

## ACT 74

H.B. NO. 1061

A Bill for an Act Relating to Public Utilities.

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

SECTION 1. The legislature finds that the health and welfare of the State's citizens depend in large part on their ability to access essential water and sewer services. The state public utilities commission regulates water and sewer services provided by private companies but does not regulate the same services provided by the counties. To ensure that the commission has all the necessary authority to take proactive measures on behalf of customers when a regulated water or sewer utility either fails to provide adequate and reasonable service to its customers or creates a serious and imminent threat to the health and welfare of its customers, the legislature believes that the commission should have the power to appoint a receiver to ensure that utility services are continued or brought back up to appropriate standards.

The purpose of this Act is to provide the public utilities commission with authority to appoint a receiver to take temporary action necessary to assure continued adequate water or sewer service.

SECTION 2. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§269- Appointment of receiver for public utilities.** (a) Whenever the commission finds that a regulated water utility or regulated sewer utility is failing, or that there is an imminent threat of the utility failing, to provide adequate and reasonable service to its customers, and that the failure is a serious and imminent threat to health, safety, and welfare, the commission may appoint a receiver to take any temporary action necessary to assure continued service or to bring the service up to appropriate regulatory standards. The commission may also appoint a receiver to take any temporary action necessary to assure continued service if, after notice and hearing, the commission finds that any water or sewer utility regulated under this chapter consistently fails to provide adequate and reasonable service. In carrying out its responsibilities, the receiver and any additional outside legal counsel, consultants, or staff the commission or receiver may deem necessary under the circumstances, shall have the authority to gain access to all of the utility company assets and records and to manage those assets in a manner that will restore or maintain an acceptable level of service to customers.

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The receiver shall be authorized to expend existing utility company revenues for labor and materials and to commit additional resources as are essential to providing an acceptable level of service. These expenditures shall be funded in accordance with generally accepted ratemaking practices. Any costs incurred by the commission, its staff, or the appointed receiver under this section shall be the responsibility of the utility in receivership or its ratepayers. Control of and responsibility for the utility shall remain with the receiver until the utility can be returned to the original owners, transferred to new owners, or liquidated as the commission determines to be in the public interest.

(b) If the commission determines that the utility's action or inaction that caused it to be placed under the control and responsibility of a receiver under this section was due to intentional misappropriation or wrongful diversion of the assets or income of the utility or to other wilful misconduct by any director, officer, or manager of the utility, it may require such director, officer, or manager to make restitution to the utility."

SECTION 3. New statutory material is underscored.<sup>1</sup>

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

(Approved May 26, 2009.)

### Note

1. Edited pursuant to HRS §23G-16.5.