
A BILL FOR AN ACT

RELATING TO MUTUAL BENEFIT SOCIETIES.

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

1 SECTION 1. The legislature finds that mutual benefit
2 societies hold a unique position in the State's economy and
3 business community. Mutual benefit societies are organized and
4 carried on for the primary benefit of their members and their
5 beneficiaries and not for profit and, as a result, are tax-
6 exempt or receive preferential tax treatment. Mutual benefit
7 societies are self-controlling and the operation of mutual
8 benefit societies is in the sole and self-perpetuating control
9 of the management. The management of a mutual benefit society
10 does not have to answer either to shareholders or, in reality,
11 to its members. In the event a mutual benefit society decides
12 to no longer collect subscriptions and provide benefits, the
13 assets are at the disposal of the management and there are no
14 members entitled to question management disposal of the assets.
15 The legislature finds that, under those circumstances, proper
16 disposal of the assets is escheat to the State.



1 The purpose of this Act is to ensure that, in the event of
2 the dissolution of a mutual benefit society, the assets shall
3 escheat to the State of Hawaii and to authorize the insurance
4 commissioner to provide, as *parens patriae* on behalf of the
5 members of mutual benefit societies, equitable relief and legal
6 remedies to prevent dissipation of the assets prior to
7 dissolution.

8 SECTION 2. Chapter 432, article 1, Hawaii Revised
9 Statutes, is amended by adding a new section to be appropriately
10 designated and to read as follows:

11 "§432:1- Dissolution and escheat of assets. (a) Any
12 mutual benefit society that no longer collects assessments or
13 dues from its members or any mutual benefit society that ceases
14 to provide benefits to members, within one year of ceasing to
15 provide benefits to members, shall dissolve and turn over its
16 assets to the State to be deposited into the general fund.

17 (b) The commissioner shall ensure that a mutual benefit
18 society that no longer collects assessments or dues from its
19 members or ceases to provide benefits to members shall not
20 dissipate its assets prior to dissolution. To this end, the
21 commissioner may remove board members or officers and appoint



1 board members or officers of the society as reasonably required
2 to preserve the assets pending dissolution. The commissioner
3 may order other equitable relief appropriate to protect the
4 rights of the members entitled to continuing benefits and to
5 protect the rights of the State.

6 (c) In all cases where the assets of a mutual benefit
7 society escheat to the State as required by this section, the
8 attorney general, at the request of the commissioner, shall file
9 a complaint or other appropriate pleading in the circuit court
10 of the first circuit, setting forth the facts upon which the
11 claim of the State to the escheat is based. Summons shall be
12 issued as in other actions. The attorney general shall cause
13 the summons to be served upon any officer of the society or any
14 person in possession of the assets and shall also cause a copy
15 thereof to be published once a month for three months in a
16 newspaper of general circulation in the State. Upon the hearing
17 of the matter, if the court finds that the mutual benefit
18 society no longer provides benefits to members and that
19 dissolution is required by this section, it shall enter a
20 judgment dissolving the society and ordering the assets of the
21 society to escheat to the State.



1 (d) Notwithstanding any other provision of this article,
2 if a mutual benefit society has collected assessments or dues
3 from its members and ceases to provide benefits for which
4 members have paid, the commissioner may take appropriate action
5 to ensure that, pending dissolution, the continued operation of
6 the mutual benefit society is for the benefit of its members and
7 that members receive the benefits for which they have paid.
8 Appropriate action by the commissioner may include requiring
9 that other mutual benefit societies accept the members without
10 imposition of any waiting periods or pre-existing condition
11 exclusions or other diminution of benefits.

12 (e) The commissioner may issue an order under this section
13 without notice and opportunity for hearing. Any order of the
14 commissioner issued under this section shall be considered a
15 final administrative decision, shall be served upon the society
16 in person by serving any officer of the society or by certified
17 mail, and may be appealed pursuant to chapter 91; provided that:

18 (1) An appeal of an order of the commissioner issued under
19 this section shall not operate to stay the order of
20 the commissioner; and



1 (2) No stay, restraining order, or temporary or permanent
 2 injunction shall be granted to suspend or modify an
 3 order of the commissioner issued under this section,
 4 except on the basis of findings of fact made and filed
 5 by the court in the record of the case prior to the
 6 issuance of the stay, restraining order, or
 7 injunction.

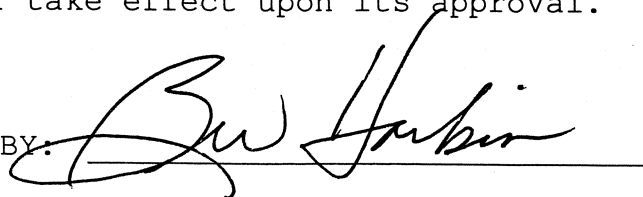
8 A stay of the commissioner's order shall only be granted if the
 9 court, after hearing, finds probable cause to believe that, in
 10 the event of a hearing pursuant to section (c), the society
 11 would not be subject to dissolution and the assets with respect
 12 to which the order is sought would not be subject to escheat."

13 SECTION 3. New statutory material is underscored.

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

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INTRODUCED BY:



JAN 25 2006



HB 2753

Report Title:

Mutual Benefit Societies

Description:

Requires inactive mutual benefit societies to dissolve and transfer their assets to the State.

