

SB 2758

Measure Title: RELATING TO BUSINESS REGISTRATION.
Report Title: Business Registration
Description: To clarify and correct ambiguities and errors in Hawaii's business registration laws.
Companion: HB2496
Package: Gov
Current Referral: CPN, WAM
Introducer(s): TSUTSUI (BR)

Sort by Date		Status Text
1/25/2012	S	Introduced.
1/25/2012	S	Passed First Reading.
1/25/2012	S	Referred to CPN, WAM.
1/27/2012	S	The committee(s) on CPN has scheduled a public hearing on 02-03-12 9:00AM in conference room 229.



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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KEALI'I S. LOPEZ
DIRECTOR

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012

Date: Friday, February 3, 2012

Time: 9:00 AM

Conference Room: 229

**TESTIMONY ON SENATE BILL NO. 2758
RELATING TO BUSINESS REGISTRATION**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, BRIAN T. TANIGUCHI, VICE-CHAIR, AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to testify. My name is Tung Chan, Commissioner of Securities and head of the Business Registration Division of the Department of Commerce and Consumer Affairs (Department). The Department strongly supports this administrative bill.

The business registration chapters of the Hawaii Revised Statutes (HRS) contain some errors, ambiguities, and inconsistencies. This housekeeping measure corrects these errors, ambiguities, and inconsistencies.

The bill makes corrections in the following areas:

1. Act 55, Session Laws of Hawaii (SLH) 2009, the Hawaii Registered Agents Act, was codified as Chapter 425R, HRS. Act 55 consolidated the provisions for registered agents to Section 425R-4, HRS, necessitating the revisions and deletions to the registered agent act provisions scattered throughout the statutes governing the different entities. Several of these scattered provisions were not covered in the previous legislative session. This bill makes the corrections in Chapters 414D (relating to nonprofit corporations), 415A (relating to professional corporations), and 425E (relating to limited partnerships), so that the registered agent provisions in these chapters are properly revised to delete some text and now point to the new Section 425R-4. These are technical amendments to make the statutes comply with Act 55.

2. Currently, to reinstate a business entity that has been dissolved or terminated by DCCA, a registrant must obtain from the Department of Taxation ("DOTAX") a certificate indicating tax clearance, a payment plan or an appeal. DOTAX provides letters, but not "certificates" for payment plans or appeals. The bill changes language in the statutes to include a "certificate or other writing" in order to clarify that DCCA will accept DOTAX's various written confirmations.

3. This bill addresses situations in which a business applies for a name that is substantially identical to another name already registered with DCCA. This bill clarifies that it is the subsequent filer that must register a new name and revises the language so that it is consistent with the parallel provisions in each business registration chapter.

4. This bill makes technical corrections to Act 37, SLH 2011 to: (1) clarify that membership action may be taken by ballot as provided in the Model Nonprofit Corporation Act ("MNCA") and the Revised Model Nonprofit Corporation Act ("RMNCA") unless expressly prohibited by a nonprofit corporation's bylaws, and (2) conform the definition of the term ""approved by the members" or "approval by the members"" to the definition contained in the MNCA and the RMNCA by adding language stating that approval must be, at a minimum, a majority of a quorum.

Also relating to nonprofit corporations, this bill amends Section 414D-182, HRS, to clarify that proposed amendments to articles of incorporation may be submitted at a regular membership meeting. Currently, the statute specifies only annual and special meetings and erroneously omits regular meetings.

5. Lastly, this bill allows the Business Registration Division to accept filings signed by persons of foreign LLCs who have such legal authority, but do not have the specific title of "manager" or "member". Without this amendment, Chapter 428, HRS, would prohibit a foreign LLC that does not have a "manager" or "member" structure from filing as a foreign LLC in Hawaii. The bill helps clarify that foreign LLC's can file in Hawaii as long as they have someone who has legal authority to bind the LLC.

To make the corrections and revisions enumerated above, we ask that the committee pass this bill unamended. Thank you for the opportunity to testify.



HAWAII COMMUNITY FOUNDATION

February 1, 2012

The Honorable Rosalyn H. Baker, Chair
Committee on Commerce and Consumer Protection
Hawaii State Senate
Honolulu, Hawaii 96813

Dear Chairman Baker & Committee Members:

SB 2758 – Relating to Business Registration

Hawai'i Community Foundation supports SB 2758 which contains technical corrections to Hawaii's Nonprofit Corporations Act. The bill will make it clear that nonprofit corporations who wish to take advantage of today's modern technology may do so to increase membership participation.

We appreciate your favorable consideration.

Sincerely yours,

Katharine P. Lloyd
General Counsel & Vice President of Operations



Senate Committee on Commerce and Consumer Protection
Friday, February 3, 2012
9:00 a.m.

SB 2758, Relating to Business Registration.

Dear Chairperson Baker and Committee Members:

On behalf of the University of Hawaii Professional Assembly (UHPA), our union supports the passage of SB 2758. As a nonprofit organization that represents faculty who work in a variety of geographical locations, the ability to increase membership participation in decision making has been a priority. These technical corrections to Hawaii's Nonprofit Corporations Act will allow UHPA to enhance its use of technology to give faculty greater access to participating in membership decision making.

UHPA urges the Committee to support this legislation.

Respectively submitted,

A handwritten signature in black ink, reading "Kristeen Hanselman", is positioned below the typed name.

Kristeen Hanselman
Associate Executive Director

UNIVERSITY OF HAWAII
PROFESSIONAL ASSEMBLY

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February 2, 2012

Chair Rosalyn Baker
Senate Committee on Commerce and Consumer Protection
Hawaii State Senate
State Capitol, Room 229
Honolulu, HI 96813

RE: SB 2758, Relating to Business Registrations

Dear Chair Baker and members of the Senate Commerce and Consumer Protection Committee:

The Hawaii Alliance of Nonprofit Organizations is a statewide, sector-wide professional association for nonprofits. HANO member nonprofits provide essential services to every community in the state. Our mission is to unite and strengthen the nonprofit sector as a collective force to improve the quality of life in Hawaii.

HANO supports SB 2758, which contains technical corrections to Hawaii's Nonprofit Corporations Act, which will make clear that nonprofit corporations wishing to take advantage of today's modern technology may do so to increase membership participation.

We applaud these types of actions by the Legislature, which work to streamline and improve systems and allow cost-savings for Hawaii's nonprofit organizations at a time when budgets are thin.

Thank you for the opportunity to provide testimony.

Lisa T. Maruyama
President and CEO