

JAN 19 2007

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# A BILL FOR AN ACT

RELATING TO CORPORATIONS.

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

1           SECTION 1. The legislature finds that corporations play an  
2 increasingly dominant role in our society. While they often  
3 provide important goods and services, in doing so they have the  
4 potential and sometimes the incentive to cause harm to workers,  
5 the environment, consumers, public health and safety, human  
6 rights, and the communities in which they operate. This occurs  
7 because the management of a corporation has a fiduciary duty to  
8 act in the best interest of the corporation, which is measured,  
9 for the most part, as maximizing profit for shareholders.  
10 Unfortunately, the interests of "stakeholder" constituencies  
11 that are deeply entwined with and affected by the corporation's  
12 activities, such as employees, consumers, creditors, the  
13 environment, and the local community, fall outside the corporate  
14 structure.

15           The legislature also finds that, to protect the interests  
16 of stakeholders and the public, the legislative response  
17 historically has been to draft a new law or regulation that  
18 responds to the harm caused by corporate conduct. Important



1 legislation, including minimum wage requirements, labor laws  
2 protecting worker rights to unionize, environmental regulations,  
3 and consumer protection statutes, all establish standards for  
4 protecting fundamental public interest values and ensuring a  
5 safe and productive society. However, because the profit motive  
6 and duty to shareholders governs corporate decision-making,  
7 corporate decision-makers can be put in the challenging position  
8 of having their duty to maximize profit run at odds with  
9 societal interests, such as living wages and pensions for  
10 employees or a clean environment.

11 The legislature further finds that it is time to consider  
12 moving away from the regulatory approach to protecting the  
13 public interest by addressing the structural problems of the  
14 corporation that are at the heart of the tension between  
15 business and stakeholder interests. Creating an alternative  
16 corporate model that would integrate the interests of  
17 stakeholders and the public interest into the structure and  
18 duties of businesses would still allow corporations to generate  
19 profit for shareholders. Companies incorporating under this  
20 model would be required to have employee and public interest  
21 representatives on the board of directors. Further, directors  
22 of these companies would evaluate the best interests of the



1 corporation based on its financial performance, as well as the  
2 long- and short-term interests of employees, customers, the  
3 state and local economy, and community and general public  
4 interests. The structural incentives that, in the current model  
5 of corporate law, create tension between private and public  
6 interests would be transformed to align private and public  
7 interests.

8 The purpose of this Act is to establish a task force to  
9 determine how to authorize the establishment of corporations  
10 structured to recognize, as corporate interests, the interests  
11 of employees and of the public in areas such as wages, the  
12 environment, and consumer protection, and provide incentives for  
13 incorporation of responsible companies that not only consider  
14 the public interest in doing business but integrate the public  
15 interest into the structure and duties of the business.

16 SECTION 2. (a) There is established within the department  
17 of commerce and consumer affairs the responsible corporation  
18 task force.

19 (b) The responsible corporation task force shall include  
20 as members:



- 1           (1) The director of commerce and consumer affairs, or the  
2           director's designee, who shall serve as the  
3           chairperson;
- 4           (2) The commissioner of securities of the department of  
5           commerce and consumer affairs, or the commissioner's  
6           designee;
- 7           (3) The chair of the business law section of the Hawaii  
8           State Bar Association, or the chair's designee, and  
9           another member of the business law section to be  
10          designated by the President of the Hawaii State Bar  
11          Association;
- 12          (4) The dean of the William S. Richardson School of Law,  
13          or the dean's designee; and
- 14          (5) The dean of the school of business of the University  
15          of Hawaii, or the dean's designee, and a member of the  
16          faculty of the school of business as designated by the  
17          dean.
- 18          (c) The task force shall:
- 19            (1) Consider how best to authorize the establishment of  
20            corporations structured to recognize, as corporate  
21            interests, the interests of employees and of the  
22            public in areas such as wages, the environment, and



1 consumer protection and provide incentives for  
2 incorporation of responsible companies that not only  
3 consider the public interest in doing business but  
4 integrate the public interest into the structure and  
5 duties of the business, including specific:  
6 (A) Incentives for incorporation as a responsible  
7 corporation;  
8 (B) Standards for determining whether the corporation  
9 will meet and continues to meet the requirements  
10 for receiving the incentives; and  
11 (C) Procedures by which the standards can be  
12 enforced, including penalties to be imposed;  
13 (2) Conform provisions for the establishment and operation  
14 of these responsible corporations, to the extent  
15 feasible, to existing Hawaii law on corporations,  
16 including chapter 414, Hawaii Revised Statutes;  
17 (3) Identify specific provisions of chapter 414, Hawaii  
18 Revised Statutes, that would not be applicable to the  
19 establishment and operation of these responsible  
20 corporations and specify in detail the alternative  
21 provisions that would apply in each instance;



1 (4) Identify the resources, including funding, necessary  
2 to implement registration of responsible business  
3 corporations; and

4 (5) Determine a timetable for the implementation of  
5 registration of responsible business corporations by  
6 the department of commerce and consumer affairs.

7 (d) The task force shall submit its findings and  
8 recommendations to the legislature, including proposed  
9 legislation, no later than twenty days prior to the convening of  
10 the regular session of 2008.

11 (e) The members of the task force shall serve without  
12 compensation but shall be reimbursed for expenses, including  
13 travel expenses, necessary for the performance of their duties.

14 (f) The department of commerce and consumer affairs shall  
15 provide support services necessary to assist the task force in  
16 achieving its purposes under this Act.

17 (g) The task force shall cease to exist on June 30, 2008.

18 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_



**Report Title:**

Corporations; Responsible Business Corporation Act

**Description:**

Establishes a task force to determine how to provide for the establishment and incorporation of responsible companies that consider the public interest in doing business.

