
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. It simply defines and limits the powers that the
6 State confers upon the artificial entities that it charters or
7 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 charitable
12 or organizational purposes, and that those powers do
13 not 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 political party, political committee,
14 or candidate.

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 party, or political committee. "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 political party, political committee,
 8 or candidate."

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 is not a right but a
3 conditional grant of legal status by the State and remains
4 subject to complete withdrawal at any time. All powers
5 previously granted to corporations under the laws of the State
6 are revoked in their entirety. A corporation operating under
7 the jurisdiction of the State shall possess no power unless
8 specifically granted by this section.

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

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

17 (2) To have a corporate seal, which may be altered at
18 will, and to use it, or a facsimile of it, by
19 impressing or affixing it or in any other manner
20 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 is 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 is subject to this section. A foreign corporation
4 that directly or indirectly undertakes, finances, or directs
5 election activity or ballot-issue activity in the State shall be
6 conclusively deemed to be transacting business in the State.

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

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

19 SECTION 7. Section 414-44, Hawaii Revised Statutes, is
20 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 political party, political committee,
5 or candidate.

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 its name, business or statutory trusts,
10 and tax credits or abatements.

11 "Election activity" means paying, contributing, or
12 expending money or anything of value to support or oppose a
13 candidate, political party, or political committee. "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 political party, political committee,
20 or candidate."



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 charitable or
5 public-benefit activity, not including election activity or
6 ballot-issue activity, unless a more limited purpose is set
7 forth in the articles of incorporation. Under no circumstances
8 shall any power or activity related to election activity or
9 ballot-issue activity be deemed necessary or convenient for a
10 corporation's lawful business or affairs."

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

13 "~~§~~**§414D-52**~~+~~ **General powers.** (a) The creation and
14 continued existence of a corporation is not a right but a
15 conditional grant of legal status by the State and remains
16 subject to complete withdrawal at any time. All powers
17 previously granted to corporations under the laws of this State
18 are revoked in their entirety. A corporation operating under
19 the 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 is 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 is subject to this section. A foreign
11 nonprofit corporation that directly or indirectly undertakes,
12 finances, or directs election activity or ballot-issue activity
13 in the State shall be conclusively deemed to be transacting
14 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 herein shall
18 authorize any election activity or ballot-issue activity after
19 that date.

20 (h) If any provision of this section, or its application
21 to any person or circumstance, is held invalid or



1 unconstitutional, the remaining provisions and applications that
2 are severable shall remain in effect, and no prior grant of
3 nonprofit corporate powers shall be revived, reinstated, or
4 implied by operation of law or judicial construction."

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

7 "**§414D-54 Ultra vires.** (a) Except as provided in
8 subsection (b), the validity of corporate action may not be
9 challenged on the ground that the corporation lacks or lacked
10 power to act.

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

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



1 or in the case of a public benefit corporation, by the attorney
2 general.

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

8 PART V

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

12 "§415A- Limitations on powers. A professional
13 corporation organized under this chapter shall be subject to
14 section 414-42, including all limitations on corporate powers
15 contained in that section."

16 PART VI

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



1 Partnerships" subpart of part IV and to be appropriately
2 designated 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 is ultra vires and void. A limited liability partnership that
13 engages in either activity shall forfeit all charter privileges
14 conferred by its statement of qualification, including limited
15 liability, as a matter of law. The director of commerce and
16 consumer affairs shall adopt rules for administrative
17 forfeiture, reinstatement upon disgorgement and certification of
18 compliance, and related civil enforcement of this section.

19 (d) A foreign limited liability partnership that directly
20 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, the terms
10 "ballot-issue activity" and "election activity" have the same
11 meanings as defined in section 414-3."

12 PART X

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

16 "Artificial-person powers" means the same powers as an
17 individual to do all things necessary or convenient to carry out
18 the limited partnership's lawful business and affairs, excluding
19 any power to directly or indirectly engage in election activity
20 or ballot-issue activity.



1 "Ballot-issue activity" means paying, contributing, or
2 expending money or anything of value to support or oppose a
3 constitutional amendment, county charter amendment, or other
4 ballot question after it has been formally certified or
5 submitted to the electors of the State or any county. "Ballot-
6 issue activity" does not include any bona fide news story,
7 commentary, 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 political party, political committee,
12 or candidate.

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

18 "Election activity" means paying, contributing, or
19 expending money or anything of value to support or oppose a
20 candidate, political party, or political committee. "Election
21 activity" does not include any bona fide news story, commentary,



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

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

9 "~~[\S425E-105]~~ **Powers.** ~~[A limited partnership has the~~
10 ~~powers to do all things necessary or convenient to carry on its~~
11 ~~activities, including the power to sue, be sued, and defend in~~
12 ~~its own name and to maintain an action against a partner for~~
13 ~~harm caused to the limited partnership by a breach of the~~
14 ~~partnership agreement or violation of a duty to the~~
15 ~~partnership.]~~ (a) The creation and continued existence of a
16 limited partnership is not a right but a conditional grant of
17 legal status by the State and remains subject to complete
18 withdrawal at any time. All powers previously granted to
19 corporations under the laws of the State are revoked in their
20 entirety. A limited partnership operating under the
21 jurisdiction of the State shall possess no power unless



1 specifically granted by this section. Under no circumstances
2 shall any power or activity related to election activity or
3 ballot issue activity be deemed necessary or convenient for a
4 limited partnership's lawful business or affairs.

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

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

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



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

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

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

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



1 PART XI

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

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

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



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

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

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

18 "**§428-111 Nature of business and powers.** (a) [~~A limited~~
19 ~~liability company may be organized under this chapter for any~~
20 ~~lawful purpose, subject to any law of this State governing or~~
21 ~~regulating business.] The creation and continued existence of a~~



1 limited liability company is not a right but a conditional grant
2 of legal status by the State and remains subject to complete
3 withdrawal at any time. All powers previously granted to
4 limited liability companies under the laws of the State are
5 revoked in their entirety. A limited liability company
6 operating under the jurisdiction of the State shall possess no
7 power unless specifically granted by this section. Under no
8 circumstances shall any power or activity related to election
9 activity or ballot-issue activity be deemed necessary or
10 convenient for a limited liability company's lawful business or
11 affairs.

12 (b) Unless its articles of organization provide otherwise,
13 a limited liability company [~~has the same powers as an~~
14 ~~individual to do all things necessary or convenient to carry on~~
15 ~~its business or affairs,~~] shall have perpetual duration and
16 succession in its company name and artificial-person powers,
17 including the power to:

- 18 (1) Sue and be sued, and defend in its company name;
19 (2) Purchase, receive, lease, or otherwise acquire, and
20 own, hold, improve, use, and otherwise deal with real



- 1 or personal property, or any legal or equitable
2 interest in property, wherever located;
- 3 (3) Sell, convey, mortgage, grant a security interest in,
4 lease, exchange, and otherwise encumber or dispose of
5 all or any part of its property;
- 6 (4) Purchase, receive, subscribe for, or otherwise
7 acquire, own, hold, vote, use, sell, mortgage, lend,
8 grant a security interest in, or otherwise dispose of
9 and deal in and with, shares or other interests in or
10 obligations of any other entity;
- 11 (5) Make contracts and guarantees, incur liabilities,
12 borrow money, issue notes, bonds, and other
13 obligations, which may be convertible into or include
14 the option to purchase other securities of the limited
15 liability company, and secure any of its obligations
16 by a mortgage on or a security interest in any of its
17 property, franchises, or income;
- 18 (6) Lend money, invest and reinvest its funds, and receive
19 and hold real and personal property as security for
20 repayment;



- 1 (7) Be a promoter, partner, member, associate, or manager
2 of any partnership, joint venture, trust, or other
3 entity;
- 4 (8) Conduct its business, locate offices, and exercise the
5 powers granted by this chapter within or without this
6 State;
- 7 (9) Elect managers and appoint officers, employees, and
8 agents of the limited liability company, define their
9 duties, fix their compensation, and lend them money
10 and credit;
- 11 (10) Pay pensions and establish pension plans, pension
12 trusts, profit sharing plans, share bonus plans, share
13 option plans, and benefit or incentive plans for any
14 or all of its current or former members, managers,
15 officers, employees, and agents;
- 16 (11) Make donations for the public welfare or for
17 charitable, scientific, or educational purposes; and
- 18 (12) Make payments [~~or donations~~], or do any other act, not
19 inconsistent with law, that furthers the business of
20 the limited liability company."

21 PART XII



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

4 "§429- Powers of nonprofit associations. (a) The
5 creation and continued existence of a nonprofit association is
6 not a right but a conditional grant of legal status by the State
7 and remains subject to complete withdrawal at any time. All
8 powers previously granted to corporations under the laws of the
9 State are revoked in their entirety. A nonprofit association
10 operating under the jurisdiction of the State shall possess no
11 power unless specifically granted by this section. Under no
12 circumstances shall any election activity or ballot-issue
13 activity be deemed necessary or convenient for a nonprofit
14 association's lawful purpose or affairs.

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

18 (c) Any provision of the nonprofit association's governing
19 principles, articles of association, bylaws, or similar
20 documents purporting to grant or confer any power to directly or



1 indirectly engage in election activity or ballot-issue activity
2 shall be void.

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

12 (e) A foreign unincorporated nonprofit association that is
13 authorized to transact business, is otherwise transacting
14 business, or holds property in the State is subject to this
15 section. A foreign unincorporated nonprofit association that
16 directly or indirectly undertakes, finances, or directs election
17 activity or ballot-issue activity in the State shall be
18 conclusively deemed to be transacting business in the State.

19 (f) Nothing in this section shall be construed to
20 invalidate, impair, or modify any existing contract, debt
21 instrument, security, or other legal obligation validly entered



1 into before January 1, 2027; provided that nothing herein shall
2 authorize any election activity or ballot-issue activity after
3 that date.

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

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

13 "Artificial-person powers" means the same powers as an
14 individual to do all things necessary or convenient to carry out
15 the unincorporated nonprofit association's lawful purposes and
16 activities, excluding any power to directly or indirectly engage
17 in election activity or ballot-issue activity.

18 "Ballot-issue activity" means paying, contributing, or
19 expending money or anything of value to support or oppose a
20 constitutional amendment, county charter amendment, or other
21 ballot question after it has been formally certified or



1 submitted to the electors of the State or any county. "Ballot-
2 issue activity" does not include any bona fide news story,
3 commentary, 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 political party, political committee,
8 or candidate.

9 "Charter privilege" means any benefit that exists only
10 because the State confers it on a nonprofit association or other
11 entity, including, without limitation, limited liability,
12 perpetual duration, succession in its name, business or
13 statutory trusts, and tax credits or abatements.

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



1 owned or controlled by a political party, political committee,
2 or candidate."

3 PART XIII

4 SECTION 23. If any provision of this Act, or its
5 application to any person or circumstance, is held invalid or
6 unconstitutional, the remaining provisions and applications that
7 are severable shall remain in effect. Further, no prior grant
8 of powers to entities covered by this Act shall be revived,
9 reinstated, or implied by operation of law or judicial
10 construction, and nothing in this Act shall be construed to
11 authorize broader powers than are expressly conferred herein.

12 SECTION 24. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 25. This Act shall take effect on January 1, 2027.



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; Limitations

Description:

Reaffirms that artificial persons created under state law possess only those powers that are necessary or convenient to carry out lawful business and charitable or organizational 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 corporate and entity powers and regrants only those powers that the State determines to be necessary or convenient to conduct lawful business under the constitution and laws of this State. Effective 1/1/2027. (SD2)

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

