

GOV. MSG. NO. 635

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

April 29, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on April 29, 2009, the following bill was signed into law:

SB886 SD1 HD1

A BILL FOR AN ACT
RELATING TO BUSINESS REGISTRATION.
ACT 023 (09)

Sincerely,



LINDA LINGLE

Approved by the Governor

on APR 29 2009

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

ACT 023

S.B. NO. 886
S.D. 1
H.D. 1

A BILL FOR AN ACT

RELATING TO BUSINESS REGISTRATION.

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

1 SECTION 1. Section 414-402, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) If a corporation's period of duration specified in
4 its articles of incorporation has expired, the corporation [~~may~~
5 ~~continue~~] continues its corporate existence but may not carry on
6 any business except [~~as~~] that necessary to wind up and liquidate
7 its business and affairs under section 414-385 and notify
8 claimants under sections 414-386 and 414-387."

9 SECTION 2. Section 414-403, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) Within the applicable reinstatement period, should
12 the name of the corporation, or a name substantially identical
13 thereto be registered or reserved by another corporation,
14 partnership, limited partnership, limited liability company, or
15 limited liability partnership, or should the name or a name
16 substantially identical thereto be registered as a trade name,
17 trademark, or service mark, then reinstatement shall be allowed



1 (c) Oral notice is effective when communicated if
2 communicated in a comprehensible manner.

3 (d) Written notice by a domestic or foreign corporation to
4 its members, if in a comprehensible form, shall be effective
5 when mailed, if mailed postpaid and correctly addressed to the
6 member's address shown in the corporation's current record of
7 members.

8 (e) Except as provided in subsection (d), written notice,
9 if in a comprehensible form, is effective at the earliest of the
10 following:

- 11 (1) When received;
- 12 (2) Five days after its deposit with the United States
13 Postal Service, as evidenced by the postmark; provided
14 the notice is mailed with the correct address and with
15 first class postage affixed; or
- 16 (3) On the date shown on the return receipt; if sent by
17 registered or certified mail, return receipt
18 requested, and the receipt is signed by or on behalf
19 of the addressee.

20 (f) Written notice is correctly addressed to a member of a
21 domestic or foreign corporation if addressed to the member's



1 transmission consented to by the member to whom the notice is
2 given. Any consent shall be revocable by the member by written
3 notice to the corporation. Any consent shall be deemed revoked
4 if:

5 (1) The corporation is unable to deliver by electronic
6 transmission two consecutive notices given by the
7 corporation in accordance with such consent; and
8 (2) The inability to deliver becomes known to the
9 secretary or an assistant secretary of the
10 corporation, to the transfer agent, or other person
11 responsible for giving notice; provided that the
12 inadvertent failure to treat such inability as a
13 revocation shall not invalidate any meeting or other
14 action.

15 (j) Notice given pursuant to subsection (i) shall be
16 deemed given:

17 (1) If by facsimile telecommunication, when directed to a
18 number at which the member has consented to receive
19 notice;
20 (2) If by electronic mail, when directed to an electronic
21 mail address at which the member has consented to
22 receive notice;



1 any activities except those necessary to wind up and liquidate
2 its business and affairs under section 414D-245 and notify
3 claimants under sections 414D-246 and 414D-247."

4 SECTION 6. Section 414D-250, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "(b) Within the applicable reinstatement period, should
7 the name of the corporation, or a name substantially identical
8 thereto be registered or reserved by another corporation,
9 partnership, limited partnership, limited liability company, or
10 limited liability partnership, or should the name or a name
11 substantially identical thereto be registered as a trade name,
12 trademark, or service mark, then reinstatement shall be allowed
13 only upon the registration of a new name by the [~~involuntarily~~]
14 administratively dissolved corporation pursuant to the amendment
15 provisions of this chapter."

16 SECTION 7. Section 415A-16.6, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) The articles of conversion shall be delivered to the
19 director. The converted entity, if a domestic corporation,
20 domestic professional corporation, domestic nonprofit
21 corporation, [~~foreign corporation,~~] general partnership, limited
22 partnership, or domestic limited liability company, shall attach



1 domestic or foreign general partnership if the partnership fails
2 to:

- 3 (1) Pay any fees prescribed by law;
- 4 (2) File its annual statement for a period of two years;
- 5 (3) Appoint and maintain an agent for service of process
6 as required; or
- 7 (4) File a statement of a change in the name or business
8 address of the agent as required under this chapter.

9 The cancellation of such registration or certificate shall not
10 relieve the partners of liability for the penalties for the
11 failure to file any statement or certificates required by this
12 part.

13 (b) Within two years after the administrative cancellation
14 of a domestic general partnership under this section, the
15 registration statement of the domestic general partnership may
16 be reinstated by the director upon written application executed
17 by any partner of the domestic general partnership. The
18 application shall:

- 19 (1) Recite the name of the domestic general partnership
20 and the effective date of its administrative
21 cancellation;

- 22 (2) Contain all statements due and unfiled;



1 general partnership may resume its business as if the
2 [~~involuntary~~] administrative cancellation had never occurred."

3 SECTION 10. Section 425-164, Hawaii Revised Statutes, is
4 amended by amending subsections (c) and (d) to read as follows:

5 "(c) A partnership whose statement of qualification [~~or~~
6 ~~statement of foreign qualification~~] has been administratively
7 revoked may apply to the director for reinstatement within two
8 years after the effective date of the revocation. The
9 application shall:

- 10 (1) Recite the name of the partnership and the effective
11 date of the revocation;
- 12 (2) Contain all reports due and unfiled;
- 13 (3) Contain the payment of all delinquent fees and
14 penalties; and
- 15 (4) Contain a certificate from the department of taxation
16 indicating that all taxes owed by the partnership have
17 been paid, a payment arrangement has been entered
18 into, or the unpaid tax liabilities are being
19 contested in an administrative or judicial appeal with
20 the department of taxation.
- 21 (d) A reinstatement under subsection (c) shall relate back
22 to and take effect as of the effective date of the revocation,

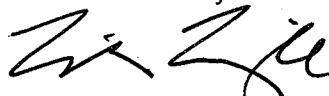


1 "(b) The articles of conversion shall be delivered to the
2 director. The converted entity, if a domestic corporation,
3 domestic professional corporation, [~~foreign corporation,~~]
4 domestic nonprofit corporation, general partnership, limited
5 partnership, or domestic limited liability company shall attach
6 a copy of its respective registration documents with the
7 articles of conversion."

8 SECTION 14. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 15. This Act shall take effect on July 1, 2009.

APPROVED this 29 day of APR, 2009



GOVERNOR OF THE STATE OF HAWAII