

ACT 81

H.B. NO. 1594

A Bill for an Act Relating to Nonprofit Corporations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 414D, Hawaii Revised Statutes, is amended by adding a new section to part VI to be appropriately designated and to read as follows:

“§414D- Amendment terminating or canceling members; redemption of membership. (a) Any amendment to the articles or bylaws which would terminate all members or any class of members or redeem or cancel all memberships or any class of memberships shall meet the requirements of this chapter and this section.

(b) Prior to adopting a resolution proposing such an amendment, the board of the corporation shall give notice of the general nature of the amendment to the members.

(c) After adopting a resolution proposing such an amendment, the notice to members proposing such amendment shall include one or more statements of up to five hundred words opposing the proposed amendment if such statement is submitted by any five members, or by members having three per cent or more of the voting power, whichever is less, not later than twenty days after the board has voted to submit such amendment to the members for approval. The production and mailing costs shall be paid by the corporation.

(d) Any such amendment shall be approved by the members, whether through attendance or proxy, by two-thirds of the votes cast by each class present at the meeting at which the amendment is voted upon.

(e) Section 414D-89 shall not apply to any amendment meeting the requirements of this chapter and this section.”

SECTION 2. Section 414D-167, Hawaii Revised Statutes, is amended to read as follows:

“[H]§414D-167[H] Application of this part. (a) A provision treating a corporation’s indemnification of or advance for expenses to directors that is contained in its articles of incorporation, bylaws, a resolution of its members or board of directors, or in a contract or otherwise, is valid only if and to the extent the provision is consistent with this part. If articles of incorporation limit indemnification or advances for expenses, indemnification and advances for expenses are valid only to the extent consistent with the articles.

(b) This part shall not limit a corporation’s power to pay or reimburse expenses incurred by a director in connection with appearing as a witness in a proceeding at a time when the director has not been made a named defendant or respondent to the proceeding.

(c) A corporation, by a provision in its articles of incorporation or bylaws, in a resolution adopted, or in a contract approved by its board of directors or members, may obligate itself, in advance of the act or omission giving rise to a proceeding, to provide indemnification in accordance with section 414D-160 or advance funds to pay for or reimburse expenses in accordance with section 414D-162. Any such obligatory provision shall be deemed to satisfy the requirements for authorization referred to in subsections 414D-164 and 414D-162(c). Any such provision that obligates the corporation to provide indemnification to the fullest extent permitted by law shall be deemed to obligate the corporation to advance funds to pay for or

ACT 81

reimburse expenses in accordance with section 414D-162 to the fullest extent permitted by law, unless the provision specifically provides otherwise.”

SECTION 3. Statutory material to be repealed is bracketed and ~~stricken~~. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 21, 2003.)

Note

1. Edited pursuant to HRS §23G-16.5.