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# A BILL FOR AN ACT

RELATING TO NONPROFIT CORPORATIONS.

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

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

4           "§414D- Purchase of memberships. (a) A public benefit  
5 corporation shall not purchase any of its memberships or any  
6 right arising therefrom.

7           (b) A corporation other than a public benefit corporation  
8 may purchase its memberships only to the extent provided in  
9 section 414D-232."

10          SECTION 2. Section 414D-14, Hawaii Revised Statutes, is  
11 amended by amending the definition of "directors" to read as  
12 follows:

13          "Directors" means individuals, designated in the articles  
14 or bylaws or elected by the incorporators, and their successors  
15 and individuals elected or appointed by any other name or title,  
16 to act as members of the board. Any person who does not have



1 authority to vote as a member of the board is not a director as  
2 that term is used in this chapter, regardless of title."

3 SECTION 3. Section 414D-134, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) If the corporation has members, all the directors  
6 (except the initial directors) shall be elected at the first  
7 annual meeting of members, and at each annual meeting  
8 thereafter, unless the articles or bylaws provide some other  
9 time or method of election, or provide that some of the  
10 directors are [~~appointed~~]:

11 (1) Appointed by some other person; or [~~designated~~  
12 ~~representative.~~]

13 (2) Designated."

14 SECTION 4. Section 414D-144, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "[~~§~~414D-144[~~]~~] **Action without meeting.** (a) Unless the  
17 articles or bylaws provide otherwise, action required or  
18 permitted by this chapter to be taken at a board of directors'  
19 meeting may be taken without a meeting if the action is taken by  
20 all members of the board. The action must be evidenced by one  
21 or more written consents describing the action taken, signed by



1 each director, and included in the minutes filed with the  
2 corporate records reflecting the action taken.

3 (b) Action taken under this section is effective when the  
4 last director signs the consent, unless the consent specifies a  
5 different effective date.

6 (c) A consent signed under this section has the effect of  
7 a meeting vote and may be described as such in any document.

8 (d) For purposes of this section, "written consent"  
9 includes a consent executed by an electronic or digital  
10 signature; provided that the corporation employs reasonable  
11 measures to authenticate the electronic or digital signature.  
12 Reasonable measures include commercially available security  
13 measures used by board meeting portal systems."

14 SECTION 5. Section 414D-155, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) An officer with discretionary authority shall  
17 discharge the officer's duties under that authority:

18 (1) In good faith;

19 (2) In a manner that is consistent with the officer's duty  
20 of loyalty to the corporation;



1 (3) With the care an ordinarily prudent person in a like  
2 position would exercise under similar circumstances;  
3 and

4 (4) In a manner the officer reasonably believes to be in  
5 the best interests of the corporation[-] and its  
6 members, if any."

7 SECTION 6. Section 414D-222, Hawaii Revised Statutes, is  
8 amended by amending subsection (i) to read as follows:

9 "(i) A public benefit corporation shall give written  
10 notice to the attorney general twenty business days before it  
11 sells, leases, exchanges, or otherwise disposes of all, or  
12 substantially all, of its property if the transaction is not in  
13 the regular course of its activities, unless the attorney  
14 general has given the corporation a written waiver of this  
15 subsection."

16 SECTION 7. Section 414D-232, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18 "(a) A corporation other than a public benefit corporation  
19 may purchase its memberships if, after the purchase is  
20 completed:



- 1 (1) The corporation would be able to pay its debts as they  
2 become due in the usual course of its activities; and  
3 (2) The corporation's total assets would be equal to at  
4 least the sum of its total liabilities."

5 SECTION 8. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 9. This Act shall take effect upon its approval.



**Report Title:**

Nonprofit Corporations; Boards of Directors; Public Benefit Corporations

**Description:**

Prohibits a public benefits corporation from purchasing its own memberships. Clarifies functions, duties, and composition of nonprofit boards of directors. Permits boards to take action without a meeting through electronic means. Clarifies time limits for notice to the Attorney General for oversight purposes. Makes housekeeping amendments. (SD2)

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

