



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2013**

ON THE FOLLOWING MEASURE:

S.B. NO. 1020, S.D. 1, RELATING TO CHARITABLE SOLICITATION.

BEFORE THE:

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

DATE: Thursday, March 14, 2013 **TIME:** 5:30 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): David M. Louie, Attorney General, or
Hugh R. Jones, Deputy Attorney General

Chair McKelvey and Members of the Committee:

The Attorney General requests the passage of this bill with one technical amendment to the Senate Draft 1 discussed below. The purposes of this bill are to: (1) amend chapter 467B, Hawaii Revised Statutes (HRS), to extend existing provisions of the chapter that regulates registered charities, professional fundraisers, and professional solicitors, to commercial co-venturers; (2) clarify an exemption from registration requirements applicable to small charities; and (3) make technical amendments to the chapter.

Chapter 467B, HRS, regulates commercial co-venturers (for-profit businesses) who conduct cause related marketing that benefit charitable organizations. Existing reporting requirements, record keeping, and remedial provisions in chapter 467B, HRS, presently do not apply to commercial co-venturers. Imposing these reporting and record keeping requirements on commercial co-venturers assures that the charitable organizations that benefit from these commercial sales promotions have consented to the promotion and that the organization and the Attorney General have access to information relating to the marketing event. This bill extends these provisions to commercial co-ventures.

This bill also clarifies the exemption for charities that normally receive less than \$25,000 annually by adding wording that provides for an “averaging” of the organization’s contributions over the prior three years for purposes of applying the exemption, which will benefit small charities that unexpectedly receive a large contribution. The bill also makes stylistic and technical amendments to the chapter.

The Attorney General requests that the Committee amend Senate Draft 1 by amending section 467B-6.5, subsection (e), HRS, to extend the existing late filing fee of \$20 per day with a cap of \$1,000 applicable to the late filing of annual reports and returns to the late payment of annual filing fees. This provision is needed due to the fact that there are many registered organizations that submit their annual reports and returns with the Attorney General but do not process payment for their filing fees. The Attorney General believes that a late payment penalty on the annual fees that are due will create a financial incentive to timely pay the annual fees that fund several charities related legal positions in the Department.

We suggest that a new section be inserted in the bill to read as follows:

SECTION _____. Section 467B-6.5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) If a return [ø], report, or filing fee required under this section is not filed[;] or paid, taking into account any extension of time for filing, unless it is shown that the failure is due to reasonable cause, a fine of \$20 shall be imposed for each day during which the violation continues; provided that the total amount imposed under this subsection shall not exceed \$1,000."

The Attorney General requests the Committee's favorable consideration of this bill and the requested amendment discussed above.