

SB2250

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**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2014**

ON THE FOLLOWING MEASURE:

S.B. NO. 2250, S.D. 1, RELATING TO CHARITABLE SOLICITATION.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Wednesday, February 12, 2014 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): David M. Louie, Attorney General, or
Kathryn-Jean T. Kanemori, Deputy Attorney General

Chair Hee and Members of the Committee:

The Attorney General supports the passage of this bill with amendments to sections 1 and 3 of the bill, described more fully below.

The purposes of this bill are to: (1) improve upon and clarify provisions of Hawaii's charitable solicitation and registration law through the creation of a new section devoted to collection bins used for donations of household items and clothing; (2) make amendments to provisions regulating charitable sales promotions by commercial co-venturers; (3) make technical amendments to facilitate electronic registration and reporting by registered professional solicitors; and (4) make clarifying and technical or housekeeping amendments.

Collection Box Disclosures

The Attorney General supports required collection box disclosures for consumer or donor protection; however, subsection (c) of section 1 of this bill on page 2, line 3, currently requires professional solicitors who are soliciting the donation of salvageable personal property to state that donations are not tax deductible, which is an incorrect statement. Donations made to a collection box owned and operated by a professional solicitor that is soliciting donations for the benefit of a charitable organization are deductible to the donor; however, a portion of the proceeds from the donation is kept by the professional solicitor as compensation for the solicitor's services.

The intent of section 1 is to provide disclosure requirements for three different types of organizations that may own and operate collection bins. These are the types of organizations, charities that have been granted tax exempt status under section 501(c)(3) of the Internal

Revenue Code, professional solicitors that are for-profit entities paid to solicit donations for a charity, and for-profit organizations who collect and sell used personal property for non-charitable purposes. After reviewing collection box disclosure requirements in other states, the Attorney General recommends that section 1 of the bill be amended to read as follows:

“§467B- Collection boxes; required disclosures. (a) The front of every collection box that is owned and operated by a charitable organization exempt from income tax under section 501(c)(3) of the Internal Revenue Code, shall conspicuously display all of the following:

- (1) The name, address, telephone number, and, if available, the Internet Web address of the charitable organization; and
- (2) A statement, in at least two inches in height and one-half inch in width lettering that reads, “This collection box is owned and operated by a tax-exempt charitable organization.”

(b) The front of every collection box that is owned and operated by a professional solicitor shall conspicuously display all the following:

- (1) The name, address, telephone number, and, if available, the Internet Web address of the professional solicitor;
- (2) A statement, in at least two inches in height and one-half inch in width lettering that reads, “This collection box is owned and operated by a professional solicitor. Items donated here support, in part, the professional solicitor, which is a for-profit organization.”; and
- (3) The name of the charitable organization that will benefit from the donation of contributions to the collection box.

(c) The front of every collection box that is owned and operated by a for-profit organization that is not a professional solicitor, or an organization that is not a charitable

organization exempt from income tax under section 501(c)(3) of the Internal Revenue Code,
shall conspicuously display all of the following:

(1) The name, address, telephone number, and, if available, the Internet Web address
of the for-profit organization; and

(2) A statement in at least two inches in height and one-half inch in width lettering
that reads, "This collection box is owned and operated by a for-profit organization
that is not a charity. Any contributions made here are not tax deductible."

(d) For purposes of this section a "collection box" means an unattended canister, box,
bin, receptacle, or similar device, used for soliciting and collecting donations of salvageable
personal property."

(e) Every charitable organization or professional solicitor owning or operating a
collection box shall be registered with the department under section 467B-2.1, or 467B-12, as the
case may be.

Technical Amendment

Additionally, the Attorney General requests that the phrase "a fine of \$20 shall be imposed for each day during which the violation occurs or continues" on page 4, of lines 11 and 12 be deleted from section 3 of this bill and replaced with the phrase "an initial fine of \$100 shall be imposed and an additional fine of \$20 shall be imposed for each day during which the violation continues" so that the new material on page 4, lines 9 through 17, of section 3 of this bill reads as follows:

If a financial report required under this section is not filed, unless it is shown that the failure is due to reasonable cause, an initial fine of \$100 shall be imposed and an additional 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 professional solicitor shall provide a copy of the financial report to the charitable

organization to which the financial report pertains within ten days of its submission of the report to the attorney general.

The Attorney General requests the Committee's favorable consideration of this bill with the amendments noted above.