



GOV. MSG. NO. 691

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

May 26, 2009

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fifth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 26, 2009, the following bill was signed into law:

HB1061 HD1 SD1

A BILL FOR AN ACT  
RELATING TO PUBLIC UTILITIES.  
**ACT 074 (09)**

Sincerely,



LINDA LINGLE

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# A BILL FOR AN ACT

RELATING TO PUBLIC UTILITIES.

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

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

15           The purpose of this Act is to provide the public utilities  
16 commission with authority to appoint a receiver to take

1 temporary action necessary to assure continued adequate water or  
2 sewer service.

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

6 **"§269- Appointment of receiver for public utilities.**

7 (a) Whenever the commission finds that a regulated water  
8 utility or regulated sewer utility is failing, or that there is  
9 an imminent threat of the utility failing, to provide adequate  
10 and reasonable service to its customers, and that the failure is  
11 a serious and imminent threat to health, safety, and welfare,  
12 the commission may appoint a receiver to take any temporary  
13 action necessary to assure continued service or to bring the  
14 service up to appropriate regulatory standards. The commission  
15 may also appoint a receiver to take any temporary action  
16 necessary to assure continued service if, after notice and  
17 hearing, the commission finds that any water or sewer utility  
18 regulated under this chapter consistently fails to provide  
19 adequate and reasonable service. In carrying out its  
20 responsibilities, the receiver and any additional outside legal  
21 counsel, consultants, or staff the commission or receiver may  
22 deem necessary under the circumstances, shall have the authority

1 to gain access to all of the utility company assets and records  
2 and to manage those assets in a manner that will restore or  
3 maintain an acceptable level of service to customers. The  
4 receiver shall be authorized to expend existing utility company  
5 revenues for labor and materials and to commit additional  
6 resources as are essential to providing an acceptable level of  
7 service. These expenditures shall be funded in accordance with  
8 generally accepted ratemaking practices. Any costs incurred by  
9 the commission, its staff, or the appointed receiver under this  
10 section shall be the responsibility of the utility in  
11 receivership or its ratepayers. Control of and responsibility  
12 for the utility shall remain with the receiver until the utility  
13 can be returned to the original owners, transferred to new  
14 owners, or liquidated as the commission determines to be in the  
15 public interest.

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

1 such director, officer, or manager to make restitution to the  
2 utility."

3 SECTION 3. New statutory material is underscored.

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

APPROVED this 26 day of MAY, 2009



GOVERNOR OF THE STATE OF HAWAII