

A Bill for an Act Relating to Business Registration.

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

SECTION 1. Section 419-3, Hawaii Revised Statutes, is amended to read as follows:

**“§419-3 Powers of corporation sole.** Every corporation sole formed under this chapter shall have the powers set forth in [sections 416-26 and 416-27 and be subject to section 416-31.] section 415B-5.

Every such corporation shall have continuity of existence, notwithstanding vacancies in the incumbency thereof, and during the period of any vacancy, shall have the same capacity and right to receive and take any gift, bequest, devise, or conveyance of property, either as grantee for its own use, or as a trustee (where the trusteeship is within its corporate purposes and subject to removal from such trusteeship as provided by law), and to be or be made the beneficiary of a trust, as though there were no vacancies.

No agency created by a corporation sole by a written instrument which, in express terms, provides that the agency thereby created shall not be terminated by a vacancy in the incumbency of the corporation, shall be terminated or affected by the death of the incumbent of the corporation or by a vacancy in the incumbency thereof, however caused.”

SECTION 2. Section 419-8, Hawaii Revised Statutes, is amended to read as follows:

**“§419-8 Dissolution.** A corporation formed under this chapter may be dissolved, voluntarily or involuntarily, in the manner provided in [part VI of chapter 416 denominated “dissolution”,] part V of chapter 415B denominated “dissolution, liquidation, and sale of assets.” save that:

- (1) In lieu of the certificate and vote therein required for a voluntary dissolution, the incumbent of the corporation sole shall execute, subscribe, and verify a declaration of dissolution which shall set forth the name of the corporation, the reason for its dissolution or winding up, and that the dissolution has been duly authorized by the church, to administer the affairs, property, and temporalities of which the corporation was organized, and the director of commerce and consumer affairs shall be satisfied that the dissolution has been duly authorized.
- (2) In lieu of the certificate of an officer, director, or manager of the corporation, therein required for the involuntary dissolution of a corporation which has ceased to have any assets and has failed to function, the certificate may be made by any authorized officer of the church, to administer the affairs, property, and temporalities of which the corporation was organized.
- (3) In lieu of the directors or managers of the corporation the incumbent shall be a trustee to wind up the corporation, unless some other person or persons are appointed as therein provided.
- (4) The church, to administer the affairs, property and temporalities of which the corporation was organized, shall stand in the place and stead of the stockholders, and may be represented in court by any authorized officer thereof or trustee acting in its behalf; the remaining assets shall be distributed to such church or to a trustee or trustees in its behalf, or in such other manner as may be decreed by the circuit court of the

judicial circuit in which the dissolved corporation had its principal office at the date of dissolution; and the trustee or trustees in dissolution, the director, the attorney general, or any person connected with the church, may file a petition for the determination of the manner of distribution of the remaining assets, or for the appointment of a trustee or trustees to act in behalf of the church.

- (5) In lieu of the officers of the corporation the incumbent shall represent the corporation with respect to the required tax clearance.”

SECTION 3. Section 421-5, Hawaii Revised Statutes, is amended to read as follows:

“**§421-5 Name.** Section [415-8] 415B-7 shall apply to associations formed under this chapter and no Hawaiian corporation not organized under this chapter shall use the word “cooperative” as a part of its name.”

SECTION 4. Section 421-21, Hawaii Revised Statutes, is amended to read as follows:

“**§421-21 Voluntary dissolution.** Chapter 415, relating to the voluntary dissolution of stock corporations, and chapter 415B, relating to the voluntary dissolution of nonstock corporations, shall apply, as the case may be, to associations formed under this chapter except that the dissolution shall be approved at a meeting duly called and held for the purpose by not less than two-thirds of the voting power voting thereon.”

SECTION 5. Section 421H-1, Hawaii Revised Statutes, is amended to read as follows:

“**[§421H-1] Definitions.** As used in this chapter, unless otherwise indicated by the context:

[(1)] “Corporate equity” means the excess of the current fair market value of the corporation’s assets, including its real property, over the sum of the current transfer values of all shares or membership interests, reduced by the principal balance of outstanding encumbrances upon the corporate real property as a whole.

[(2)] “Limited-equity housing cooperative” means a stock cooperative corporation which is organized as a nonprofit corporation under [sections 416-19 and 416-26] chapter 415B for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share or shares of stock in the corporation held by the person having such right of occupancy; provided the corporation also:

[(A)] (1) Is organized so that the consideration paid for an individual membership share by the first occupant following construction or acquisition by the corporation, including the principal amount of obligation incurred to finance the membership share, does not exceed seven per cent of the respective dwelling unit’s development cost, acquisition cost, or of the fair market value appraisal by the permanent lender, whichever is greater; and

[(B)] (2) Holds title to real property as the beneficiary of a trust providing for distribution for public or charitable purposes upon termination of the trust; or

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- (C) (3) Holds title to real property subject to conditions which will result in reversion to a public or charitable entity for affordable housing upon dissolution of the corporation; or
- (D) (4) Holds a leasehold interest conditioned on the corporation's continued qualification under this chapter and providing for reversion to a public entity or charitable corporation for affordable housing."

SECTION 6. Section 422-5, Hawaii Revised Statutes, is amended to read as follows:

"**§422-5 Name.** Section [415-8] 415B-7 shall apply to associations formed under this chapter and any association organized under this chapter may use the word "cooperative" as a part of its name, notwithstanding section 421-5."

SECTION 7. Section 422-34, Hawaii Revised Statutes, is amended to read as follows:

"**§422-34 Voluntary dissolution.** Chapter 415, relating to the voluntary dissolution of stock corporations, and chapter 415B, relating to the voluntary dissolution of nonstock corporations, shall apply, as the case may be, to associations formed under this chapter except that the dissolution shall be approved at a meeting duly called and held for the purpose by not less than two-thirds of the voting power voting thereon."

SECTION 8. Section 423-1, Hawaii Revised Statutes, is amended to read as follows:

"**§423-1 Dental service corporation, formation.** A nonprofit dental service corporation may be formed for the purposes of contracting with individuals and corporations, both public and private, for defraying or assuming the costs of services of dentists and dental surgeons, and the contracting on behalf of dentists and dental surgeons to furnish such services. The director of commerce and consumer affairs shall grant to applicants who file [a petition] articles of incorporation in conformity with section [416-20] 415B-34 a charter of incorporation for the establishment and conduct of a dental service corporation; provided that the corporation may not engage directly or indirectly in the performance of the corporate purposes or objects unless all of the following requirements are met:

- (1) [At least one-fourth of all] Fifty licensed dentists and dental surgeons in this State become members of the corporation;
- (2) Membership in the corporation and an opportunity to render professional services upon a uniform basis are available to all licensed dentists and dental surgeons in this State;
- (3) Voting by proxy and cumulative voting are prohibited; and
- (4) Certificate of compliance with the requirements of paragraphs (1), (2), and (3) has been issued to the corporation by the board of dental examiners.

Any charter granted or corporation created under authority of this section shall be subject to all general laws enacted in regard to nonprofit corporations."

SECTION 9. Section 424-1, Hawaii Revised Statutes, is amended to read as follows:

"**§424-1 General provisions.** A nonprofit optometric service corporation may be formed for the purposes of contracting with individuals and corporations,

both public and private, for defraying or assuming the costs of services of optometrists, and the contracting on behalf of optometrists to furnish such services. The director of commerce and consumer affairs shall grant to applicants who file [a petition] articles of incorporation in conformity with section [416-20] 415B-34 a charter of incorporation for the establishment and conduct of an optometric service corporation; provided that the corporation may not engage directly or indirectly in the performance of the corporate purposes or objects unless all of the following requirements are met:

- (1) At least twenty-five per cent of all licensed optometrists in this State become members of the corporation;
- (2) Membership in the corporation and an opportunity to render professional services upon a uniform basis are available to all licensed optometrists in this State;
- (3) Voting by proxy and cumulative voting are prohibited; and
- (4) Certificate of compliance with the requirements of paragraphs (1), (2), and (3) has been issued to the corporation by the board of examiners in optometry.

Any charter granted or corporation created under authority of this section shall be subject to all general laws enacted in regard to nonprofit corporations.”

SECTION 10. Section 485-5, Hawaii Revised Statutes, is amended to read as follows:

“**§485-5 Exempted securities; local development company.** Securities issued by a local development company organized within the State for profit under [the general corporation laws] chapter 415 and approved by the Small Business Administration as qualifying for loans under section 502 of the Small Business Investment Act of 1958, as amended, are exempted from this chapter, except such provisions relating to the prospectus, upon the approval of the commissioner of securities. The commissioner shall grant approval for the exemption upon finding that the proposed plan of business of the applicant and the proposed issuance of securities are fair, just, and equitable, that the applicant intends to transact its business fairly and honestly, and that the securities that the applicant proposes to issue and the method to be used by the applicant in issuing or disposing of such securities are not such as, in the opinion of the commissioner, will work a fraud upon the purchaser thereof.”

SECTION 11. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 12. This Act shall take effect upon its approval.

(Approved June 15, 1988.)