entity that shall be applied to the repayment of bonds and  
19 related financing costs as described in this chapter. The  
20 wildfire recovery charge and any associated fixed recovery tax  
21 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 **SB-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 The commission may require the electric utility to make other  
4 filings with respect to the security interest in accordance with  
5 procedures that the commission may establish; provided that the  
6 filings shall not affect the perfection of the security  
7 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:

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

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

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



1 procedures the commission may establish; provided that these  
2 filings shall 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 the

12 electric utility, including the obligation to collect and pay

13 the wildfire recovery charge to any financing party as required

14 by a financing order or any assignee. Any successor to the

15 electric utility shall be entitled to receive any fixed recovery

16 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. Chapter 269, Hawaii Revised Statutes, is  
18 amended by adding a new section to part I to be appropriately  
19 designated and to read as follows:

20 **"§269- Electric cooperative cost recovery for wildfire**  
21 **mitigation; repair and restoration costs. An electric**



1 cooperative shall be authorized to recover commission approved  
2 wildfire mitigation, repair, and restoration costs through an  
3 automatic rate adjustment clause or other tariff recovery  
4 mechanism to be established by the commission."

5 SECTION 4. Section 76-16, Hawaii Revised Statutes, is  
6 amended by amending subsection (b) to read as follows:

7 "(b) The civil service to which this chapter applies shall  
8 comprise all positions in the State now existing or hereafter  
9 established and embrace all personal services performed for the  
10 State, except the following:

11 (1) Commissioned and enlisted personnel of the Hawaii  
12 National Guard and positions in the Hawaii National  
13 Guard that are required by state or federal laws or  
14 regulations or orders of the National Guard to be  
15 filled from those commissioned or enlisted personnel;

16 (2) Positions filled by persons employed by contract where  
17 the director of human resources development has  
18 certified that the service is special or unique or is  
19 essential to the public interest and that, because of  
20 circumstances surrounding its fulfillment, personnel  
21 to perform the service cannot be obtained through



- 1 normal civil service recruitment procedures. Any  
2 contract may be for any period not exceeding one year;
- 3 (3) Positions that must be filled without delay to comply  
4 with a court order or decree if the director  
5 determines that recruitment through normal recruitment  
6 civil service procedures would result in delay or  
7 noncompliance, such as the Felix-Cayetano consent  
8 decree;
- 9 (4) Positions filled by the legislature or by either house  
10 or any committee thereof;
- 11 (5) Employees in the office of the governor and office of  
12 the lieutenant governor, and household employees at  
13 Washington Place;
- 14 (6) Positions filled by popular vote;
- 15 (7) Department heads, officers, and members of any board,  
16 commission, or other state agency whose appointments  
17 are made by the governor or are required by law to be  
18 confirmed by the senate;
- 19 (8) Judges, referees, receivers, masters, jurors, notaries  
20 public, land court examiners, court commissioners, and



1 attorneys appointed by a state court for a special  
2 temporary service;

3 (9) One bailiff for the chief justice of the supreme court  
4 who shall have the powers and duties of a court  
5 officer and bailiff under section 606-14; one  
6 secretary or clerk for each justice of the supreme  
7 court, each judge of the intermediate appellate court,  
8 and each judge of the circuit court; one secretary for  
9 the judicial council; one deputy administrative  
10 director of the courts; three law clerks for the chief  
11 justice of the supreme court, two law clerks for each  
12 associate justice of the supreme court and each judge  
13 of the intermediate appellate court, one law clerk for  
14 each judge of the circuit court, two additional law  
15 clerks for the civil administrative judge of the  
16 circuit court of the first circuit, two additional law  
17 clerks for the criminal administrative judge of the  
18 circuit court of the first circuit, one additional law  
19 clerk for the senior judge of the family court of the  
20 first circuit, two additional law clerks for the civil  
21 motions judge of the circuit court of the first



1 circuit, two additional law clerks for the criminal  
 2 motions judge of the circuit court of the first  
 3 circuit, and two law clerks for the administrative  
 4 judge of the district court of the first circuit; and  
 5 one private secretary for the administrative director  
 6 of the courts; the deputy administrative director of  
 7 the courts, each department head, each deputy or first  
 8 assistant, and each additional deputy, or assistant  
 9 deputy, or assistant defined in paragraph (16);

10 (10) First deputy and deputy attorneys general, the  
 11 administrative services manager of the department of  
 12 the attorney general, one secretary for the  
 13 administrative services manager, an administrator and  
 14 any support staff for the criminal and juvenile  
 15 justice resources coordination functions, and law  
 16 clerks;

17 (11) (A) Teachers, principals, vice-principals, complex  
 18 area superintendents, deputy and assistant  
 19 superintendents, other certificated personnel,  
 20 and no more than twenty noncertificated



- 1 administrative, professional, and technical  
2 personnel not engaged in instructional work;
- 3 (B) Effective July 1, 2003, teaching assistants,  
4 educational assistants, bilingual or bicultural  
5 school-home assistants, school psychologists,  
6 psychological examiners, speech pathologists,  
7 athletic health care trainers, alternative school  
8 work study assistants, alternative school  
9 educational or supportive services specialists,  
10 alternative school project coordinators, and  
11 communications aides in the department of  
12 education;
- 13 (C) The special assistant to the state librarian and  
14 one secretary for the special assistant to the  
15 state librarian; and
- 16 (D) Members of the faculty of the University of  
17 Hawaii, including research workers, extension  
18 agents, personnel engaged in instructional work,  
19 and administrative, professional, and technical  
20 personnel of the university;



- 1       (12) Employees engaged in special, research, or
- 2             demonstration projects approved by the governor;
- 3       (13) (A) Positions filled by inmates, patients of state
- 4             institutions, and persons with severe physical or
- 5             mental disabilities participating in the work
- 6             experience training programs;
- 7             (B) Positions filled with students in accordance with
- 8             guidelines for established state employment
- 9             programs; and
- 10       (C) Positions that provide work experience training
- 11            or temporary public service employment that are
- 12            filled by persons entering the workforce or
- 13            persons transitioning into other careers under
- 14            programs such as the federal Workforce Investment
- 15            Act of 1998, as amended, or the Senior Community
- 16            Service Employment Program of the Employment and
- 17            Training Administration of the United States
- 18            Department of Labor, or under other similar state
- 19            programs;
- 20       (14) A custodian or guide at Iolani Palace, the Royal
- 21            Mausoleum, and Hulihee Palace;



1       (15) Positions filled by persons employed on a fee,  
2           contract, or piecework basis, who may lawfully perform  
3           their duties concurrently with their private business  
4           or profession or other private employment and whose  
5           duties require only a portion of their time, if it is  
6           impracticable to ascertain or anticipate the portion  
7           of time to be devoted to the service of the State;  
8       (16) Positions of first deputies or first assistants of  
9           each department head appointed under or in the manner  
10          provided in section 6, article V, of the Hawaii State  
11          Constitution; three additional deputies or assistants  
12          either in charge of the highways, harbors, and  
13          airports divisions or other functions within the  
14          department of transportation as may be assigned by the  
15          director of transportation, with the approval of the  
16          governor; one additional deputy in the department of  
17          human services either in charge of welfare or other  
18          functions within the department as may be assigned by  
19          the director of human services; four additional  
20          deputies in the department of health, each in charge  
21          of one of the following: behavioral health,



1 environmental health, hospitals, and health resources  
 2 administration, including other functions within the  
 3 department as may be assigned by the director of  
 4 health, with the approval of the governor; two  
 5 additional deputies in charge of the law enforcement  
 6 programs, administration, or other functions within  
 7 the department of law enforcement as may be assigned  
 8 by the director of law enforcement, with the approval  
 9 of the governor; three additional deputies each in  
 10 charge of the correctional institutions,  
 11 rehabilitation services and programs, and  
 12 administration or other functions within the  
 13 department of corrections and rehabilitation as may be  
 14 assigned by the director of corrections and  
 15 rehabilitation, with the approval of the governor; two  
 16 administrative assistants to the state librarian; and  
 17 an administrative assistant to the superintendent of  
 18 education;

19 (17) Positions specifically exempted from this part by any  
 20 other law; provided that:



1 (A) Any exemption created after July 1, 2014, shall  
2 expire three years after its enactment unless  
3 affirmatively extended by an act of the  
4 legislature; and

5 (B) All of the positions defined by paragraph (9)  
6 shall be included in the position classification  
7 plan;

8 (18) Positions in the state foster grandparent program and  
9 positions for temporary employment of senior citizens  
10 in occupations in which there is a severe personnel  
11 shortage or in special projects;

12 (19) Household employees at the official residence of the  
13 president of the University of Hawaii;

14 (20) Employees in the department of education engaged in  
15 the supervision of students during meal periods in the  
16 distribution, collection, and counting of meal  
17 tickets, and in the cleaning of classrooms after  
18 school hours on a less than half-time basis;

19 (21) Employees hired under the tenant hire program of the  
20 Hawaii public housing authority; provided that no more  
21 than twenty-six per cent of the authority's workforce



1 in any housing project maintained or operated by the  
2 authority shall be hired under the tenant hire  
3 program;

4 (22) Positions of the federally funded expanded food and  
5 nutrition program of the University of Hawaii that  
6 require the hiring of nutrition program assistants who  
7 live in the areas they serve;

8 (23) Positions filled by persons with severe disabilities  
9 who are certified by the state vocational  
10 rehabilitation office that they are able to perform  
11 safely the duties of the positions;

12 (24) The sheriff;

13 (25) A gender and other fairness coordinator hired by the  
14 judiciary;

15 (26) Positions in the Hawaii National Guard youth and adult  
16 education programs;

17 (27) In the Hawaii state energy office in the department of  
18 business, economic development, and tourism, all  
19 energy program managers, energy program specialists,  
20 energy program assistants, and energy analysts;



- 1           (28) Administrative appeals hearing officers in the  
2           department of human services;
- 3           (29) In the Med-QUEST division of the department of human  
4           services, the division administrator, finance officer,  
5           health care services branch administrator, medical  
6           director, and clinical standards administrator;
- 7           (30) In the director's office of the department of human  
8           services, the enterprise officer, information security  
9           and privacy compliance officer, security and privacy  
10          compliance engineer, security and privacy compliance  
11          analyst, information technology implementation  
12          manager, assistant information technology  
13          implementation manager, resource manager, community or  
14          project development director, policy director, special  
15          assistant to the director, and limited English  
16          proficiency project manager or coordinator;
- 17          (31) The Alzheimer's disease and related dementia services  
18          coordinator in the executive office on aging;
- 19          (32) In the Hawaii emergency management agency, the  
20          executive officer, public information officer, civil  
21          defense administrative officer, branch chiefs, and



1 emergency operations center state warning point  
 2 personnel; provided that for state warning point  
 3 personnel, the director shall determine that  
 4 recruitment through normal civil service recruitment  
 5 procedures would result in delay or noncompliance;

6 (33) The executive director and seven full-time  
 7 administrative positions of the school facilities  
 8 authority;

9 (34) Positions in the Mauna Kea stewardship and oversight  
 10 authority;

11 (35) In the office of homeland security of the department  
 12 of law enforcement, the statewide interoperable  
 13 communications coordinator;

14 (36) In the social services division of the department of  
 15 human services, the business technology analyst;

16 (37) The executive director and staff of the 911 board;

17 [+] (38) [+] Senior software developers in the department of  
 18 taxation;

19 [+] (39) [+] In the department of law enforcement, five Commission  
 20 on Accreditation for Law Enforcement Agencies, Inc.,  
 21 coordinator positions;



1 [-] (40) [+] The state fire marshal; [and  
2 -] (41) [+] The administrator for the law enforcement standards  
3 board[-]; and  
4 (42) The executive director of the wildfire recovery fund.

5 The director shall determine the applicability of this  
6 section to specific positions.

7 Nothing in this section shall be deemed to affect the civil  
8 service status of any incumbent as it existed on July 1, 1955."

9 SECTION 5. Section 269-17, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "**§269-17 Issuance of securities.** A public utility  
12 corporation may, on securing the prior approval of the public  
13 utilities commission, and not otherwise, except as provided in  
14 section B-4, issue stocks and stock certificates, bonds, notes,  
15 and other evidences of indebtedness, payable at periods of more  
16 than twelve months after the date thereof, for the following  
17 purposes and no other, namely: for the acquisition of property  
18 or for the construction, completion, extension, or improvement  
19 of or addition to its facilities or service, or for the  
20 discharge or lawful refunding of its obligations or for the  
21 reimbursement of moneys actually expended from income or from



1 any other moneys in its treasury not secured by or obtained from  
2 the issue of its stocks or stock certificates, or bonds, notes,  
3 or other evidences of indebtedness, for any of the aforesaid  
4 purposes except maintenance of service, replacements, and  
5 substitutions not constituting capital expenditure in cases  
6 where the corporation has kept its accounts for [such]  
7 expenditures in [such] a manner [~~as to enable~~] that enables the  
8 commission to ascertain the amount of moneys so expended and the  
9 purposes for which the expenditures were made, and the sources  
10 of the funds in its treasury applied to the expenditures. As  
11 used [~~herein,~~] in this section, "property" and "facilities" [~~]~~  
12 mean property and facilities used in all operations of a public  
13 utility corporation whether or not included in its public  
14 utility operations or rate base. A public utility corporation  
15 may not issue securities to acquire property or to construct,  
16 complete, extend or improve or add to its facilities or service  
17 if the commission determines that the proposed purpose will have  
18 a material adverse effect on its public utility operations.

19 All stock and every stock certificate, and every bond,  
20 note, or other evidence of indebtedness of a public utility  
21 corporation not payable within twelve months, issued without an



1 order of the commission authorizing the same, then in effect,  
2 shall be void."

3 SECTION 6. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect on July 1, 2050.



**Report Title:**

Wildfire Recovery Fund; Securitization

**Description:**

Establishes the Wildfire Recovery Fund. Allows securitization for electric utilities. Effective 7/1/2050. (SD1)

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

