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## A BILL FOR AN ACT

RELATING TO DISTRIBUTIONS BY NONPROFIT CORPORATIONS.

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

1           SECTION 1. The Hawaii Nonprofit Corporations Act currently  
2 prohibits any distributions from nonprofit corporations except  
3 upon dissolution. For example, this prohibition bars nonprofit  
4 corporations organized and operated as supporting organizations  
5 from making current distributions to their supported  
6 organizations. The adoption of the Hawaii Nonprofit  
7 Corporations Act was not intended to prohibit such current  
8 distributions. Federal law already permits such distributions.

9           Therefore, the purpose of this Act is to permit current  
10 distributions by nonprofit corporations to its nonprofit members  
11 and affiliates; provided that the distributions are in  
12 accordance with the distributing nonprofit corporations'  
13 purposes and will not jeopardize their liquidity.

14           SECTION 2. Section 414D-232, Hawaii Revised Statutes, is  
15 amended to read as follows:



1           "§414D-232 Authorized distributions. (a) A corporation  
2 may purchase its memberships if, after the purchase is  
3 completed:

- 4           (1) The corporation would be able to pay its debts as they  
5           become due in the usual course of its activities; and  
6           (2) The corporation's total assets would at least equal  
7           the sum of its total liabilities.

8           (b) Corporations may make distributions upon dissolution  
9 in conformity with part XIII.

10          (c) The corporation, in conformity with its purposes, may  
11 make distributions to and confer benefits on a member or an  
12 affiliate that is another domestic or foreign nonprofit  
13 corporation if, after any distribution is completed:

- 14          (1) The corporation would be able to pay its debts as they  
15          become due in the usual course of its activities; and  
16          (2) The corporation's total assets would be at least equal  
17          to the sum of its total liabilities.

18 For the purposes of this section, "an affiliate" is an entity  
19 that directly or indirectly controls, is controlled by, or is  
20 under common control with the corporation. Control includes the  
21 power to select the corporation's board of directors."

22          SECTION 3. New statutory material is underscored.



# H.B. NO. 2136

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

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INTRODUCED BY: \_\_\_\_\_



**JAN 20 2010**



**Report Title:**

Distributions by Nonprofit Corporations

**Description:**

Permits current distributions by nonprofit corporations to its nonprofit members and affiliates, provided that the distributions are in accordance with the distributing nonprofit corporations' purposes and will not jeopardize their liquidity.

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