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# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1           SECTION 1. Chapter 421, Hawaii Revised Statutes, is  
2 amended by adding three new sections to be appropriately  
3 designated and to read as follows:

4           "§421-    Volunteers exempted. Section 421C-33 shall apply  
5 to associations formed under this chapter.

6           §421-    Operation as an agent on nonprofit basis. (a) A  
7 cooperative may operate as an agent to sell the products of its  
8 members or nonmember patrons on a nonprofit basis by contracting  
9 to pay the members or nonmember patrons the resale price for  
10 products sold by them to or through the cooperative, less a  
11 uniform charge to cover the expenses involved in the handling of  
12 these products; provided that:

13           (1) The resale price shall be the actual resale price or a  
14           price based upon the average price during any period  
15           for products of the same type and quantity; and

16           (2) The uniform charge for expenses shall be:

17           (A) Specified in the contract;



1           (B) Made otherwise ascertainable; or

2           (C) Left for determination by the directors.

3           (b) A cooperative that desires to purchase goods or obtain  
4 or perform services under this chapter may operate on a  
5 nonprofit basis in a manner similar to that described in this  
6 section.

7           §421- General cooperative status. An association formed  
8 under this chapter may convert to a cooperative association or  
9 remain an agricultural cooperative."

10           SECTION 2. Chapter 421C, Hawaii Revised Statutes, is  
11 amended by adding three new sections to be appropriately  
12 designated and to read as follows:

13           "§421C- Referendum. Section 421-17 shall apply to  
14 associations formed under this chapter.

15           §421C- Operation as an agent on nonprofit basis. (a) A  
16 cooperative may operate as an agent to sell the products of its  
17 members or nonmember patrons on a nonprofit basis by contracting  
18 to pay the members or nonmember patrons the resale price for  
19 products sold by them to or through the cooperative, less a  
20 uniform charge to cover the expenses involved in the handling of  
21 these products; provided that:



1        (1) The resale price shall be the actual resale price or a  
2                    price based upon the average price during any period  
3                    for products of the same type and quantity; and

4        (2) The uniform charge for expenses shall be:

5                    (A) Specified in the contract;

6                    (B) Made otherwise ascertainable; or

7                    (C) Left for determination by the directors.

8                    (b) A cooperative that desires to purchase goods or obtain  
9                    or perform services under this chapter may operate on a  
10                   nonprofit basis in a manner similar to that described in this  
11                   section.

12                   §421C- General cooperative status. An association  
13                   formed under this chapter may convert to a cooperative  
14                   association or remain a consumer cooperative."

15                   SECTION 3. Section 421-1, Hawaii Revised Statutes, is  
16                   amended by amending the definition of "person" to read as  
17                   follows:

18                   "'Person" includes individuals, partnerships, corporations,  
19                   limited liability companies, and associations[-], and sacred  
20                   species and natural ecosystems. A sacred species or natural  
21                   ecosystem may participate in the cooperative, through a guardian



1 speaking on behalf, and in the best interest, of the sacred  
2 species or natural ecosystem."

3 SECTION 4. Section 421-2, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§421-2 Purposes. An association may be organized for the  
6 purpose of engaging in any cooperative activity for producers of  
7 agricultural products in connection with:

- 8 (1) Producing, assembling, marketing, buying or selling  
9 agricultural products or harvesting, preserving,  
10 drying, processing, manufacturing, blending, canning,  
11 packing, ginning, grading, storing, warehousing,  
12 handling, shipping, or utilizing the products, or  
13 manufacturing or marketing the byproducts, thereof;  
14 provided seventy-five per cent of such agricultural  
15 products shall be of Hawaiian origin;
- 16 (2) Manufacturing, buying for or supplying to its members  
17 machinery, equipment, feed, fertilizer, fuel, seeds,  
18 and other agricultural supplies;
- 19 (3) Performing or furnishing business or educational  
20 services, on a cooperative basis, or to its members;
- 21 (4) Leasing land to its members; and



1       ~~[(4)]~~ (5) Financing any of the above enumerated activities  
2                   for its members."

3           SECTION 5. Section 421-17, Hawaii Revised Statutes, is  
4 amended to read as follows:

5           "**§421-17 Referendum.** The articles or bylaws may provide  
6 that upon demand of two-fifths of all the directors, or by the  
7 affirmative vote of two-thirds of the members voting thereon at  
8 any regular meeting or at a special meeting called for that  
9 purpose, any matter of policy that has been approved or passed  
10 by the board must be referred to the members for their approval  
11 before it becomes effective. [~~No referendum shall be allowed~~  
12 ~~unless it is demanded by the required number of directors at the~~  
13 ~~meeting at which the matter of policy in question is adopted.]"~~

14           SECTION 6. Section 421C-36, Hawaii Revised Statutes, is  
15 amended to read as follows:

16           "**§421C-36 Exemption of voting stock from registration.**  
17 Membership stock or membership certificates [~~under section 421C-~~  
18 ~~3(a), or share or membership capital of any association~~  
19 ~~organized under or existing prior to passage of this chapter~~  
20 ~~shall be included as exempt securities under] issued by a  
21 cooperative or patronage equity in any form and preferred stock~~



1 or equity or notes issued to members of any cooperative  
2 organized under this chapter shall be included as exempt  
3 securities pursuant to section [~~485A-201~~] 485A-201(8)."

4 SECTION 7. This Act does not affect rights and duties that  
5 matured, penalties that were incurred, and proceedings that were  
6 begun before its effective date.

7 SECTION 8. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 9. This Act shall take effect upon its approval.

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INTRODUCED BY: *James Skaggs*

JAN 27 2021



# H.B. NO. 1302

**Report Title:**

Agricultural Cooperative Associations; Consumer Cooperative Associations

**Description:**

Updates the laws on agricultural cooperative associations and consumer cooperative associations including operations as resale agents and conversions.

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

