

A Bill for an Act Relating to General Partnerships.

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

SECTION 1. Part I of chapter 186, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

**“PART I. GENERAL PARTNERSHIPS**

**Sec. 186-1. Registration and annual statements.** Whenever any general partnership is formed under the laws of the State to do business in the State, or any general partnership formed under the laws of any other jurisdiction shall do business in the State, such partnership shall file in the office of the director of regulatory agencies the registration and annual statements hereinafter provided. A registration statement shall be filed by a partnership formed under the laws of any other jurisdiction within thirty days after the commencement of business in the State. An annual statement shall be filed on or before March 31 of each year, as of December 31 of the preceding year. Every such registration statement shall contain the following information:

- (a) The name of the partnership;
- (b) The name and residence of each partner;
- (c) The nature of the partnership business;
- (d) The location of the principal place of business of the partnership in the State and, if the partnership is one formed under the laws of any other jurisdiction, the name of the jurisdiction and the location of the principal place of business of the partnership;
- (e) The date the partnership was formed and, if the partnership is one formed under the laws of any other jurisdiction, the date the partnership com-

menced business in the state;

(f) The fact that none of the partners is either a minor or an incompetent person;

(g) In the case of a foreign general partnership, the designation of a person residing within the State as agent for service of process and notice.

Every such annual statement shall contain the information specified in subparagraphs (a), (b), (c), (d), (f) and (g) above.

The registration statement of a domestic partnership shall be acknowledged by each partner, and the registration statement of a foreign partnership shall be acknowledged by at least one partner. Each annual statement shall be certified as correct by any partner.

**Sec. 186-1.1. Forms to be furnished by director; acknowledgments.**

The registration, annual and other statements required by this part shall be filed on forms to be furnished by the director of regulatory agencies. Statements required to be acknowledged shall be acknowledged before a notary public or other officers in a manner provided by law for acknowledgment of deeds.

**Sec. 186-1.2. Foreign partnerships, powers and liabilities.** A partnership formed under the laws of any other jurisdiction, shall, on filing a registration statement as required by section 186-1 and subject to continuing compliance with the other provisions of this part, have the same powers and privileges, and be subject to the same disabilities as are by law conferred upon partnerships formed under the laws of the State, provided always that the purposes for which the partnership is formed are not repugnant to or in conflict with any law of the State.

**Sec. 186-1.3. Partnership between husband and wife; prima facie proof.** If any business tax return is filed by, or license to do business is issued in the names of, both husband and wife, such tax return or license shall constitute prima facie proof, insofar as the State or any of its political subdivisions is concerned, that a partnership in such business exists between husband and wife in respect of such business. If the business tax return is filed by, or license is issued in the name of, one of them only, it shall constitute like proof that the husband and wife are not partners in respect of such business.

**Sec. 186-1.4. Minors and incompetent persons.** A minor or incompetent person may not be a partner, but may have a beneficial interest in a partnership through a trustee or duly appointed guardian.

This section shall not apply to the current partners in any duly registered partnership now doing business in the State.

**Sec. 186-2. Partnership name.** No partnership shall take or use a name which is identical with any name registered in the office of the director of regulatory agencies under the provisions of any statute, or which is so nearly similar to any such name as to lead to confusion or uncertainty. No statement or certificate of any partnership showing a name in violation of the provisions hereof shall be recorded by the director.

**Sec. 186-3. Partnership name; change of.** Whenever any partnership shall change its partnership name, it shall within thirty days thereafter file in the office of the director of regulatory agencies a statement showing: (a) the registered name of the partnership; and (b) the new name of the partnership. The statement shall be signed and certified as correct by any partner.

**Sec. 186-4. Admission, withdrawal or death of a partner.** Whenever a new partner is admitted to a general domestic partnership, or a partner withdraws from a general domestic partnership, or whenever any partner dies, a statement of such admission, withdrawal or death shall be filed in the office of the director of regulatory agencies, within thirty days after such addition, withdrawal or death. Such statement shall be acknowledged by each partner added or withdrawn, except as hereinafter provided, and by all other remaining partners. If a partner withdraws and cannot be located, the statement shall set forth those facts and need not be signed or acknowledged by such partner.

**Sec. 186-4.1. Statement of dissolution.** Whenever a domestic general partnership is dissolved, a statement thereof showing the cause of dissolution shall be filed in the office of the director of regulatory agencies within thirty days after dissolution. The statement shall be acknowledged by all partners except in such cases as the circumstances make it obviously impossible to secure the signature of one or more partners, which circumstances shall be set forth in the statement.

**Sec. 186-5. Taxes, etc., a prior lien on partnership property on dissolution.** Upon dissolution of a general partnership, any lawful taxes, imposts, license fees or assessments for which the partnership, or any partner in respect thereof, is liable shall constitute a prior lien upon the assets of the partnership but not as against the interest of those creditors who have prior recorded liens.

**Sec. 186-6. Record of statements.** The director of regulatory agencies shall cause books or files to be kept in his office, in which shall be recorded the several particulars required by this part to be filed in his office; and such books or files shall be open to public inspection.

**Sec. 186-7. Fee for recording.** For each name recorded as aforesaid or for each annual statement filed as required, there shall be paid to the director of regulatory agencies a fee of \$1.

**Sec. 186-8. Personal liability and penalty.** (a) If a partner neglects or fails to comply with any provision of this part, all partners shall be liable jointly and severally for all the debts and liabilities of the partnership, and may be severally sued therefor, without the necessity of joining the other partners in any action or suit, and shall also severally forfeit to the State \$25 for each and every month while the default shall continue, to be recovered by action brought in the name of the State by the director of regulatory agencies; provided, that as to the forfeiture penalty, the director may, for good cause shown, reduce or waive the same.

(b) Any person who signs and acknowledges or certifies as correct any statement or certificate filed pursuant to this part, knowing the same to be

false in any material particular, shall be fined not more than \$5,000.

(c) Any person who negligently but without intent to defraud signs and acknowledges or certifies as correct any statement or certificate filed pursuant to this part, which statement or certificate is false in any material particular, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding \$500.

**Sec. 186-9. Cancellation of registration.** If any general partnership fails or neglects for a period of two years to file any annual statement as required by this part, the director of regulatory agencies may cancel the registration or the certificate, as the case may be, of such partnership. The cancellation of such registration or certificate shall not relieve the partners of liability for the penalties for the failure to file any statement or certificates required by this part.

**Sec. 186-10. Not applicable to corporations.** Nothing in this part contained shall apply to corporations or incorporated companies.

**Sec. 186-11. Fees, government realizations.** All fees received by virtue of this part shall be accounted for as part of the revenue of the Territory.

**Sec. 186-12. Withdrawal procedure for foreign general partnership.** Any foreign general partnership which has qualified to transact business in this State may withdraw and surrender its right to engage in business within this State by securing from the director of regulatory agencies a certificate of withdrawal in the manner hereinafter provided. Any such general partnership shall file in the office of the director:

(a) A certificate executed and acknowledged by at least one partner setting forth: (1) that it surrenders its authority to transact intrastate business in this State, (2) that it irrevocably consents that process against it in any action or suit upon any liability or obligation incurred within this State prior to the issuance of the certificate of withdrawal may be served upon the director of regulatory agencies and that service of such process upon the director shall be deemed sufficient service upon it, (3) a post office address to which the director may mail a copy of any process against such general partnership that may be so served upon him, and (4) a list of the names and resident addresses of all general partners;

(b) Satisfactory proof showing that, within sixty days last past, it has advertised in a daily newspaper of general circulation in the State, once in each of four successive weeks (four publications), a notice in English to all creditors of the general partnership that it intends to apply, within sixty days from the first publication of the notice, to the director of regulatory agencies for a certificate of withdrawal and intends to withdraw and surrender its rights to engage in business within this State and notifying all creditors of the general partnership to present their claims;

(c) Satisfactory proof that not less than fifteen days have elapsed since the last publication of the notice;

(d) Satisfactory proof showing that all creditors, resident or located within the State, have been paid; and

## **ACT 247**

(e) A valid certificate or certificates showing that all of the taxes, imposts, license fees and assessments theretofore levied upon, due or payable by the general partnership to the State or any of its municipal subdivisions have been fully paid and discharged.

Upon filing with and the approval by the director of the aforesaid certificate and proofs and after payment of a fee of \$3 for such certificate, the director shall issue to such general partnership a certificate stating that it has withdrawn and surrendered its rights to engage in business within this State. No such general partnership may withdraw from this State without complying with the aforesaid conditions and until such compliance service of legal notices and processes may be made on any agent of the general partnership within the State, or if none can be found, service of such notices and processes upon the director of regulatory agencies shall be deemed sufficient service of such notices and processes upon it.”

**SECTION 2.** This Act shall take effect upon its approval.

(Approved July 14, 1969.)