
A BILL FOR AN ACT

RELATING TO THE POWERS OF ARTIFICIAL PERSONS.

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

1 PART I

2 SECTION 1. The legislature finds that all political power
3 in the State is inherent in the people, and that the creation of
4 a corporation or other artificial legal entity is a privilege
5 granted by the State, not a natural right. Under article I,
6 section 21, of the Hawaii State Constitution, no grant of
7 special privileges or immunities is irrevocable and the
8 legislature retains full authority to redefine or withdraw any
9 corporate or entity powers that the State has conferred.

10 The legislature further finds that judicial decisions of
11 the United States Supreme Court recognize that the State
12 possesses plenary authority to determine the powers and
13 capacities of the artificial persons it creates. This Act
14 exercises that authority to restate and limit the powers that
15 the State grants to corporations, limited liability companies,
16 partnerships, associations, and other artificial persons.



1 The legislature further finds that statutes in the State
2 and other jurisdictions have historically included broad grants
3 of corporate powers. State law currently authorizes a
4 corporation to have "the same powers as an individual to do all
5 things necessary or convenient to carry out its business and
6 affairs". The United States Supreme Court has interpreted these
7 broad grants of powers to include powers to make expenditures in
8 connection with elections and ballot measures, and has
9 recognized constitutional rights attached to the exercise of
10 these powers. The legislature declares that these political
11 spending powers were never intended to be among the powers
12 granted to corporations or other artificial persons by the
13 State. The aim of this Act is to make that intent explicit and
14 to define the lawful powers of artificial persons accordingly.

15 The legislature further finds that the federal prohibition
16 on 501(c)(3) nonprofit corporation electioneering has been
17 upheld in federal courts on the basis that those entities
18 receive the benefit of favorable tax settings. This principle
19 also applies to entities chartered in the State, which receive
20 the benefits of favorable tax settings and limited liability
21 protections under state law.



1 The legislature believes that the powers conferred on an
2 artificial person are separate and distinct from the rights
3 retained by natural persons. This Act therefore does not
4 regulate any natural person's rights to speech, petition, or
5 association. This Act simply defines and limits the powers that
6 the State confers upon the artificial persons that the State
7 charters or authorizes to do business.

8 Accordingly, the purpose of this Act is to:

- 9 (1) Reaffirm that artificial persons created under state
10 law possess only those powers that are necessary or
11 convenient to carry out lawful business and
12 organizational purposes, and that those powers do not
13 include the power to spend money or contribute
14 anything of value to influence elections or ballot
15 measures; and
- 16 (2) Revoke all prior grants of corporate and entity powers
17 and regrant only those powers that the State
18 determines to be necessary or convenient to conduct
19 lawful business under the constitution and laws of the
20 State.



1 SECTION 2. This Act applies to all entities organized
2 under the laws of this State unless expressly identified in
3 statute as a public body corporate and politic. Nothing in this
4 Act shall apply to any agency or instrumentality of the State or
5 its political subdivisions.

6 PART II

7 SECTION 3. Chapter 412, Hawaii Revised Statutes, is
8 amended by adding a new section to part II of article 10, to be
9 appropriately designated and to read as follows:

10 "§412:10- Limitations on powers. A credit union
11 chartered under this part shall be subject to section 414-42
12 with respect to the limitations on corporate powers contained in
13 that section."

14 PART III

15 SECTION 4. Section 414-3, Hawaii Revised Statutes, is
16 amended by adding four new definitions to be appropriately
17 inserted and to read as follows:

18 "Artificial-person powers" means the same powers as an
19 individual to do all things necessary or convenient to carry out
20 the corporation's lawful business and affairs, excluding any



1 power to directly or indirectly engage in election activity or
2 ballot-issue activity.

3 "Ballot-issue activity" means paying, contributing, or
4 expending money or anything of value to support or oppose a
5 constitutional amendment, county charter amendment, or other
6 ballot question after it has been formally certified or
7 submitted to the electors of the State or any county. "Ballot-
8 issue activity" does not include any bona fide news story,
9 commentary, or editorial distributed through the facilities of a
10 broadcasting station or of any print, online, or digital
11 newspaper, magazine, blog, or other periodical publication,
12 unless the broadcasting, print, online, or digital facility is
13 owned or controlled by a candidate, political committee, or
14 political party.

15 "Charter privilege" means any benefit that exists only
16 because the State confers it on a corporation or other entity,
17 including, without limitation, limited liability, perpetual
18 duration, succession in the corporate name, business or
19 statutory trusts, and tax credits or abatements.

20 "Election activity" means paying, contributing, or
21 expending money or anything of value to support or oppose a



1 candidate, political committee, or political party. "Election
2 activity" does not include any bona fide news story, commentary,
3 or editorial distributed through the facilities of a
4 broadcasting station or of any print, online, or digital
5 newspaper, magazine, blog, or other periodical publication,
6 unless the broadcasting, print, online, or digital facility is
7 owned or controlled by a candidate, political committee, or
8 political party."

9 SECTION 5. Section 414-41, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) Every corporation incorporated under this chapter has
12 the purpose of engaging in any lawful business, not including
13 election activity or ballot-issue activity, unless a more
14 limited purpose is set forth in the articles of incorporation.
15 Under no circumstances shall any power or activity related to
16 election activity or ballot-issue activity be deemed necessary
17 or convenient for a corporation's lawful business purpose or
18 affairs."

19 SECTION 6. Section 414-42, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "~~§~~414-42~~§~~ **General powers.** (a) The creation and
2 continued existence of a corporation shall not be deemed a right
3 but shall be a conditional grant of legal status by the State
4 and shall remain subject to complete withdrawal at any time.
5 All powers granted to corporations under the laws of the State
6 before January 1, 2027, shall be revoked in their entirety.
7 Beginning January 1, 2027, a corporation operating under the
8 jurisdiction of the State shall possess no power unless
9 specifically granted by this section.

10 (b) Unless its articles of incorporation provide
11 otherwise, every corporation ~~has~~ shall have perpetual duration
12 and succession in its corporate name and ~~has the same powers as~~
13 ~~an individual to do all things necessary or convenient to carry~~
14 ~~out its business and affairs,~~ shall have artificial-person
15 powers, including without limitation, the power:

- 16 (1) To sue and be sued, complain and defend in its
17 corporate name;
- 18 (2) To have a corporate seal, which may be altered at
19 will, and to use it, or a facsimile of it, by
20 impressing or affixing it or in any other manner
21 reproducing it;



- 1 (3) To make and amend bylaws, not inconsistent with its
2 articles of incorporation or with the laws of this
3 State, for managing the business and regulating the
4 affairs of the corporation;
- 5 (4) To purchase, receive, lease, or otherwise acquire, and
6 own, hold, improve, use, and otherwise deal with, real
7 or personal property, or any legal or equitable
8 interest in property, wherever located;
- 9 (5) To sell, convey, mortgage, pledge, lease, exchange,
10 and otherwise dispose of all or any part of its
11 property;
- 12 (6) To purchase, receive, subscribe for, or otherwise
13 acquire; own, hold, vote, use, sell, mortgage, lend,
14 pledge, or otherwise dispose of; and deal in and with
15 shares or other interests in, or obligations of, any
16 other entity;
- 17 (7) To make contracts and guarantees, incur liabilities,
18 borrow money, issue its notes, bonds, and other
19 obligations (which may be convertible into or include
20 the option to purchase other securities of the
21 corporation), and secure any of its obligations by



- 1 mortgage or pledge of any of its property, franchises,
2 or income;
- 3 (8) To lend money, invest and reinvest its funds, and
4 receive and hold real and personal property as
5 security for repayment;
- 6 (9) To be a promoter, partner, member, associate, or
7 manager of any partnership, joint venture, trust, or
8 other entity;
- 9 (10) To conduct its business, locate offices, and exercise
10 the powers granted by this chapter within or without
11 this State;
- 12 (11) To elect directors and appoint officers, employees,
13 and agents of the corporation, define their duties,
14 fix their compensation, and lend them money and
15 credit;
- 16 (12) To pay pensions and establish pension plans, pension
17 trusts, profit sharing plans, share bonus plans, share
18 option plans, and benefit or incentive plans for any
19 or all of its current or former directors, officers,
20 employees, and agents;



1 (13) To make donations for the public welfare or for
2 charitable, scientific, or educational purposes;

3 (14) To transact any lawful business that will aid
4 governmental policy; and

5 (15) To make payments [~~or donations~~], or do any other act,
6 not inconsistent with law, that furthers the business
7 and affairs of the corporation.

8 (c) Any provision of the articles of incorporation,
9 bylaws, or other organizational documents of the corporation
10 purporting to grant or confer any power to directly or
11 indirectly engage in election activity or ballot-issue activity
12 shall be void.

13 (d) Any act undertaken by a corporation that constitutes
14 an election activity or ballot-issue activity shall be ultra
15 vires and void. A corporation that exercises any power not
16 granted under subsection (b) shall forfeit all charter
17 privileges, including limited liability and perpetual duration,
18 as a matter of law. The director of commerce and consumer
19 affairs shall adopt rules for administrative forfeiture,
20 reinstatement upon disgorgement and certification of compliance,
21 and related civil enforcement of this section.



1 (e) A foreign corporation that is authorized to transact
2 business, is otherwise transacting business, or holds property
3 in the State shall be subject to this section. A foreign
4 corporation that directly or indirectly undertakes, finances, or
5 directs election activity or ballot-issue activity in the State
6 shall be conclusively deemed to be transacting business in the
7 State.

8 (f) Nothing in this section shall be construed to
9 invalidate, impair, or modify any existing contract, debt
10 instrument, security, or other legal obligation validly entered
11 into before January 1, 2027; provided that nothing in this
12 section shall authorize any election activity or ballot-issue
13 activity after that date.

14 (g) If any provision of this section, or its application
15 to any person or circumstance, is held invalid or
16 unconstitutional, the remaining provisions and applications that
17 are severable shall remain in effect, and no prior grant of
18 corporate powers shall be revived, reinstated, or implied by
19 operation of law or judicial construction."

20 SECTION 7. Section 414-44, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "[†]§414-44[†] **Ultra vires.** (a) Except as provided in
2 subsection (b), the validity of corporate action may not be
3 challenged on the ground that the corporation lacks or lacked
4 power to act.

5 (b) A corporation's power to act may be challenged:

6 (1) In a proceeding by a shareholder against the
7 corporation to enjoin the act;

8 (2) In a proceeding by the corporation, directly,
9 derivatively, or through a receiver, trustee, or other
10 legal representative, against an incumbent or former
11 director, officer, employee, or agent of the
12 corporation; or

13 (3) In a proceeding by the attorney general under section
14 414-411.

15 (c) In a shareholder's proceeding under subsection (b)(1)
16 to enjoin an unauthorized corporate act, the court may enjoin or
17 set aside the act, if equitable and if all affected persons are
18 parties to the proceeding, and may award damages for loss (other
19 than anticipated profits) suffered by the corporation or another
20 party because of enjoining the unauthorized act.



1 broadcasting station or of any print, online, or digital
2 newspaper, magazine, blog, or other periodical publication,
3 unless the broadcasting, print, online, or digital facility is
4 owned or controlled by a candidate, political committee, or
5 political party.

6 "Charter privilege" means any benefit that exists only
7 because the State confers it on a corporation or other entity,
8 including, without limitation, limited liability, perpetual
9 duration, succession in the corporate name, business or
10 statutory trusts, and tax credits or abatelements.

11 "Election activity" means paying, contributing, or
12 expending money or anything of value to support or oppose a
13 candidate, political committee, or political party. "Election
14 activity" does not include any bona fide news story, commentary,
15 or editorial distributed through the facilities of a
16 broadcasting station or of any print, online, or digital
17 newspaper, magazine, blog, or other periodical publication,
18 unless the broadcasting, print, online, or digital facility is
19 owned or controlled by a candidate, political committee, or
20 political party."



1 SECTION 9. Section 414D-51, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Every corporation incorporated under this chapter has
4 the purpose of engaging in any lawful activity, not including
5 election activity or ballot-issue activity, unless a more
6 limited purpose is set forth in the articles of incorporation.
7 Under no circumstances shall any power or activity related to
8 election activity or ballot-issue activity be deemed necessary
9 or convenient for a corporation's lawful business or affairs."

10 SECTION 10. Section 414D-52, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[+]§414D-52[+] **General powers.** (a) The creation and
13 continued existence of a corporation shall not be deemed a right
14 but shall be a conditional grant of legal status by the State
15 and shall remain subject to complete withdrawal at any time.
16 All powers granted to corporations under the laws of this State
17 before January 1, 2027, shall be revoked in their entirety.
18 Beginning January 1, 2027, a corporation operating under the
19 jurisdiction of this State shall possess no power unless
20 specifically granted by this section.



1 (b) Unless its articles of incorporation provide
2 otherwise, every corporation [~~has~~] shall have perpetual duration
3 and succession in its corporate name and [~~has the same powers as~~
4 ~~an individual to do all things necessary or convenient to carry~~
5 ~~out its affairs~~] shall have artificial-person powers, including,
6 without limitation, the power:

7 (1) To sue and be sued, complain, and defend in its
8 corporate name;

9 (2) To have a corporate seal, which may be altered at
10 will, and to use it, or a facsimile of it, by
11 impressing or affixing or in any other manner
12 reproducing it;

13 (3) To make and amend bylaws, not inconsistent with its
14 articles of incorporation or with the laws of the
15 State, for regulating and managing the affairs of the
16 corporation;

17 (4) To purchase, receive, lease, or otherwise acquire, and
18 own, hold, improve, use, and otherwise deal with, real
19 or personal property, or any legal or equitable
20 interest in property, wherever located;



- 1 (5) To sell, convey, mortgage, pledge, lease, exchange,
2 and otherwise dispose of all or any part of its
3 property;
- 4 (6) To purchase, receive, subscribe for, or otherwise
5 acquire, own, hold, vote, use, sell, mortgage, lend,
6 pledge, or otherwise dispose of, and deal in and with,
7 shares or other interests in, or obligations of any
8 entity;
- 9 (7) To make contracts and guaranties, incur liabilities,
10 borrow money, issue notes, bonds, and other
11 obligations, and secure any of its obligations by
12 mortgage or pledge of any of its property, franchises,
13 or income;
- 14 (8) To lend money, invest and reinvest its funds, and
15 receive and hold real and personal property as
16 security for repayment, except as limited by section
17 414D-151;
- 18 (9) To be a promoter, partner, member, associate, or
19 manager of any partnership, joint venture, trust, or
20 other entity;



- 1 (10) To conduct its activities, locate offices, and
2 exercise the powers granted by this chapter within or
3 without this State;
- 4 (11) To elect or appoint directors, officers, employees,
5 and agents of the corporation, define their duties,
6 and fix their compensation;
- 7 (12) To pay pensions and establish pension plans, pension
8 trusts, and other benefit and incentive plans for any
9 or all of its current or former directors, officers,
10 employees, and agents;
- 11 (13) To make donations not inconsistent with law for the
12 public welfare or for charitable, religious,
13 scientific, or educational purposes, and for other
14 purposes that further the corporate interest;
- 15 (14) To impose dues, assessments, admission, and transfer
16 fees upon its members;
- 17 (15) To establish conditions for admission of members,
18 admit members, and issue memberships;
- 19 (16) To carry on a business;



1 (17) To do all things necessary or convenient, not
2 inconsistent with law, to further the activities and
3 affairs of the corporation.

4 (c) Any provision of the articles, bylaws, or other
5 organizational documents of the corporation purporting to grant
6 or confer any power to directly or indirectly engage in election
7 activity or ballot-issue activity shall be void.

8 (d) A foreign nonprofit corporation that is authorized to
9 transact business, is otherwise transacting business, or holds
10 property in the State shall be subject to this section. A
11 foreign nonprofit corporation that directly or indirectly
12 undertakes, finances, or directs election activity or ballot-
13 issue activity in the State shall be conclusively deemed to be
14 transacting business in the State.

15 (e) Any act undertaken by a corporation that constitutes
16 an election activity or ballot-issue activity shall be ultra
17 vires and void. A corporation that exercises any power not
18 granted under subsection (b) shall forfeit all charter
19 privileges, including limited liability and perpetual duration,
20 as a matter of law. The director of commerce and consumer
21 affairs shall adopt rules for administrative forfeiture,



1 reinstatement upon disgorgement and certification of compliance,
2 and related civil enforcement of this section.

3 (f) Notwithstanding any other provision of this section or
4 chapter, candidate committees and noncandidate committees, as
5 defined in section 11-302, or similar committees created under
6 federal law, are entities created for the purpose of engaging in
7 election activity and ballot-issue activity, and are hereby
8 granted the power to engage in those activities; provided that
9 the committees exist solely for those purposes and claim no
10 charter privilege other than limited liability. No other
11 corporation organized under this chapter shall be granted or
12 exercise any power to engage in election activity or
13 ballot-issue activity.

14 (g) Nothing in this section shall be construed to
15 invalidate, impair, or modify any existing contract, debt
16 instrument, security, or other legal obligation validly entered
17 into before January 1, 2027; provided that nothing in this
18 section shall authorize any election activity or ballot-issue
19 activity after that date except as provided under subsection
20 (f).



1 (h) If any provision of this section, or its application
2 to any person or circumstance, is held invalid or
3 unconstitutional, the remaining provisions and applications that
4 are severable shall remain in effect, and no prior grant of
5 nonprofit corporate powers shall be revived, reinstated, or
6 implied by operation of law or judicial construction."

7 SECTION 11. Section 414D-54, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§414D-54 Ultra vires.** (a) Except as provided in
10 subsection (b), the validity of corporate action may not be
11 challenged on the ground that the corporation lacks or lacked
12 power to act.

13 (b) A corporation's power to act may be challenged in a
14 proceeding against the corporation to enjoin an act where a
15 third party has not acquired rights. The proceeding may be
16 brought by the attorney general, a director, or by a member or
17 members in a derivative proceeding.

18 (c) A corporation's power to act may be challenged in a
19 proceeding against an incumbent or former director, officer,
20 employee, or agent of the corporation. The proceeding may be
21 brought by a director, the corporation, directly, derivatively,



1 or through a receiver, a trustee, or other legal representative,
2 or in the case of a public benefit corporation, by the attorney
3 general.

4 (d) This section shall not apply to acts that constitute
5 election activities or ballot-issue activities, which are ultra
6 vires and void pursuant to section 414D-52(e), except as
7 provided in section 414D-52(f), and may be addressed in
8 proceedings authorized by that section or by the attorney
9 general under section 414D-252."

10 PART V

11 SECTION 12. Chapter 415A, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§415A- Limitations on powers. A professional
15 corporation organized under this chapter shall be subject to
16 section 414-42, including all limitations on corporate powers
17 contained in that section."

18 PART VI

19 SECTION 13. Chapter 421, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and to read as follows:



1 "§421- Limitations on powers. An association organized
2 under this chapter shall be subject to section 414-42, including
3 all limitations on corporate powers contained in that section."

PART VII

5 SECTION 14. Chapter 421C, Hawaii Revised Statutes, is
6 amended by adding a new section to part I to be appropriately
7 designated and to read as follows:

8 "§421C- Limitations on powers. An association organized
9 under this chapter shall be subject to section 414-42, including
10 all limitations on corporate powers contained in that section."

PART VIII

12 SECTION 15. Chapter 421H, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§421H- Limitations on powers. A limited-equity housing
16 cooperative organized under this chapter shall be subject to
17 section 414D-52, including all limitations on corporate powers
18 contained in that section."

PART IX

20 SECTION 16. Chapter 425, Hawaii Revised Statutes, is
21 amended by adding a new section to the "Limited Liability



1 Partnerships" subpart of part IV to be appropriately designated
2 and to read as follows:

3 "§425- Election activity and ballot-issue activity;
4 limitation on limited liability privilege. (a) This section
5 shall apply only to partnerships registered as limited liability
6 partnerships under this subpart.

7 (b) A partnership registered as a limited liability
8 partnership under this subpart shall not directly or indirectly
9 engage in election activity or ballot-issue activity.

10 (c) Any act undertaken by a limited liability partnership
11 that constitutes an election activity or ballot-issue activity
12 shall be ultra vires and void. A limited liability partnership
13 that engages in either activity shall forfeit all charter
14 privileges conferred by its statement of qualification,
15 including limited liability, as a matter of law. The director
16 of commerce and consumer affairs shall adopt rules for
17 administrative forfeiture, reinstatement upon disgorgement and
18 certification of compliance, and related civil enforcement of
19 this section.

20 (d) A foreign limited liability partnership that directly
21 or indirectly undertakes, finances, or directs election activity



1 or ballot-issue activity in the State shall be conclusively
2 deemed to be transacting business in the State.

3 (e) If any provision of this section, or its application
4 to any person or circumstance, is held invalid or
5 unconstitutional, the remaining provisions and applications that
6 are severable shall remain in effect, and no prior grant of
7 limited liability privileges shall be revived, reinstated, or
8 implied by operation of law or judicial construction.

9 (f) For the purposes of this section:

10 "Ballot-issue activity" has the same meaning as defined in
11 section 414-3.

12 "Election activity" has the same meaning as defined in
13 section 414-3."

14 PART X

15 SECTION 17. Chapter 425E-102, Hawaii Revised Statutes, is
16 amended by adding four new definitions to be appropriately
17 designated and to read as follows:

18 "Artificial-person powers" means the same powers as an
19 individual to do all things necessary or convenient to carry out
20 the limited partnership's lawful business and affairs, excluding



1 any power to directly or indirectly engage in election activity
2 or ballot-issue activity.

3 "Ballot-issue activity" means paying, contributing, or
4 expending money or anything of value to support or oppose a
5 constitutional amendment, county charter amendment, or other
6 ballot question after it has been formally certified or
7 submitted to the electors of the State or any county. "Ballot-
8 issue activity" does not include any bona fide news story,
9 commentary, or editorial distributed through the facilities of a
10 broadcasting station or of any print, online, or digital
11 newspaper, magazine, blog, or other periodical publication,
12 unless the broadcasting, print, online, or digital facility is
13 owned or controlled by a candidate, political committee, or
14 political party.

15 "Charter privilege" means any benefit that exists only
16 because the State confers it on a limited partnership or other
17 entity, including, without limitation, limited liability,
18 perpetual duration, succession in its name, business or
19 statutory trusts, and tax credits or abatements.

20 "Election activity" means paying, contributing, or
21 expending money or anything of value to support or oppose a



1 candidate, political committee, or political party. "Election
2 activity" does not include any bona fide news story, commentary,
3 or editorial distributed through the facilities of a
4 broadcasting station or of any print, online, or digital
5 newspaper, magazine, blog, or other periodical publication,
6 unless the broadcasting, print, online, or digital facility is
7 owned or controlled by a candidate, political committee, or
8 political party."

9 SECTION 18. Section 425E-105, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~[+]§425E-105[+] Powers. [A limited partnership has the~~
12 ~~powers to do all things necessary or convenient to carry on its~~
13 ~~activities, including the power to sue, be sued, and defend in~~
14 ~~its own name and to maintain an action against a partner for~~
15 ~~harm caused to the limited partnership by a breach of the~~
16 ~~partnership agreement or violation of a duty to the~~
17 ~~partnership.]~~ (a) The creation and continued existence of a
18 limited partnership shall not be deemed a right but shall be a
19 conditional grant of legal status by the State and shall remain
20 subject to complete withdrawal at any time. All powers granted
21 to limited partnerships under the laws of this State before



1 January 1, 2027, shall be revoked in their entirety. Beginning
2 January 1, 2027, a limited partnership operating under the
3 jurisdiction of this State shall possess no power unless
4 specifically granted by this section. Under no circumstances
5 shall any power or activity related to election activity or
6 ballot-issue activity be deemed necessary or convenient for a
7 limited partnership's lawful business or affairs.

8 (b) A limited partnership shall have perpetual duration
9 and succession in its name. Unless its partnership agreement or
10 certificate of limited partnership provides otherwise, each
11 limited partnership shall have artificial-person powers together
12 with the powers enumerated in this chapter.

13 (c) Any provision of a partnership agreement, certificate
14 of limited partnership, or other organizational document
15 purporting to grant or confer any power to directly or
16 indirectly engage in election activity or ballot-issue activity
17 shall be void.

18 (d) Any act undertaken by a limited partnership that
19 constitutes an election activity or ballot-issue activity shall
20 be ultra vires and void. A limited partnership that exercises
21 any power not granted under subsection (b) shall forfeit all



1 charter privileges, including limited liability and perpetual
2 duration, as a matter of law. The director of commerce and
3 consumer affairs shall adopt rules for administrative
4 forfeiture, reinstatement upon disgorgement and certification of
5 compliance, and related civil enforcement of this section.

6 (e) A foreign limited partnership that is authorized to
7 transact business, is otherwise transacting business, or holds
8 property in the State is subject to this section. A foreign
9 limited partnership that directly or indirectly undertakes,
10 finances, or directs election activity or ballot-issue activity
11 in the State shall be conclusively deemed to be transacting
12 business in the State.

13 (f) Nothing in this section shall be construed to
14 invalidate, impair, or modify any existing contract, debt
15 instrument, security, or other legal obligation validly entered
16 into before January 1, 2027; provided that nothing in this
17 section shall authorize any election activity or ballot-issue
18 activity after that date.

19 (g) If any provision of this section, or its application
20 to any person or circumstance, is held invalid or
21 unconstitutional, the remaining provisions and applications that



1 are severable shall remain in effect, and no prior grant of
2 powers to limited partnerships shall be revived, reinstated, or
3 implied by operation of law or judicial construction."

4 PART XI

5 SECTION 19. Section 428-101, Hawaii Revised Statutes, is
6 amended by adding four new definitions to be appropriately
7 inserted and to read as follows:

8 "Artificial-person powers" means the same powers as an
9 individual to do all things necessary or convenient to carry out
10 the limited liability company's lawful business and affairs,
11 excluding any power to directly or indirectly engage in election
12 activity or ballot-issue activity.

13 "Ballot-issue activity" means paying, contributing, or
14 expending money or anything of value to support or oppose a
15 constitutional amendment, county charter amendment, or other
16 ballot question after it has been formally certified or
17 submitted to the electors of the State or any county. "Ballot-
18 issue activity" does not include any bona fide news story,
19 commentary, or editorial distributed through the facilities of a
20 broadcasting station or of any print, online, or digital
21 newspaper, magazine, blog, or other periodical publication,



1 unless the broadcasting, print, online, or digital facility is
2 owned or controlled by a candidate, political committee, or
3 political party.

4 "Charter privilege" means any benefit that exists only
5 because the State confers it on a limited liability company or
6 other entity, including, without limitation, limited liability,
7 perpetual duration, succession in its name, business or
8 statutory trusts, and tax credits or abatements.

9 "Election activity" means paying, contributing, or
10 expending money or anything of value to support or oppose a
11 candidate, political committee, or political party. "Election
12 activity" does not include any bona fide news story, commentary,
13 or editorial distributed through the facilities of a
14 broadcasting station or of any print, online, or digital
15 newspaper, magazine, blog, or other periodical publication,
16 unless the broadcasting, print, online, or digital facility is
17 owned or controlled by a candidate, political committee, or
18 political party."

19 SECTION 20. Section 428-111, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "**§428-111 Nature of business and powers.** (a) [~~A limited~~
2 ~~liability company may be organized under this chapter for any~~
3 ~~lawful purpose, subject to any law of this State governing or~~
4 ~~regulating business.] The creation and continued existence of a
5 limited liability company shall not be deemed a right but shall
6 be a conditional grant of legal status by the State and shall
7 remain subject to complete withdrawal at any time. All powers
8 granted to limited liability companies under the laws of this
9 State before January 1, 2027, shall be revoked in their
10 entirety. Beginning January 1, 2027, a limited liability
11 company operating under the jurisdiction of the State shall
12 possess no power unless specifically granted by this section.
13 Under no circumstances shall any power or activity related to
14 election activity or ballot-issue activity be deemed necessary
15 or convenient for a limited liability company's lawful business
16 or affairs.~~

17 (b) Unless its articles of organization provide otherwise,
18 a limited liability company [~~has the same powers as an~~
19 ~~individual to do all things necessary or convenient to carry on~~
20 ~~its business or affairs,]~~ shall have perpetual duration and



1 succession in its company name and artificial-person powers,

2 including the power to:

3 (1) Sue and be sued, and defend in its company name;

4 (2) Purchase, receive, lease, or otherwise acquire, and
5 own, hold, improve, use, and otherwise deal with real
6 or personal property, or any legal or equitable
7 interest in property, wherever located;

8 (3) Sell, convey, mortgage, grant a security interest in,
9 lease, exchange, and otherwise encumber or dispose of
10 all or any part of its property;

11 (4) Purchase, receive, subscribe for, or otherwise
12 acquire, own, hold, vote, use, sell, mortgage, lend,
13 grant a security interest in, or otherwise dispose of
14 and deal in and with, shares or other interests in or
15 obligations of any other entity;

16 (5) Make contracts and guarantees, incur liabilities,
17 borrow money, issue notes, bonds, and other
18 obligations, which may be convertible into or include
19 the option to purchase other securities of the limited
20 liability company, and secure any of its obligations



- 1 by a mortgage on or a security interest in any of its
2 property, franchises, or income;
- 3 (6) Lend money, invest and reinvest its funds, and receive
4 and hold real and personal property as security for
5 repayment;
- 6 (7) Be a promoter, partner, member, associate, or manager
7 of any partnership, joint venture, trust, or other
8 entity;
- 9 (8) Conduct its business, locate offices, and exercise the
10 powers granted by this chapter within or without this
11 State;
- 12 (9) Elect managers and appoint officers, employees, and
13 agents of the limited liability company, define their
14 duties, fix their compensation, and lend them money
15 and credit;
- 16 (10) Pay pensions and establish pension plans, pension
17 trusts, profit sharing plans, share bonus plans, share
18 option plans, and benefit or incentive plans for any
19 or all of its current or former members, managers,
20 officers, employees, and agents;



- 1 (11) Make donations for the public welfare or for
- 2 charitable, scientific, or educational purposes; and
- 3 (12) Make payments [~~or donations~~], or do any other act, not
- 4 inconsistent with law, that furthers the business of
- 5 the limited liability company."

PART XII

7 SECTION 21. Chapter 429, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§429- Powers of nonprofit associations. (a) The
 11 creation and continued existence of a nonprofit association
 12 shall not be deemed a right but shall be a conditional grant of
 13 legal status by the State and shall remain subject to complete
 14 withdrawal at any time. All powers granted to nonprofit
 15 associations under the laws of this State before January 1,
 16 2027, shall be revoked in their entirety. Beginning January 1,
 17 2027, a nonprofit association operating under the jurisdiction
 18 of the State shall possess no power unless specifically granted
 19 by this section. Under no circumstances shall any election
 20 activity or ballot-issue activity be deemed necessary or



1 convenient for a nonprofit association's lawful purpose or
2 affairs.

3 (b) Unless its governing principles provide otherwise,
4 each nonprofit association shall have artificial-person powers,
5 together with the powers enumerated in this chapter.

6 (c) Any provision of the nonprofit association's governing
7 principles, articles of association, bylaws, or similar
8 documents purporting to grant or confer any power to directly or
9 indirectly engage in election activity or ballot-issue activity
10 shall be void.

11 (d) Any act undertaken by a nonprofit association that
12 constitutes an election activity or ballot-issue activity shall
13 be ultra vires and void. A nonprofit association that exercises
14 any power not granted under subsection (b) shall forfeit all
15 charter privileges, including limited liability and perpetual
16 duration, as a matter of law. The director of commerce and
17 consumer affairs shall adopt rules for administrative
18 forfeiture, reinstatement upon disgorgement and certification of
19 compliance, and related civil enforcement of this section.

20 (e) A foreign unincorporated nonprofit association that is
21 authorized to transact business, is otherwise transacting



1 business, or holds property in the State is subject to this
2 section. A foreign unincorporated nonprofit association that
3 directly or indirectly undertakes, finances, or directs election
4 activity or ballot-issue activity in the State shall be
5 conclusively deemed to be transacting business in the State.

6 (f) Nothing in this section shall be construed to
7 invalidate, impair, or modify any existing contract, debt
8 instrument, security, or other legal obligation validly entered
9 into before January 1, 2027; provided that nothing in this
10 section shall authorize any election activity or ballot-issue
11 activity after that date.

12 (g) If any provision of this section, or its application
13 to any person or circumstance, is held invalid or
14 unconstitutional, the remaining provisions and applications that
15 are severable shall remain in effect, and no prior grant of
16 powers to nonprofit associations shall be revived, reinstated,
17 or implied by operation of law or judicial construction."

18 SECTION 22. Section 429-1, Hawaii Revised Statutes, is
19 amended by adding four new definitions to be appropriately
20 inserted and to read as follows:



1 ""Artificial-person powers" means the same powers as an
2 individual to do all things necessary or convenient to carry out
3 the nonprofit association's lawful purposes and activities,
4 excluding any power to directly or indirectly engage in election
5 activity or ballot-issue activity.

6 "Ballot-issue activity" means paying, contributing, or
7 expending money or anything of value to support or oppose a
8 constitutional amendment, county charter amendment, or other
9 ballot question after it has been formally certified or
10 submitted to the electors of the State or any county. "Ballot-
11 issue activity" does not include any bona fide news story,
12 commentary, or editorial distributed through the facilities of a
13 broadcasting station or of any print, online, or digital
14 newspaper, magazine, blog, or other periodical publication,
15 unless the broadcasting, print, online, or digital facility is
16 owned or controlled by a candidate, political committee, or
17 political party.

18 "Charter privilege" means any benefit that exists only
19 because the State confers it on a nonprofit association or other
20 entity, including, without limitation, limited liability,



1 perpetual duration, succession in its name, business or
2 statutory trusts, and tax credits or abatelements.

3 "Election activity" means paying, contributing, or
4 expending money or anything of value to support or oppose a
5 candidate, political committee, or political party. "Election
6 activity" does not include any bona fide news story, commentary,
7 or editorial distributed through the facilities of a
8 broadcasting station or of any print, online, or digital
9 newspaper, magazine, blog, or other periodical publication,
10 unless the broadcasting, print, online, or digital facility is
11 owned or controlled by a candidate, political committee, or
12 political party."

13 PART XIII

14 SECTION 23. If any provision of this Act, or its
15 application to any person or circumstance, is held invalid or
16 unconstitutional, the remaining provisions and applications that
17 are severable shall remain in effect. Further, no prior grant
18 of powers to entities covered by this Act shall be revived,
19 reinstated, or implied by operation of law or judicial
20 construction, and nothing in this Act shall be construed to
21 authorize broader powers than are expressly conferred herein.



1 SECTION 24. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 25. This Act shall take effect on July 1, 3000.



Report Title:

Business Entities; Nonprofit Corporations; Limited Liability Companies; Limited Partnerships; Limited Liability Partnerships; Nonprofit Associations; Professional Corporations; Agricultural Cooperative Associations; Consumer Cooperative Associations; Limited-Equity Housing Cooperatives; State-Chartered Credit Unions; Election Activities; Ballot-Issue Activities; Limitations

Description:

Reaffirms that artificial persons created under state law possess only those powers that are necessary or convenient to carry out lawful purposes, and that those powers do not include the power to spend money or contribute anything of value to influence elections or ballot measures. Revokes all prior grants of entity powers and regrants only those powers that the State determines to be necessary or convenient to conduct lawful business under the Hawaii State Constitution and laws of this State. Effective 7/1/3000. (HD1)

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

