

# S.B. NO. 2758

JAN 25 2012

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## A BILL FOR AN ACT

RELATING TO BUSINESS REGISTRATION.

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

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

3 "(c) A corporation may apply to the department director  
4 for authorization to use a name that is substantially identical,  
5 based upon the department director's records to one or more of  
6 the names described in subsection (b). The department director  
7 shall authorize use of the name applied for if:

8 (1) The other entity or holder of a reserved or registered  
9 name consents in writing to the use [~~in writing~~] and  
10 registration of the name, and one or more words are  
11 added by the applying corporation to make the name  
12 distinguishable from the name [~~of the applying~~  
13 ~~corporation;~~] on record; or

14 (2) The applicant delivers to the department director a  
15 certified copy of the final judgment of a court of  
16 competent jurisdiction establishing the applicant's  
17 right to use the name applied for in this State."

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

3 "(a) A corporation administratively dissolved under  
4 section 414-402 may apply to the department director for  
5 reinstatement within two years after the effective date of  
6 dissolution. The application shall:

7 (1) Recite the name of the corporation and the effective  
8 date of its administrative dissolution;

9 (2) Contain all reports due and unfiled;

10 (3) Contain the payment of all delinquent fees and  
11 penalties; and

12 (4) Contain a certificate or other writing from the  
13 department of taxation indicating that all taxes owed  
14 by the corporation have been paid, a payment  
15 arrangement has been entered into, or the unpaid tax  
16 liabilities are being contested in an administrative  
17 or judicial appeal with the department of taxation."

18 SECTION 3. Section 414D-14, Hawaii Revised Statutes, is  
19 amended by amending the definition of "'approved by the members"  
20 or "approval by the members"" to read as follows:

21 "'Approved by the members" or "approval by the members"  
22 means an act approved or ratified by:

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- 1           (1) The affirmative vote of a majority of the votes  
2                   represented and cast at a duly held meeting at which a  
3                   quorum is present[~~+~~], provided that the affirmative  
4                   votes cast also constitute a majority of the required  
5                   quorum;
- 6           (2) A ballot or written consent in conformity with this  
7                   chapter; or
- 8           (3) The affirmative vote, ballot, or written consent of  
9                   the greater proportion, including the votes of all the  
10                  members of any class, unit, or grouping as may be  
11                  provided in the articles, bylaws, or this chapter for  
12                  any specified member action."

13           SECTION 4. Section 414D-61, Hawaii Revised Statutes, is  
14 amended by amending subsection (c) to read as follows:

15           "(c) A corporation may apply to the department director  
16 for authorization to use a name that based upon the department  
17 director's records is substantially identical to one or more of  
18 the names described in subsection (b). The department director  
19 shall authorize the use of the name applied for if:

- 20           (1) The other entity or holder of a reserved or registered  
21                  name consents in writing to the use [~~in writing,~~] and  
22                  registration of the name, and one or more words are

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1           added by the applying corporation to make the name  
2           distinguishable [~~upon the records of the department~~  
3           ~~director~~] from the name [~~of the applying corporation,~~]  
4           on record; or

5           (2) The applicant delivers to the department director a  
6           certified copy of a final judgment of a court of  
7           competent jurisdiction establishing the applicant's  
8           right to use the name applied for in this State."

9           SECTION 5. Section 414D-71, Hawaii Revised Statutes, is  
10          amended to read as follows:

11          "**§414D-71 Registered** [~~office and registered~~] **agent.** Each  
12          corporation shall continuously maintain in this State[+] a  
13          registered agent, who shall have a business address in this  
14          State and may be:

15           (1) [~~A registered office that may be the same as any of~~  
16           ~~its places of business; and~~] An individual who resides  
17           in this State;

18           (2) [~~A registered agent, who may be:~~  
19           ~~(A) An individual who resides in this State and whose~~  
20           ~~business office is identical with the registered~~  
21           ~~office;~~

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1           ~~(B) A domestic entity authorized to transact business~~  
2           ~~in this State whose business office is identical~~  
3           ~~with the registered office; or~~  
4           ~~(C) A foreign entity authorized to transact business~~  
5           ~~in this State whose business office is identical~~  
6           ~~with the registered office.] A domestic entity~~  
7           ~~authorized to transact business or conduct~~  
8           ~~affairs in this State; or~~  
9           (3) A foreign entity authorized to transact business or  
10           conduct affairs in this State."

11           SECTION 6. Section 414D-72, Hawaii Revised Statutes, is  
12           amended to read as follows:

13           "**§414D-72 Designation or change of [~~registered office or~~**  
14           **registered agent.** (a) A corporation that does not already have  
15           a registered [~~office and registered~~] agent shall designate its  
16           registered [~~office and registered~~] agent by [~~delivering to the~~  
17           ~~department director for filing a statement of designation that~~  
18           ~~sets forth:~~

- 19           ~~(1) The name of the corporation;~~  
20           ~~(2) The street address of its initial registered office in~~  
21           ~~this State and the name of its initial registered~~  
22           ~~agent at its initial registered office; and~~

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1       ~~(3) That the street addresses of its registered office and~~  
2               ~~agent shall be identical.]~~ complying with section  
3               425R-4.

4       (b) A corporation may change [~~its registered office or~~]  
5 its registered agent by [~~delivering to the department director~~  
6 ~~for filing a statement of change that sets forth:~~

7       ~~(1) The name of the corporation;~~

8       ~~(2) The street address of its current registered office,~~  
9               ~~the name of its current registered agent at its~~  
10              ~~registered office, and any changes required to keep~~  
11              ~~the information current; and~~

12       ~~(3) That after the change or changes are made, the street~~  
13              ~~addresses of its registered office and agent shall be~~  
14              ~~identical.]~~ complying with section 425R-7.

15       (c) [~~If the registered agent's street address changes, the~~  
16 ~~corporation's registered agent may change the street address of~~  
17 ~~the corporation's registered office by notifying the corporation~~  
18 ~~in writing of the change and signing (either manually or in~~  
19 ~~facsimile) and delivering to the department director for filing~~  
20 ~~a statement that complies with the requirements of subsection~~  
21 ~~(a) and recites that the corporation has been notified of the~~  
22 ~~change.]~~ If the registered agent changes its name, its address,

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1 or its type of jurisdiction of organization, the agent shall  
2 comply with the requirements of section 425R-8 or 425R-9,  
3 whichever is applicable."

4 SECTION 7. Section 414D-73, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§~~[+]414D-73[+]~~ **Resignation of registered agent.** [~~(a)~~] A  
7 registered agent may resign ~~[as registered agent by signing and~~  
8 ~~delivering to the department director for filing a statement of~~  
9 ~~resignation. The statement may include a statement that the~~  
10 ~~registered office is also discontinued.~~

11 ~~(b) A registered agent shall mail one copy to the~~  
12 ~~registered office (if not discontinued) and a second copy to the~~  
13 ~~corporation at its principal office.~~

14 ~~(c) The agency appointment is terminated, and the~~  
15 ~~registered office discontinued if so provided, on the thirty-~~  
16 ~~first day after the date on which the statement is filed.] from~~  
17 the registered agent's appointment by complying with the  
18 requirements of section 425R-10."

19 SECTION 8. Chapter 414D-104.5, Hawaii Revised Statutes, is  
20 amended by amending subsection (a) to read as follows:

21 "(a) Except as otherwise [~~provided~~] restricted by the  
22 articles of incorporation or bylaws of a corporation, any action

1 that may be taken at any annual, regular, or special meeting of  
2 members may be taken without a meeting if the corporation  
3 delivers a ballot to every member entitled to vote on the  
4 matter. The corporation may deliver ballots by electronic  
5 transmission."

6 SECTION 9. Section 414D-182, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) Amendments to the articles of incorporation shall be  
9 made in the following manner:

10 (1) If any members are entitled to vote on an amendment,  
11 the board of directors shall adopt a resolution  
12 setting forth the proposed amendment and directing  
13 that it be submitted to a vote at an annual, regular,  
14 or special meeting of the members. Notice setting  
15 forth the proposed amendment or a summary of the  
16 changes to be effected by the proposed amendments  
17 shall be given to each member entitled to vote at the  
18 meeting within the time and in the manner provided in  
19 this chapter for the giving of notice of meetings to  
20 members. The proposed amendment shall be adopted upon  
21 receiving at least two-thirds of the votes that



1 members present at the meeting or represented by proxy  
2 are entitled to cast; and

3 (2) If there are no members or no members entitled to vote  
4 on an amendment, an amendment shall be adopted at a  
5 meeting of the board of directors upon its receiving  
6 the vote of a majority of the directors in office."

7 SECTION 10. Section 414D-250, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 "(a) A corporation administratively dissolved under  
10 section 414D-249 may apply to the department director for  
11 reinstatement within two years after the effective date of  
12 dissolution. The application shall:

13 (1) Recite the name of the corporation and the effective  
14 date of its administrative dissolution;

15 (2) Contain all reports due and unfiled;

16 (3) Contain the payment of all delinquent fees; and

17 (4) Contain a certificate or other writing from the  
18 department of taxation indicating that all taxes owed  
19 by the corporation have been paid, a payment  
20 arrangement has been entered into, or the unpaid tax  
21 liabilities are being contested in an administrative  
22 or judicial appeal with the department of taxation."

1 SECTION 11. Section 415A-8, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§415A-8 Corporate name.** The name of a professional  
4 corporation:

5 (1) May be any name permitted by law expressly applicable  
6 to the profession in which the corporation is engaged  
7 or by a rule of the licensing authority of the  
8 profession; and

9 (2) Shall not be the same as, or substantially identical  
10 to, the name of any domestic corporation, partnership,  
11 limited partnership, limited liability company, or  
12 limited liability partnership existing or registered  
13 under the laws of this State, or any foreign  
14 corporation, partnership, limited partnership, limited  
15 liability company, or limited liability partnership  
16 authorized to transact business in this State, or any  
17 trade name, trademark, or service mark registered in  
18 this State, or a name the exclusive right to which is,  
19 at the time, reserved in this State, except that this  
20 provision shall not apply if the applicant files with  
21 the director either of the following:

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1 (A) The written consent from the entity or holder of  
2 a reserved or registered name to use and register  
3 the same or substantially identical name, and one  
4 or more words are added by the applying  
5 corporation to make the name distinguishable from  
6 the [~~other~~] name[+] on record; or

7 (B) A certified copy of a final decree of a court of  
8 competent jurisdiction establishing the prior  
9 right of the applicant to the use of the name in  
10 this State."

11 SECTION 12. Section 415A-14.6, Hawaii Revised Statutes, is  
12 amended by amending subsection (a) to read as follows:

13 "(a) The articles of incorporation shall set forth:

14 (1) A corporate name for the corporation that satisfies  
15 the requirements of section 415A-8;

16 (2) The profession or professions that the corporation  
17 shall be authorized to practice and any other purpose  
18 allowed by the licensing laws and rules of this State;

19 (3) The mailing address of [~~its initial principal office,~~  
20 ~~the street address of its initial registered office,~~  
21 ~~and the name of its initial registered agent at its~~  
22 ~~initial registered office;~~] the corporation's initial

1           principal office and the information required by  
2           section 425R-4(a);

3           (4) The number of directors constituting the initial board  
4           of directors and the names and addresses of the  
5           individuals who are to serve as directors until the  
6           first annual meeting of shareholders or until their  
7           successors are elected and qualified;

8           (5) The name, title, and address of each officer; and

9           (6) The number of shares the corporation is authorized to  
10          issue, and if the shares are to be divided into  
11          classes, the number of shares of each class."

12          SECTION 13. Section 425-6, Hawaii Revised Statutes, is  
13          amended by amending subsection (a) to read as follows:

14          "(a) No statement or certificate of any partnership shall  
15          be recorded by the director unless the name is not the same as,  
16          or substantially identical to the name of any domestic  
17          corporation, partnership, limited partnership, limited liability  
18          company, or limited liability partnership existing or registered  
19          under the laws of this State, or any foreign corporation,  
20          partnership, limited partnership, limited liability company, or  
21          limited liability partnership authorized to transact business in  
22          this State, or any trade name, trademark, or service mark

1 registered in this State, or a name the exclusive right to which  
2 is, at the time, reserved in this State, except that this  
3 provision shall not apply if the partnership files with the  
4 director any one of the following:

5 (1) The written consent from the entity or holder of a  
6 reserved or registered name to use and register the  
7 same or substantially identical name, and one or more  
8 words are added by the applying partnership to make  
9 the name distinguishable from the [~~other~~] name[+] on  
10 record; or

11 (2) A certified copy of a final decree of a court of  
12 competent jurisdiction establishing the prior right of  
13 the partnership to the use of the name in this State."

14 SECTION 14. Section 425-14, Hawaii Revised Statutes, is  
15 amended by amending subsection (b) to read as follows:

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

- 1           (1) Recite the name of the domestic general partnership  
2                   and the effective date of its administrative  
3                   cancellation;
- 4           (2) Contain all statements due and unfiled;
- 5           (3) Contain the payment of all delinquent fees and  
6                   penalties; and
- 7           (4) Contain a certificate or other writing from the  
8                   department of taxation indicating that all taxes owed  
9                   by the domestic general partnership have been paid, a  
10                  payment arrangement has been entered into, or the  
11                  unpaid tax liabilities are being contested in an  
12                  administrative or judicial appeal with the department  
13                  of taxation."

14           SECTION 15. Section 425-164, Hawaii Revised Statutes, is  
15 amended by amending subsection (c) to read as follows:

16           "(c) A partnership whose statement of qualification has  
17 been administratively revoked may apply to the director for  
18 reinstatement within two years after the effective date of the  
19 revocation. The application shall:

- 20           (1) Recite the name of the partnership and the effective  
21                   date of the revocation;
- 22           (2) Contain all reports due and unfiled;

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- 1           (3) Contain the payment of all delinquent fees and  
2           penalties; and
- 3           (4) Contain a certificate or other writing from the  
4           department of taxation indicating that all taxes owed  
5           by the partnership have been paid, a payment  
6           arrangement has been entered into, or the unpaid tax  
7           liabilities are being contested in an administrative  
8           or judicial appeal with the department of taxation."

9           SECTION 16. Section 425E-108, Hawaii Revised Statutes, is  
10          amended by amending subsection (d) to read as follows:

11          "(d) Unless authorized by subsection (e), the name of a  
12          domestic limited partnership or limited liability limited  
13          partnership or foreign limited partnership or limited liability  
14          limited partnership as set forth in the certificate of limited  
15          partnership or certificate of authority shall not be the same  
16          as, or substantially identical to, the name of any domestic  
17          corporation, partnership, limited liability partnership, limited  
18          partnership, limited liability limited partnership, or limited  
19          liability company existing or registered under the laws of this  
20          State, any foreign corporation, partnership, limited liability  
21          partnership, limited partnership, limited liability limited  
22          partnership, or [~~foreign~~] limited liability company authorized

1 to transact business in this State, or any trade name,  
2 trademark, or service mark registered in this State, or a name  
3 the exclusive right to which is, at the time, reserved, or the  
4 name of a partnership which has in effect a registration of its  
5 partnership name as provided in this chapter; except that this  
6 provision shall not apply if the applicant filed with the  
7 director either of the following:

8 (1) The written consent of the other [~~partnership~~] entity  
9 or holder of a reserved or registered name to use and  
10 register the same or substantially identical name, and  
11 one or more words are added by the applying  
12 partnership to make the name distinguishable from the  
13 [~~other~~] name[~~s~~] on record; or

14 (2) A certified copy of a final decree of a court of  
15 competent jurisdiction establishing the prior right of  
16 the applicant to the use of the name in this State."

17 SECTION 17. Section 425E-211, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) The following fees shall be paid to the director upon  
20 the filing of limited partnership documents:

21 (1) Certificate of limited partnership, \$50;



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- 1 (2) Any certificate of amendment, restatement, or
- 2 correction, \$10;
- 3 (3) Statement of termination, \$10;
- 4 (4) Annual statement for domestic or foreign limited
- 5 partnership, \$10;
- 6 (5) Any other certificate or document of domestic or
- 7 foreign limited partnership, \$10;
- 8 (6) Application for certificate of authority, \$100;
- 9 (7) [~~Any certificate of amendment or agent change for~~
- 10 ~~foreign limited partnership, \$10;~~] Application for
- 11 certificate of withdrawal of foreign limited
- 12 partnership, \$10;
- 13 (8) [~~Application for certificate of withdrawal of foreign~~
- 14 ~~limited partnership, \$10;~~] For filings relating to
- 15 registered agents, the fees established by section
- 16 425R-2;
- 17 (9) Reservation of name, \$10;
- 18 (10) Transfer of reservation of name, \$10;
- 19 (11) Good standing certificate, \$5;
- 20 (12) Articles of conversion or merger, \$100;
- 21 (13) Special handling fee for review of articles of
- 22 conversion or merger, \$75;

- 1 (14) Special handling fee for review of any limited  
2 partnership document, \$25;
- 3 (15) Special handling fee for certificates issued by the  
4 director, \$10 per certificate; and
- 5 (16) Special handling fee for certification of documents,  
6 \$10 [~~;~~ and
- 7 ~~(17) Agent's statement of change of address, \$10 for each~~  
8 ~~affected domestic or foreign limited partnership;~~  
9 ~~provided that if more than two hundred simultaneous~~  
10 ~~filings are made, the fee shall be reduced to \$1 for~~  
11 ~~each affected domestic or foreign limited~~  
12 ~~partnership]."~~

13 SECTION 18. Section 425E-810, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

15 "(a) A limited partnership that has been administratively  
16 canceled may apply to the director for reinstatement within two  
17 years after the effective date of cancellation. The application  
18 shall:

- 19 (1) Recite the name of the limited partnership and the  
20 effective date of its administrative cancellation;
- 21 (2) Contain all reports due and unfiled;

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- 1           (3) Contain the payment of all delinquent fees and  
2                   penalties; and
- 3           (4) Contain a certificate or other writing from the  
4                   department of taxation indicating that all taxes owed  
5                   by the limited partnership have been paid, a payment  
6                   arrangement has been entered into, or the unpaid tax  
7                   liabilities are being contested in an administrative  
8                   or judicial appeal with the department of taxation."

9           SECTION 19. Section 428-105, Hawaii Revised Statutes, is  
10           amended by amending subsection (c) to read as follows:

11           "(c) A limited liability company may apply to the director  
12           for authorization to use a name that, upon the records of the  
13           department, is the same as, or is substantially identical to,  
14           one or more of the names described in subsection (b). The  
15           director may authorize use of a substantially identical name  
16           applied for if:

- 17           (1) The present user, registrant, or owner of a reserved  
18                   or registered name consents in writing to the use and  
19                   registration of the name, and one or more words are  
20                   added by the applying limited liability company to  
21                   make the name distinguishable [~~upon the records of the~~

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1           ~~director from the name applied for;~~ from the name on  
2           record; or

3           (2) The applicant delivers to the director a certified  
4           copy of the final judgment of a court of competent  
5           jurisdiction establishing the applicant's right to use  
6           the name applied for in this State."

7           SECTION 20. Section 428-205, Hawaii Revised Statutes, is  
8           amended by amending subsection (a) to read as follows:

9           "(a) Except as otherwise provided in this chapter, a  
10          record to be filed by or on behalf of a limited liability  
11          company in the office of the director shall be certified and  
12          signed by a:

13          (1) Manager of a manager-managed company[+] or, in the  
14          case of a foreign limited liability company, a person  
15          who is authorized or required to sign a record under  
16          the laws of its jurisdiction of organization;

17          (2) Member of a member-managed company[+] or, in the case  
18          of a foreign limited liability company, a person who  
19          is authorized or required to sign a record under the  
20          laws of its jurisdiction of organization;

21          (3) Person organizing the company, if the company has not  
22          been formed; or

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1           (4) Fiduciary, if the company is in the hands of a  
2           receiver, trustee, or other court-appointed  
3           fiduciary."

4           SECTION 21. Section 428-811, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6           "(a) A limited liability company administratively  
7 terminated under section 428-810 may apply to the director for  
8 reinstatement within two years after the effective date of  
9 termination. The application shall:

- 10           (1) Recite the name of the limited liability company and  
11           the effective date of its administrative termination;  
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 or other writing from the  
16           director of taxation reciting that all taxes owed by  
17           the company have been paid, a payment arrangement has  
18           been entered into, or the unpaid tax liabilities are  
19           being contested in an administrative or judicial  
20           appeal with the department of taxation."

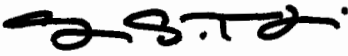
21           SECTION 22. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.

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1 SECTION 23. This Act shall take effect on July 1, 2012.

2

3

INTRODUCED BY: 

4

BY REQUEST

5

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**Report Title:**

Business Registration

**Description:**

To clarify and correct ambiguities and errors in Hawaii's business registration laws.

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

## JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO BUSINESS REGISTRATION.

PURPOSE: To clarify and correct ambiguities and errors in Hawaii's business registration laws.

MEANS: Amend sections 414-51(c), 414-403(a), 414D-14, 414D-61(c), 414D-71, 414D-72, 414D-73, 414D-104.5(a), 414D-182(a), 414D-250(a), 415A-8, 415A-14.6(a), 425-6(a), 425-14(b), 425-164(c), 425E-108(d), 425E-211(a), 425E-810(a), 428-105(c), 428-205(a), and 428-811(a), Hawaii Revised Statutes (HRS).

JUSTIFICATION: Effective business registration is one of the primary goals of the Department of Commerce and Consumer Affairs ("DCCA"). The business registration chapters of the Hawaii Revised Statutes contain some errors, ambiguities, and inconsistencies due to recent changes in the law, division policies and procedures, and drafting errors. This bill corrects these errors, ambiguities, and inconsistencies.

The bill makes corrections in the following areas:

1. Act 55, Session Laws of Hawaii (SLH) 2009, The Hawaii Registered Agents Act, was codified as chapter 425R, HRS. To accommodate the new provisions regarding registered agents, technical changes were made to the business registration laws for consistency. Unfortunately, some provisions were missed. This bill amends provisions of chapters 414D (relating to nonprofit corporations), 415A (relating to professional corporations), and 425E (relating to limited partnerships) to bring



these provisions in line with the rest of the business registration laws. For example, sections 414D-71, 414D-72, and 414D-73, HRS, (relating to a nonprofit corporation's obligation to appoint a registered agent, and the designation and resignation of a registered agent, respectively) are amended to mirror the language in chapter 425R, HRS, and reference its provisions.

2. Current law requires an administratively dissolved/terminated business entity that wishes to reinstate its registration with DCCA to obtain from the Department of Taxation ("DOTAX"): (a) a tax clearance certificate indicating that all taxes have been paid; or (b) a certificate indicating that the entity is on an installment payment plan with DOTAX or the liability is being appealed. DOTAX does not issue "certificates" for payment plans nor appeals. Thus, this bill amends the language to provide that a "certificate or other writing" from DOTAX will suffice.

3. This bill addresses situations in which a business applies for a name that is substantially identical to another name already registered with DCCA. This bill makes consistent changes throughout the various business registration laws to clarify that the applicant wishing to register a name that is "substantially similar" to a name already on record with DCCA must: (1) obtain written consent from the holder of the name; and (2) add one or more words to make its name distinguishable from the name already on record. The bill clarifies that it is not the original holder that must change its name, but rather the new applicant.

4. This bill makes technical corrections to Act 37, SLH 2011 to: (1) confirm that membership action may be taken by ballot as provided in the Model Nonprofit Corporation

Act ("MNCA") and the Revised Model Nonprofit Corporation Act ("RMNCA") unless expressly prohibited by a nonprofit corporation's bylaws, and (2) conform the definition of the term "'approved by the members" or "approval by the members"' to the definition contained in the MNCA and the RMNCA by adding language stating that approval must be, at a minimum, a majority of a quorum.

Also relating to nonprofit corporations, this bill amends section 414D-182, HRS, to clarify that proposed amendments to articles of incorporation may be submitted at a regular membership meeting. Currently, the statute specifies only annual and special meetings and incorrectly omits regular meetings.

5. Lastly, in Hawaii, limited liability companies ("LLCs") may have managers or members that are legally authorized to sign and execute documents on behalf of the entity. However, foreign (non-Hawaii) LLCs often times authorize persons with varying titles (other than "manager" and "member") to sign documents. This bill allows the Business Registration Division to accept filings signed by persons of foreign LLCs who have such legal authority, but do not have the specific title of "manager" or "member."

Impact on the public: This bill eases compliance obligations of Hawaii businesses by clarifying ambiguities and inconsistencies in the business registration laws.

Impact on the department and other agencies: This bill will streamline the Department's regulatory and registration responsibilities with respect to business registration.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM

DESIGNATION: CCA-106.

OTHER AFFECTED

AGENCIES: None.

EFFECTIVE DATE: July 1, 2012.