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## A BILL FOR AN ACT

RELATING TO CHARITABLE ORGANIZATIONS.

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

1           SECTION 1. Chapter 467B, Hawaii Revised Statutes, is  
2 amended by adding three new sections to be appropriately  
3 designated and to read as follows:

4           "§467B-A Registration of charitable organizations. (a)

5 Every charitable organization that intends to solicit  
6 contributions within or from the State, prior to any  
7 solicitation, shall register with the attorney general. The  
8 registration statement shall be in the form prescribed by the  
9 attorney general and shall contain the information as the  
10 attorney general may require. The registration statement shall  
11 be accompanied by a fee as prescribed by the attorney general by  
12 rule.

13           (b) The registration statement required under subsection

14 (a) shall include at least the following:

15           (1) The name of the charitable organization and the  
16 purpose for which it was organized;

17           (2) The principal address of the charitable organization  
18 and the addresses of any office in the State. If the



1 charitable organization does not maintain an office in  
2 the State, the registration statement shall include  
3 the name and address of the person having custody of  
4 its financial records;

5 (3) The name and address of any chapter, branch, or  
6 affiliate in the State;

7 (4) The date and place where the charitable organization  
8 was legally established, and the form of its  
9 organization. The charitable organization shall  
10 include in its filing a copy of its articles of  
11 incorporation and bylaws; trust agreement; or other  
12 instrument creating or governing its organization;

13 (5) The name and address of all officers, directors, and  
14 trustees, and of the principal executive staff  
15 officer, if any; the name of the individual or officer  
16 of the charitable organization who will have  
17 responsibility for the custody of the contributions;  
18 and the name of the individual or officer of the  
19 charitable organization responsible for the final  
20 distribution of the contributions;

21 (6) Whether the charitable organization has obtained tax  
22 exempt status under state or federal law and, if so,



1 copies of its federal or state tax exemption  
2 determination letters. A charitable organization that  
3 receives a federal or state tax exemption  
4 determination letter after filing its initial  
5 registration statement shall file a copy of the  
6 determination letter with the attorney general within  
7 thirty days of its receipt by the organization;

8 (7) Whether the charitable organization intends to solicit  
9 contributions from the public directly or have the  
10 solicitation done on its behalf by others, including  
11 any professional fund-raising counsel or professional  
12 solicitor;

13 (8) Whether the charitable organization has been  
14 authorized by any other state or governmental  
15 authority to solicit contributions in a jurisdiction  
16 outside this State, and whether it has ever been  
17 enjoined from soliciting contributions or had the  
18 authority to solicit contributions denied, suspended,  
19 or revoked by any other jurisdiction;

20 (9) The general purpose for which the contributions to be  
21 solicited shall be used;



1       (10) The accounting method used by the charitable  
2           organization; and

3       (11) Any other information that the attorney general may  
4           require.

5       (c) Each charitable organization required to register  
6       under this chapter shall annually renew its registration by  
7       filing a renewal statement with the attorney general, in a form  
8       as prescribed by the attorney general, and accompanied by a  
9       renewal fee as prescribed by the attorney general by rule.

10       (d) Any change of information required by this section  
11       shall be reported to the attorney general within ten days. The  
12       attorney general may adopt, by rule, other reporting  
13       requirements as may be deemed necessary to protect the public  
14       interest.

15       (e) When a charitable organization is terminated or  
16       dissolved, a final report shall be filed with the attorney  
17       general showing the disposition of all remaining assets.

18       **§467B-B Annual financial statements.** (a) Except as  
19       provided in this chapter, each charitable organization subject  
20       to this chapter shall file with the attorney general annual  
21       financial statements on or before July 1 of each calendar year,



1 in a form as prescribed by the attorney general, and accompanied  
2 by a filing fee as prescribed by the attorney general by rule.

3 (b) Annual financial statements shall include information  
4 as required by the attorney general; provided that the annual  
5 financial statement shall include at least the following:

6 (1) A copy of all year-end, federal reporting forms,  
7 schedules, and attachments filed with the Internal  
8 Revenue Service for the same period;

9 (2) Internal Revenue Service form 990-EZ or 990 completed  
10 for the same period if the charitable organization's  
11 federal reporting forms for the period do not include  
12 Internal Revenue Service form 990-EZ, 990-PF, or 990  
13 and the organization's total revenue is equal to or  
14 greater than \$25,000;

15 (3) Internal Revenue Service Schedule A of form 990  
16 completed for the same period if the organization's  
17 federal reporting forms for the period do not include  
18 Internal Revenue Service Schedule A of form 990 or  
19 form 990-PF, and the organization holds tax exempt  
20 status under section 501(c)(3) or 4947(a)(1) of the  
21 Internal Revenue Code;



1       (4) A copy of an independent auditor's report on the  
2           organization's financial records and accompanying  
3           financial statements and other attachments if an audit  
4           was prepared; and

5       (5) Any information requested by the attorney general.

6       (c) If the charitable organization is a trust with both  
7       charitable and non-charitable beneficiaries, the annual  
8       financial statement shall include:

9       (1) A copy of all year-end, federal reporting forms,  
10       schedules, and attachments filed with the Internal  
11       Revenue Service for the same period;

12       (2) Internal Revenue Service form 1041-A completed for the  
13       same period if the trust's federal reporting forms for  
14       the period do not include Internal Revenue Service  
15       form 1041-A;

16       (3) A copy of an independent auditor's report on the  
17       trust's financial records and accompanying financial  
18       statements and other attachments if an audit was  
19       prepared; and

20       (4) Any information requested by the attorney general.

21       (d) If the federal form 990 is submitted as part of the  
22       filing with the attorney general, the charitable organization



1 shall not attach a list of contributors as may be required as  
 2 part of the submission to the Internal Revenue Service. This  
 3 list is not intended to be subject to public inspection but may  
 4 be inspected if submitted to the attorney general's office.

5 **§467B-C Charitable organizations; exemption from filing**  
 6 **requirements.** (a) Charitable organizations shall be exempt

7 from the registration requirements of section 467B-A if:

8 (1) The charitable organization is otherwise exempt under  
 9 state law;

10 (2) The charitable organization has not received property  
 11 for charitable purposes;

12 (3) The charitable organization is:

13 (A) An educational institution that is recognized or  
 14 accredited by a regional accrediting association;

15 or

16 (B) A foundation having an established identity with  
 17 such an educational institution;

18 and the charitable organization does not hold property  
 19 in the State and solicitations of individuals residing

20 in the State are confined to alumni of the

21 institution; or



1       (4) A trustee of a charitable remainder trust is also the  
2           sole charitable beneficiary of the trust estate.

3       (b) Charitable organizations shall register with the  
4       attorney general as required by section 467B-A, but shall be  
5       exempt from filing annual registration statements pursuant to  
6       section 467B-B if:

7       (1) All of the following conditions were met during the  
8           reporting period:

9           (A) Total revenue was less than \$25,000;

10          (B) Net assets or fund balance at the end of the  
11           reporting period was less than \$50,000; and

12          (C) The charitable organization has delivered to the  
13           attorney general a comparable report approved by  
14           the attorney general; or

15       (2) The reporting requirements have been suspended by the  
16           attorney general."

17       SECTION 2. Section 467B-1, Hawaii Revised Statutes, is  
18       amended by adding two new definitions to be appropriately  
19       inserted and to read as follows:

20       "Charitable organization":

21       (1) Means:





1           (A) Any person determined by the Internal Revenue  
2           Service to be a tax exempt organization pursuant  
3           to section 501(c)(3) of the Internal Revenue Code  
4           of 1986, as amended; or

5           (B) Any person who is, or holds itself out to be,  
6           established for any benevolent, educational,  
7           philanthropic, humane, scientific, patriotic,  
8           social welfare or advocacy, public health,  
9           environmental conservation, civic, or other  
10           charitable purpose;

11       (2) Includes:

12           (A) Any person who in any manner employs a charitable  
13           appeal as the basis of any solicitation or an  
14           appeal that has a tendency to suggest there is a  
15           charitable purpose to the solicitation; or

16           (B) Any chapter or local division of the charitable  
17           organization organized within the State if the  
18           division has the authority and discretion to  
19           disburse funds or property otherwise than by  
20           transfer to any parent organization; and

21       (3) Does not include any federal, state, or county agency;  
22       or political parties and candidates for federal,



1           state, or county office required to file financial  
 2           information with federal or state election authorities  
 3           or commission.

4           "Charitable purpose" means:

5           (1) Any purpose described in section 501(c)(3) of the  
 6           Internal Revenue Code of 1986, as amended; or

7           (2) Any purpose to promote the well-being of the public at  
 8           large, or for the benefit of an indefinite number of  
 9           persons, including but not limited to educational,  
 10           literary, or scientific purposes, or for the  
 11           prevention of cruelty to children or animals, or for  
 12           the benefit of religion, rehabilitation services,  
 13           public recreation or civic improvement."

14           SECTION 3. New statutory material is underscored.

15           SECTION 4. This Act shall take effect upon its approval.

16

INTRODUCED BY: Kirk Caldwell

JAN 15 2008



**Report Title:**

Charitable Organizations; Attorney General

**Description:**

Requires charitable organizations to register with the attorney general.

