
A BILL FOR AN ACT

RELATING TO BUSINESS.

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

1 SECTION 1. Chapter 428, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§428- Low-profit limited liability company. (a) A
5 low-profit limited liability company shall at all times
6 significantly further the accomplishment of one or more
7 charitable or educational purposes within the meaning of section
8 170(c)(2)(B) of the Internal Revenue Code of 1986, title 26
9 United States Code section 170(c)(2)(B), or its successor
10 provision, and would not have been formed but for the
11 relationship to the accomplishment of such charitable or
12 educational purposes.

13 (b) A limited liability company that intends to qualify as
14 a low-profit limited liability company pursuant to this section
15 shall so indicate in its articles of organization and shall
16 further state that:



1 (1) No significant purpose of the company is the
2 production of income or the appreciation of property;
3 provided that the fact that the company actually
4 produces significant income or capital appreciation
5 shall not, in the absence of other factors, be
6 conclusive evidence of a significant purpose involving
7 the production of income or the appreciation of
8 property; and

9 (2) No purpose of the company is to accomplish one or more
10 political or legislative purposes within the meaning
11 of section 170(c)(2)(D) of the Internal Revenue Code
12 of 1986, title 26 United States Code section
13 170(c)(2)(D), or its successor provision.

14 (c) A company that no longer satisfies the requirements of
15 this section shall continue to exist as a limited liability
16 company and shall promptly amend its articles of organization so
17 that its name and purpose no longer identify it as a low-profit
18 limited liability company or L3C.

19 (d) Any company operating or holding itself out as a low-
20 profit limited liability company in this State, any company
21 formed as a low-profit limited liability company pursuant to



1 this section, and any chief operating officer, director, or
2 manager of any such company shall be a fiduciary subject to
3 chapter 556, the uniform fiduciaries act.

4 (e) Nothing in this section shall prevent a limited
5 liability company that is not organized as a low-profit limited
6 liability company from electing a charitable or educational
7 purpose in whole or in part for doing business under this
8 chapter."

9 SECTION 2. Section 428-101, Hawaii Revised Statutes, is
10 amended by adding a new definition to be appropriately inserted
11 and to read as follows:

12 "Low-profit limited liability company" or "L3C" means a
13 for-profit limited liability company that satisfies the
14 requirements of section 428- and does not have as a
15 significant purpose the production of income or the appreciation
16 of property."

17 SECTION 3. Section 428-103, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) The operating agreement may not:

20 (1) Unreasonably restrict a right to information or access
21 to records under section 428-408;



- 1 (2) Eliminate the duty of loyalty under section 428-409(b)
2 or 428-603(b)(3), but the agreement may:
3 (A) Identify specific types or categories of
4 activities that do not violate the duty of
5 loyalty, if not manifestly unreasonable; and
6 (B) Specify the number or percentage of members or
7 disinterested managers that may authorize or
8 ratify, after full disclosure of all material
9 facts, a specific act or transaction that
10 otherwise would violate the duty of loyalty;
11 (3) Unreasonably reduce the duty of care under section
12 428-409(c) or 428-603(b)(3);
13 (4) Eliminate the obligation of good faith and fair
14 dealing under section 428-409(d), but the operating
15 agreement may determine the standards by which the
16 performance of the obligation is to be measured, if
17 the standards are not manifestly unreasonable;
18 (5) Vary the right to expel a member in an event specified
19 in section 428-601(5);



1 (6) Vary the requirement to wind up the limited liability
2 company's business in a case specified in section 428-
3 801(3) or 428-801(4); [~~or~~]

4 (7) Restrict rights of third parties under this chapter,
5 other than managers, members, or their transferees[-];
6 or

7 (8) Eliminate or reduce the obligations or purposes
8 undertaken by a low-profit limited liability company
9 organized pursuant to section 428- ."

10 SECTION 4. Section 428-105, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) The name of a [~~limited~~]:

13 (1) Limited liability company must contain "limited
14 liability company" or the abbreviation "L.L.C." or
15 "LLC" [-]; and

16 (2) Low-profit limited liability company must contain
17 "low-profit limited liability company" or the
18 abbreviation "L3C".

19 "Limited" may be abbreviated as "Ltd.", and "company" may
20 be abbreviated as "Co.". The letters in the name of a limited



1 liability company, other than the abbreviation "L3C", must be
2 letters of the English alphabet."

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon its approval.

6

INTRODUCED BY:





JAN 18 2017



H.B. NO. 19

Report Title:

Low-profit Limited Liability Companies; Business Entities

Description:

Authorizes the organization of low-profit limited liability companies as business entities for the accomplishment of charitable or educational purposes and not for the significant purpose of production of income or appreciation of property.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

