

JAN 17 2014

A BILL FOR AN ACT

RELATING TO THE PROTECTION OF CHARITABLE ASSETS.

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

1 SECTION 1. The attorney general's role in providing
2 oversight of Hawaii's charitable organizations is recognized
3 under common law and through various sections of the Hawaii
4 Revised Statutes, including provisions in chapters 323D, 414D,
5 431, 467B, 554, 554B, and 517E, Hawaii Revised Statutes. The
6 purpose of this Act is to enact section 3 of the Model
7 Protection of Charitable Assets Act to grant the attorney
8 general oversight over charitable assets regardless of the form
9 in which they are held.

10 SECTION 2. Chapter 28, Hawaii Revised Statutes, is amended
11 by adding a new section to be appropriately designated and to
12 read as follows:

13 "§28- Protection of charitable assets; attorney
14 general's authority. (a) The attorney general shall represent
15 the public interest in the protection of charitable assets and
16 may:

17 (1) Enforce the application of a charitable asset in
18 accordance with:



- 1 (A) The law and terms governing the use, management,
- 2 investment, distribution, and expenditure of the
- 3 charitable asset; and
- 4 (B) The charitable purpose of the person holding the
- 5 asset;
- 6 (2) Act to prevent or remedy:
- 7 (A) The misapplication, diversion, or waste of a
- 8 charitable asset; or
- 9 (B) A breach of fiduciary or other legal duty in the
- 10 governance, management, or administration of a
- 11 charitable asset; or
- 12 (3) Commence or intervene in an action to:
- 13 (A) Prevent, remedy, or obtain damages for:
- 14 (i) The misapplication, diversion, or waste of a
- 15 charitable asset; or
- 16 (ii) A breach of fiduciary or other legal duty in
- 17 the governance, management, or
- 18 administration of a charitable asset; or
- 19 (B) Determine that an asset is a charitable asset.
- 20 (b) If the attorney general has reason to believe an
- 21 investigation is necessary to determine whether action is
- 22 advisable under this section, the attorney general may conduct



1 an investigation, including exercising administrative subpoena
2 power under sections 28-2.5 and 467B-9.3.

3 (c) This section does not limit the powers and duties of
4 the attorney general under the laws of this State other than
5 this section.

6 (d) As used in this section, "charitable asset" means
7 property that is given, received, or held for a charitable
8 purpose. The term does not include property acquired or held
9 for a for-profit purpose."

10 SECTION 3. New statutory material is underscored.

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

12

INTRODUCED BY: 



S.B. NO. 2368

Report Title:

Protection of Charitable Assets; Attorney General

Description:

Grants oversight authority to the Attorney General over charitable assets regardless of the form in which they are held. Authorizes the Attorney General to enforce the application of the charitable asset to prevent or remedy the misapplication, diversion, waste, or breach of duty in management of a charitable asset.

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