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# 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-1, Hawaii Revised Statutes, is  
2 amended by amending the definitions of "professional fund-  
3 raising counsel" or "professional fundraising counsel" and  
4 "solicit" and "solicitation" to read as follows:

5            "Professional fund-raising counsel" or "professional  
6 fundraising counsel" means any person who, for compensation,  
7 plans, conducts, manages, advises, consults, or prepares  
8 material for, or with respect to, the solicitation of  
9 contributions in this State for a charitable organization, but  
10 who actually solicits no contributions as a part of the person's  
11 services, and who does not employ, procure, or engage any  
12 compensated person to solicit contributions. The term shall not  
13 include a bona fide volunteer, salaried officer, or employee of  
14 a charitable organization[-], or a person if the only services  
15 performed by the person are to plan, conduct, manage, advise,  
16 consult, or prepare grant or subsidy application materials for a  
17 charitable organization.



1 "Solicit" and "solicitation" mean a request directly or  
2 indirectly for money, credit, property, financial assistance, or  
3 thing of value on the plea or representation that the money,  
4 credit, property, financial assistance, or thing of value, or  
5 any portion thereof, will be used for a charitable purpose or to  
6 benefit a charitable organization. These terms shall include  
7 the following:

- 8 (1) Any oral or written request [-]; [+]
- 9 (2) The making of any announcement to any organization for  
10 the purpose of further dissemination, including  
11 announcements to the press, over the radio or  
12 television, or by telephone, telegraph, or facsimile,  
13 concerning an appeal or campaign by or for any  
14 charitable organization or purpose [-]; [+]
- 15 (3) The distribution, circulation, posting, or publishing  
16 of any handbill, written advertisement, or other  
17 publication that directly or by implication seeks to  
18 obtain public support [-]; [+]
- 19 (4) Where the sale or offer or attempted sale, of any  
20 advertisement, advertising space, book, card, tag,  
21 coupon, device, magazine, membership, merchandise,



1 subscription, flower, ticket, candy, cookies, or other  
2 tangible item in connection with which any appeal is  
3 made for any charitable organization or purpose; or  
4 where the name of any charitable organization is used  
5 or referred to in any appeal as an inducement or  
6 reason for making any sale; or where in connection  
7 with any sale, any statement is made that the whole or  
8 any part of the proceeds from any sale will be used  
9 for any charitable purpose or to benefit any  
10 charitable organization[+]; [+] and

11 (5) A request made through the use of receptacles for  
12 contributions such as honor boxes, vending machines,  
13 wishing wells, contribution boxes, and novelty  
14 machines, where a charitable appeal is used or  
15 referred to or implied as an inducement or reason to  
16 contribute.

17 A solicitation occurs whether or not the person making the  
18 solicitation receives any contribution. However, the term shall  
19 not include the submission of a grant or subsidy proposal or  
20 application to a governmental authority or any organization



1 exempt from taxation under section 501(c)(3) of the Internal  
2 Revenue Code."

3 SECTION 2. Section 467B-1.5, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[+]§467B-1.5[+] Professional solicitors; required  
6 disclosures. [~~A professional solicitor who makes an oral~~  
7 ~~solicitation by telephone, door to door, or otherwise shall~~  
8 ~~furnish to each contributor, prior to collecting or attempting~~  
9 ~~to collect any contribution, a written confirmation of the~~  
10 ~~expected contribution, containing the following information~~  
11 ~~clearly and conspicuously:~~

12 ~~(1) The full legal name, address, and telephone number of~~  
13 ~~the individual professional solicitor who directly~~  
14 ~~communicated with the contributor; and~~

15 ~~(2) A disclosure that the contribution is not tax-~~  
16 ~~deductible, if applicable, or, if the professional~~  
17 ~~solicitor maintains that the contribution is tax-~~  
18 ~~deductible in whole or in part, the portion of the~~  
19 ~~contribution that the professional solicitor maintains~~  
20 ~~is tax deductible.]~~



1 (a) Every professional solicitor, and every employee or agent  
2 thereof, who solicits contributions from a prospective donor or  
3 contributor in this State shall at the outset of any oral or  
4 written request for a contribution:

5 (1) Identify themselves by their true surname and first  
6 name, and the name of their employer or the contractor  
7 as the case may be, that is compensating the  
8 individual making the solicitation;

9 (2) Identify the name of the professional solicitor  
10 registered with the department of the attorney general  
11 that has contracted with the charitable organization  
12 to provide the solicitation services and, if the  
13 individual is employed by a subcontractor, the name of  
14 the registered subcontractor;

15 (3) Disclose that the person making the oral or written  
16 request for a donation is being paid to make such  
17 solicitation and the name of the charitable  
18 organization on whose behalf the person making the  
19 request is soliciting; and

20 (4) Disclose, orally and in writing, the fact that a copy  
21 of the professional solicitor's registration data and



1           financial reports are available from the department of  
2           the attorney general.

3           (b) A professional solicitor who makes an oral  
4           solicitation by telephone, door-to-door, or otherwise, prior to  
5           collecting or attempting to collect any contribution, shall  
6           provide a written confirmation of the expected contribution and  
7           clearly disclose whether the contribution is not tax-deductible,  
8           if applicable, or, if the professional solicitor maintains that  
9           the contribution is tax-deductible in whole or in part, the  
10          portion of the contribution that the professional solicitor  
11          maintains is tax-deductible. The written confirmation shall  
12          also conspicuously disclose the name and current address of the  
13          registered professional solicitor."

14           SECTION 3. Section 467B-2.5, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16           "(a) Within ninety days after a solicitation campaign or  
17 event has been completed and on the anniversary of the  
18 commencement of a solicitation campaign lasting more than one  
19 year, a professional solicitor shall file with the attorney  
20 general a financial report for the campaign, including gross  
21 revenue and an itemization of all expenses incurred on a form



1 prescribed by the attorney general. The attorney general may  
2 require the financial report to be submitted electronically.  
3 This report shall be signed under penalty provided by section  
4 710-1063 by the authorized contracting agent for the  
5 professional solicitor [~~and two authorized officials of the~~  
6 ~~charitable organization~~] and shall report gross revenue from  
7 Hawaii donors and national gross revenue from a solicitation  
8 activity or campaign. If a financial report required under this  
9 section is not filed in a timely manner, an initial late filing  
10 fee of \$100 shall be imposed, and an additional late filing fee  
11 of \$20 per day shall be imposed, for each day during which the  
12 violation continues; provided that the total fee amount imposed  
13 under this subsection shall not exceed \$1,000. The attorney  
14 general may waive all or part of the late filing fee imposed by  
15 this subsection if there is a reasonable cause for the failure  
16 to timely file. The professional solicitor shall provide a copy  
17 of the financial report to the charitable organization to which  
18 the financial report pertains within ten days of its submission  
19 of the report to the attorney general. A professional solicitor  
20 shall maintain during each solicitation campaign and for not  
21 less than three years after the completion of that campaign the



1 following records, which shall be available for inspection upon  
2 demand by the attorney general:

3 (1) The date and amount of each contribution received and  
4 the name and address of each contributor;

5 (2) The name and residence of each employee, agent, or  
6 other person involved in the solicitation;

7 (3) Records of all revenue received and expenses incurred  
8 in the course of the solicitation campaign; and

9 (4) The location and account number of each bank or other  
10 financial institution account in which the  
11 professional solicitor has deposited revenue from the  
12 solicitation campaign."

13 SECTION 4. Section 467B-5.5, Hawaii Revised Statutes, is  
14 amended by amending subsection (d) to read as follows:

15 "(d) A [~~fine~~] late filing fee of \$20 shall be imposed on a  
16 commercial co-venturer who fails to file a written consent as  
17 required by subsection (b), unless it is shown that the failure  
18 is due to reasonable cause, for each day during which the  
19 violation continues; provided that the total amount imposed  
20 under this subsection shall not exceed \$1,000."





1 SECTION 5. Section 467B-6.5, Hawaii Revised Statutes, is  
2 amended by amending subsection (e) to read as follows:

3 "(e) If a return, report, or filing fee required under  
4 this section is not filed or paid, taking into account any  
5 extension of time for filing, unless it is shown that the  
6 failure is due to reasonable cause, a [~~fine~~] late filing fee of  
7 \$20 shall be imposed for each day during which the violation  
8 continues; provided that the total amount imposed under this  
9 subsection shall not exceed \$1,000."

10 SECTION 6. Section 467B-11.5, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "§467B-11.5 Charitable organizations exempted from  
13 registration and financial disclosure requirements. The  
14 following charitable organizations shall not be subject to  
15 sections 467B-2.1 and 467B-6.5, if the organization submits  
16 information as the department may require to substantiate an  
17 exemption under this section:

18 (1) Any duly organized religious corporation, institution,  
19 or society that is exempt from filing Form 990 with  
20 the Internal Revenue Service pursuant to sections



- 1           6033(a)(3)(A)(i) and (iii) and 6033(a)(3)(C)(i) of the  
2           Internal Revenue Code, as amended;
- 3       (2) Parent-teacher associations;
- 4       (3) Any educational institution that is licensed or  
5           accredited by any of the following licensing or  
6           accrediting organizations:
- 7           (A) Hawaii Association of Independent Schools;
- 8           (B) Hawaii Council of Private Schools;
- 9           (C) Western Association of Schools and Colleges;
- 10          (D) Middle States Association of Colleges and  
11           Schools;
- 12          (E) New England Association of Schools and Colleges;
- 13          (F) North Central Association of Colleges and  
14           Schools;
- 15          (G) Northwest Commission on Colleges and  
16           Universities;
- 17          (H) Southern Association of Colleges and Schools;
- 18           [~~ex~~]
- 19          (I) The National Association for the Education of  
20           Young Children; or



- 1           (J) The Northwest Accreditation Commission for  
2                   primary and secondary schools;  
3           and any organization exempt from taxation under  
4           section 501(c)(3) of the Internal Revenue Code  
5           expressly authorized by, and having an established  
6           identity with, such an educational institution;  
7           provided that the organization's solicitation of  
8           contributions is primarily directed to the students,  
9           alumni, faculty, and trustees of the institutions and  
10          their respective families;
- 11          (4) Any nonprofit hospital, adult day health center,  
12           hospice, intermediate care facility for individuals  
13           with intellectual disabilities, skilled nursing  
14           facility, and intermediate care facility that is  
15           licensed or medicare certified by the State or any  
16           similar provision of the laws of any other state;
- 17          (5) Any corporation established by an act of the United  
18           States Congress that is required by federal law to  
19           submit to Congress annual reports, fully audited by  
20           the United States Department of Defense, of its



1 activities including itemized accounts of all receipts  
2 and expenditures;

3 (6) Any agency of this State, another state, or the  
4 federal government; and

5 (7) Any charitable organization that normally receives  
6 less than \$25,000 in contributions annually, if the  
7 organization does not employ or compensate a  
8 professional solicitor or professional fundraising  
9 counsel. For purposes of this paragraph, an  
10 organization normally receives less than \$25,000 in  
11 contributions annually if, during the immediately  
12 preceding three fiscal years, it received, on average,  
13 less than \$25,000 in contributions."

14 SECTION 7. This Act does not affect rights and duties that  
15 matured, penalties that were incurred, and proceedings that were  
16 begun before its effective date.

17 SECTION 8. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 9. This Act shall take effect on January 1, 2017.



**Report Title:**

Charitable Solicitation; Professional Solicitors; Required Disclosures; Donors; Registration; Reports

**Description:**

Amends Hawaii's charitable solicitation law to: require affirmative disclosures to donors by professional solicitors; clarify exemptions from registration; and make other technical amendments. Effective 1/1/2017. (SD2)

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

