

A Bill for an Act Relating to the Uniform Unincorporated Nonprofit Association.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
UNIFORM UNINCORPORATED NONPROFIT ASSOCIATION ACT**

§ -1 **Definitions.** As used in this chapter:

“Member” means a person who, under the rules or practices of a nonprofit association, may participate in the selection of persons authorized to manage the affairs of the nonprofit association or in the development of policy of the nonprofit association.

“Nonprofit association” means an unincorporated organization, other than one created by a trust, consisting of two or more members joined by mutual consent for a common, nonprofit purpose. However, joint tenancy, tenancy in common, or tenancy by the entireties does not by itself establish a nonprofit association, even if the co-owners share use of the property for a nonprofit purpose.

“Person” means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

§ -2 **Supplementary general principles of law and equity.** Principles of law and equity supplement this chapter unless displaced by a particular provision of it.

§ -3 **Territorial application.** Real and personal property in this state may be acquired, held, encumbered, and transferred by a nonprofit association, whether or not the nonprofit association or a member has any other relationship to this state.

§ -4 **Real and personal property; nonprofit association as legatee, devisee, or beneficiary.** (a) A nonprofit association shall be a legal entity separate from its members for the purposes of acquiring, holding, encumbering, and transferring real and personal property.

(b) A nonprofit association in its name may acquire, hold, encumber, or transfer an estate or interest in real or personal property.

(c) A nonprofit association may be a beneficiary of a trust or contract, a legatee, or a devisee.

§ -5 **Statement of authority as to real property.** (a) A nonprofit association may execute and record a statement of authority to transfer an estate or interest in real property in the name of the nonprofit association.

(b) An estate or interest in real property in the name of a nonprofit association may be transferred by a person so authorized in a statement of authority recorded in the office of the registrar of the land court or in the bureau of conveyances, whichever is the office in which a transfer of the property would be recorded.

(c) A statement of authority shall set forth:

(1) The name of the nonprofit association;

- (2) The federal tax identification number, if any, of the nonprofit association;
 - (3) The address in this state, including the street address, if any, of the nonprofit association or, if the nonprofit association does not have an address in this state, its address out of state;
 - (4) That it is an unincorporated nonprofit association; and
 - (5) The name or title of a person authorized to transfer an estate or interest in real property held in the name of the nonprofit association.
- (d) A statement of authority shall be executed in the same manner as a deed by a person who is not the person authorized to transfer the estate or interest.
- (e) A filing officer may collect a fee for recording a statement of authority in the amount authorized for recording a transfer of real property.
- (f) An amendment, including a cancellation, of a statement of authority shall meet the requirements for execution and recording of an original statement. Unless canceled earlier, a recorded statement of authority or its most recent amendment shall be canceled by operation of law five years after the date of the most recent recording.
- (g) If the record title to real property is in the name of a nonprofit association and the statement of authority is recorded in the office in which a transfer of real property would be recorded, the authority of the person named in a statement of authority shall be conclusive in favor of a person who gives value without notice that the person lacks authority.

§ -6 Liability in contract and tort. (a) A nonprofit association shall be a legal entity separate from its members for the purposes of determining and enforcing rights, duties, and liabilities in contract and tort.

(b) A person shall not be liable for a breach of a nonprofit association's contract merely because the person is a member, is authorized to participate in the management of the affairs of the nonprofit association, or is a person considered to be a member by the nonprofit association.

(c) A person shall not be liable for a tortious act or omission for which a nonprofit association is liable merely because the person is a member, is authorized to participate in the management of the affairs of the nonprofit association, or is a person considered to be a member by the nonprofit association.

(d) A tortious act or omission of a member or other person for which a nonprofit association is liable shall not be imputed to a person merely because the person is a member of the nonprofit association, is authorized to participate in the management of the affairs of the nonprofit association, or is a person considered to be a member by the nonprofit association.

(e) A member of, or a person considered to be a member by, a nonprofit association may assert a claim against the nonprofit association. A nonprofit association may assert a claim against a member or a person considered to be a member by the nonprofit association.

§ -7 Capacity to assert and defend; standing. (a) A nonprofit association, in its name, may institute, defend, intervene, or participate in a judicial, administrative, or other governmental proceeding or in an arbitration, mediation, or any other form of alternative dispute resolution.

(b) A nonprofit association may assert a claim in its name on behalf of its members if one or more members of the nonprofit association have standing to assert a claim in their own right, the interests the nonprofit association seeks to protect are germane to its purposes, and neither the claim asserted nor the relief requested requires the participation of a member.

§ **-8 Effect of judgment or order.** A judgment or order against a nonprofit association shall not by itself be a judgment or order against a member or a person authorized to participate in the management of the affairs of the nonprofit association.

§ **-9 Disposition of personal property of inactive nonprofit association.** If a nonprofit association has been inactive for three years or longer, or a different period specified in a document of the nonprofit association, a person in possession or control of personal property of the nonprofit association may transfer custody of the property:

- (1) If a document of the nonprofit association specifies a person to whom transfer is to be made under those circumstances, to that person; or
- (2) If no person is so specified, to a nonprofit association or nonprofit corporation pursuing broadly similar purposes or to a government, governmental subdivision, agency, or instrumentality.

§ **-10 Appointment of agent to receive service of process.** (a) A nonprofit association may file in the office of the registrar of the land court or in the bureau of conveyances a statement appointing an agent authorized to receive service of process.

(b) A statement appointing an agent shall set forth:

- (1) The name of the nonprofit association;
- (2) The federal tax identification number, if any, of the nonprofit association;
- (3) The address in this state, including the street address, if any, of the nonprofit association or, if the nonprofit association does not have an address in this state, its address out of state; and
- (4) The name of the person in this state authorized to receive service of process and the person's address, including the street address, in this state.

(c) A statement appointing an agent shall be signed and acknowledged by a person authorized to manage the affairs of a nonprofit association. The statement shall also be signed and acknowledged by the person to be appointed agent, who thereby accepts the appointment. The appointed agent may resign by filing a resignation in the office of the registrar of the land court or in the bureau of conveyances and giving notice to the nonprofit association.

(d) A filing officer may collect a fee for filing a statement appointing an agent to receive service of process, an amendment, a cancellation, or a resignation in the amount charged for filing similar documents.

(e) An amendment to or cancellation of a statement appointing an agent to receive service of process shall meet the requirements for execution of an original statement.

§ **-11 Claim not abated by change.** A claim for relief against a nonprofit association shall not abate merely because of a change in its members or persons authorized to manage the affairs of the nonprofit association.

§ **-12 Venue.** For purposes of venue, a nonprofit association shall be a resident of the county in which it has an office.

§ **-13 Summons and complaint; service on whom.** In an action or proceeding against a nonprofit association, a summons and complaint shall be served on the agent authorized by appointment to receive service of process, the officer, managing or general agent, or the person authorized to participate in the

management of its affairs. If none of them can be served, service may be made on a member.’’

SECTION 2. If, before the effective date of this Act, an estate or interest in real or personal property was by terms of the transfer purportedly transferred to a nonprofit association but under the law the estate or interest did not vest in the nonprofit association, on the effective date of this Act the estate or interest vests in the nonprofit association, unless the parties had treated the transfer as ineffective.

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. This Act shall take effect on July 1, 1999.

(Approved June 28, 1999.)