

HOUSE BILL REPORT

HB 1048

As Passed House:

February 3, 1995

Title: An act relating to the uniform unincorporated nonprofit association act.

Brief Description: Adopting the uniform unincorporated nonprofit association act.

Sponsors: Representatives Sheahan and Appelwick.

Brief History:

Committee Activity:

Law & Justice: 1/17/95, 1/24/95 [DP].

Floor Activity:

Passed House: 2/3/95.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 15 members: Representatives Padden, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Robertson; Sheahan; Smith and Veloria.

Staff: Edie Adams (786-7180).

Background: Many churches, sororities, fraternities, social clubs, neighborhood associations, and charitable organizations operate as unincorporated associations governed by their own rules and procedures. There is ambiguity as to whether or not these associations are legal entities capable of suing, being sued, or engaging in property transactions. In addition, the rights and liabilities of members relating to contract and tort claims against the association are unclear. There are no statutes governing the status of nonprofit associations and the rights and liabilities of members. Case law regarding nonprofit associations is sparse.

Nonprofit associations may incorporate under the Nonprofit Corporations Act or the Nonprofit Miscellaneous and Mutual Corporations Act by filing articles of incorporation with the Secretary of State. Nonprofit corporations may form for any lawful purpose, including charitable, benevolent, educational, civic, patriotic, political, religious, and social. Nonprofit corporations are managed by a board of directors and officers.

The powers of a nonprofit corporation include the power to sue and be sued, engage in property transactions, lend money, make contracts, and incur liabilities. A nonprofit corporation may not issue stock, make income disbursements to members, officers or directors, or make loans or advance credit to directors or officers.

Members of a nonprofit corporation are not personally liable for the debts and obligations of the corporation. A director or an officer of a nonprofit corporation is not personally liable for a discretionary decision or a failure to make a discretionary decision unless the decision or failure to decide constitutes gross negligence.

Summary of Bill: A nonprofit association is defined as an unincorporated organization consisting of members joined by mutual consent for a common, nonprofit purpose. Joint tenancy, tenancy in common, or tenancy in the entireties does not by itself establish a nonprofit association. A nonprofit association may acquire, hold, encumber, and transfer, real and personal property and may be a legatee, devisee, or beneficiary of a trust or covenant.

A nonprofit association may record a statement of authority to transfer an estate or interest in real property in the county auditor's office in the county where the property is located. The statement of authority must set forth: (1) the name and address of the nonprofit association; (2) the name or title of a person authorized to transfer an interest in real property held in the name of the nonprofit association; and (3) the action of the nonprofit association that authorizes the person to transfer the real property and execute the statement of authority.

The statement of authority must be executed by a person other than the person authorized to transfer real property and must be executed in the manner of a deed. A statement of authority expires after five years of the most recent recording. A statement of authority authorizing a person to transfer real property is conclusive in favor of a person who purchases the property for value without notice that the seller lacks authority to transfer the property.

A nonprofit association is a legal entity separate from its members for purposes of determining rights, liabilities, and duties in contract and tort. A person is not liable for either a breach of contract or for a tortious act or omission for which the nonprofit association is liable merely because the person is a member, or is authorized to participate in the management of the nonprofit association. A judgment against a nonprofit association is not by itself a judgment against a member or person considered to be a member of the association.

A member, or a person considered to be a member, may assert a claim against the nonprofit association and may be sued by the nonprofit association. A nonprofit association may institute, defend, intervene or participate in judicial, administrative, or alternative dispute resolution proceedings. A nonprofit association may assert a

claim on behalf of any member who has standing if the interests in the claim are germane to the association's purposes, and the relief requested does not require the member's participation.

If a nonprofit association has been inactive for three years, personal property of the association may be transferred to a person specified in an association document, or if no person is specified, to a nonprofit association or nonprofit corporation pursuing similar purposes, or to a government, governmental subdivision, agency, or instrumentality.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Nonprofit associations, such as neighborhood associations, charitable organizations, and recreational groups are valuable community groups, but uncertainty as to the legal status of these associations and the liabilities of members may inhibit participation. This bill provides needed certainty regarding the legal status of nonprofit unincorporated associations and the rights and liabilities of members.

Testimony Against: None.

Testified: Jorgen Bader, Seattle Community Council Federation (pro).