3024

Honolulu, Hawaii

## FEB 2 8 2020

RE: S.B. No. 3046 S.D. 1

Honorable Ronald D. Kouchi President of the Senate Thirtieth State Legislature Regular Session of 2020 State of Hawaii

## Sir:

Your Committee on Judiciary, to which was referred S.B. No. 3046 entitled:

"A BILL FOR AN ACT RELATING TO PENAL LIABILITY FOR BUSINESS ENTITIES,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require a court to order the charter of a corporation forfeited and the certificate authorizing a foreign corporation to do business in the State revoked upon a felony or misdemeanor conviction of the corporation or its high managerial agent that is committed in the conduct of the affairs of the corporation;
- (2) Repeal the requirement for specific findings for a court to order forfeiture of a charter or revocation of a certificate; and
- (3) Require similar penalties for various partnership entities and limited liability companies and their foreign counterparts convicted of a felony or misdemeanor.

Your Committee received testimony in support of this measure from the Young Progressives Demanding Action and five individuals.

Your Committee finds that corporations and other business entities are a powerful part of contemporary society and their conduct, like that of individuals, should be subject to penal sanctions under circumstances when its criminal actions injure substantial societal values and can be morally condemned. Existing law requires the court to find that the board of directors or a high managerial agent acting in behalf of the corporation has, in conducting the corporation's affairs, intentionally engaged in a persistent course of criminal conduct and that the public interest requires the charter of the corporation to be forfeited and the corporation to be dissolved or its certificate of authority to be revoked for the prevention of future criminal conduct of the same character. This heightened finding is ineffective as either a deterrent or punishment for corporate crimes. Thus, your Committee finds that when a corporation or high managerial agent of a corporation is convicted of a felony or misdemeanor committed in the conduct of the affairs of the corporation, the court, in sentencing the corporation or the agent, shall order the charter of a corporation organized under the laws of this State forfeited or the certificate of a foreign corporation authorizing it to do business in this State revoked.

Your Committee has amended this measure by making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3046, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3046, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on behalf of the members of the Committee on Judiciary,

KARL RHOADS, Chair

## The Senate Thirtieth Legislature State of Hawai'i

## Record of Votes Committee on Judiciary JDC

Bill / Resolution No.:*	Committee Referral:			Date:		
2B 3046	JDC			2/20/2020		
The Committee is reconsidering its previous decision on this measure.						
If so, then the previous decision was to:						
The Recommendation is:						
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313						
Members		Aye	Aye (W	R)	Nay	Excused
RHOADS, Karl (C)						
KEOHOKALOLE, Jarrett (VC)						
GABBARD, Mike						
KIM, Donna Mercado						
FEVELLA, Kurt						
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TOTAL		$\mathcal{L}$				
Recommendation:				1		
Adopted Not Adopted						
Chair's or Designee's Signature:						
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy						
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<sup>\*</sup>Only one measure per Record of Votes