

S.B. NO. 1067

JAN 28 2015

A BILL FOR AN ACT

RELATING TO CHARITABLE SOLICITATION.

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

1 SECTION 1. Section 467B-2.5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Within ninety days after a solicitation campaign or
4 event has been completed and on the anniversary of the
5 commencement of a solicitation campaign lasting more than one
6 year, a professional solicitor shall file with the attorney
7 general a financial report for the campaign, including gross
8 revenue and an itemization of all expenses incurred on a form
9 prescribed by the attorney general. The attorney general may
10 require the financial report to be submitted electronically.

11 This report shall be signed under penalty provided by section
12 710-1063 by the authorized contracting agent for the
13 professional solicitor [~~and two authorized officials of the~~
14 ~~charitable organization~~] and shall report gross revenue from
15 Hawaii donors and national gross revenue from a solicitation
16 activity or campaign. If a financial report required under this
17 section is not filed, taking into account any extension of time

1 for filing, unless it is shown that the failure is due to
2 reasonable cause, an initial fine of \$100 shall be imposed and
3 an additional fine of \$20 per day shall be imposed for each day
4 during which the violation continues; provided that the total
5 amount imposed under this subsection shall not exceed \$1,000.
6 The professional solicitor shall provide a copy of the financial
7 report to the charitable organization to which the financial
8 report pertains within ten days of its submission of the report
9 to the attorney general. A professional solicitor shall
10 maintain during each solicitation campaign and for not less than
11 three years after the completion of that campaign the following
12 records, which shall be available for inspection upon demand by
13 the attorney general:

- 14 (1) The date and amount of each contribution received and
15 the name and address of each contributor;
- 16 (2) The name and residence of each employee, agent, or
17 other person involved in the solicitation;
- 18 (3) Records of all revenue received and expenses incurred
19 in the course of the solicitation campaign; and
- 20 (4) The location and account number of each bank or other
21 financial institution account in which the
22 professional solicitor has deposited revenue from the
23 solicitation campaign."

1 SECTION 2. Section 467B-11.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§467B-11.5 Charitable organizations exempted from
4 registration and financial disclosure requirements. The
5 following charitable organizations shall not be subject to
6 sections 467B-2.1 and 467B-6.5, if the organization submits
7 ~~[information as the department may require]~~ to the department an
8 application for exemption to substantiate an exemption under
9 this section[+] and the department approves the organization's
10 application. The attorney general may require the application
11 for exemption to be filed electronically with the department and
12 may require the use of electronic signatures.

13 (1) Any duly organized religious corporation, institution,
14 or society that is exempt from filing Form 990 with
15 the Internal Revenue Service pursuant to sections
16 6033(a)(3)(A)(i) and (iii) and 6033(a)(3)(C)(i) of the
17 Internal Revenue Code, as amended;

18 (2) Parent-teacher associations;

19 (3) Any educational institution that is licensed or
20 accredited by any of the following licensing or
21 accrediting organizations:

22 (A) Hawaii Association of Independent Schools;

23 (B) Hawaii Council of Private Schools;

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- 1 (C) Western Association of Schools and Colleges;
- 2 (D) Middle States Association of Colleges and
- 3 Schools.
- 4 (E) New England Association of Schools and Colleges;
- 5 (F) North Central Association of Colleges and
- 6 Schools;
- 7 (G) Northwest Commission on Colleges and
- 8 Universities;
- 9 (H) Southern Association of Colleges and Schools;
- 10 [~~or~~]
- 11 (I) The National Association for the Education of
- 12 Young Children; or
- 13 (J) The Northwest Accreditation Commission for
- 14 primary and secondary schools;
- 15 and any organization exempt from taxation under
- 16 section 501(c)(3) of the Internal Revenue Code
- 17 expressly authorized by, and having an established
- 18 identity with[~~r such~~] an educational institution[~~r~~]
- 19 accredited by one of the foregoing accrediting
- 20 agencies; provided that the organization's
- 21 solicitation of contributions is primarily directed to
- 22 the students, alumni, faculty, and trustees of the
- 23 institutions and their respective families;

- 1 (4) Any nonprofit hospital licensed by the State or any
2 similar provision of the laws of any other state;
- 3 (5) Any corporation established by an act of the United
4 States Congress that is required by federal law to
5 submit to Congress annual reports, fully audited by
6 the United States Department of Defense, of its
7 activities including itemized accounts of all receipts
8 and expenditures;
- 9 (6) Any agency of this State, another state, or the
10 federal government; and
- 11 (7) Any charitable organization that normally receives less
12 than \$25,000 in contributions annually, if the
13 organization does not employ or compensate a
14 professional solicitor or professional fundraising
15 counsel. For purposes of this paragraph, an
16 organization normally receives less than \$25,000 in
17 contributions annually, if during the immediately
18 preceding three fiscal years, it received, on average,
19 less than \$25,000 in contributions."

20 SECTION 3. Statutory material to repealed is bracketed and
21 stricken. New statutory material is underscored.

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

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INTRODUCED BY:

4

BY REQUEST

Report Title:

Charitable Solicitation

Description:

Authorizes the Attorney General to require electronic financial reporting by professional solicitors, imposes a late fee for late financial reports by professional solicitors; and clarifies exemptions from registration requirements.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO CHARITABLE SOLICITATION.

PURPOSE: The purposes of this bill are to amend chapter 467B, Hawaii Revised Statutes (HRS), to: (1) require the submission of end of solicitation campaign financial reports by registered professional solicitors to be submitted to the Department of the Attorney General electronically to facilitate their public availability via the Internet; (2) establish a late fee for the late submission of annual financial report identical to the existing late fee in section 467B-2.5(e), HRS; and (3) amend the exemption section of chapter 467B, HRS to provide for online submission of exemption applications by charitable organizations and recognizing the Northwest Accreditation Commission for primary and secondary schools as an authorized accrediting agency for educational institutions.

MEANS: Amend sections 467B-2.5 and 467B-11.5, HRS.

JUSTIFICATION: The amendments will facilitate electronic submission of documents currently submitted in paper form and facilitate widespread public access to information about registered professional solicitors and charities exempt from registration requirements

Impact on the public: Electronic filing of financial reports by registered professional solicitors will provide the public with more information about the percentage of their donations that are actually received by the professional solicitors' clients/charities. The bill also clarifies the registration exemption for accredited educational institutions.

Impact on the department and other agencies:
This bill will facilitate the Attorney General's transitioning to electronic registration systems. It will also establish a civil remedy for the Department short of suspension or revocation for charities that fail to timely submit annual financial reports as required by Hawaii law.

GENERAL FUND: None.
OTHER FUNDS: None.
PPBS PROGRAM DESIGNATION: ATG 100.
OTHER AFFECTED AGENCIES: None.
EFFECTIVE DATE: Upon approval.