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**Thursday, January 21, 201– 2:00pm
Conference Room 325**

The House Committee on Judiciary

To: Rep. Karl Rhoads, Chair
Rep. Joy A. San Buenaventura, Vice-Chair

From: S. Sanae Tokumura, ACFRE, APR
President

**Re: SB 1067, SD2 Relating to Charitable Solicitation
Testimony in Support**

My name is Sanae Tokumura, President of the Association of Fundraising Professionals – Aloha Chapter (AFP Aloha Chapter). The AFP Aloha Chapter advances philanthropy throughout Hawaii by actively promoting the practice of ethical and effective fundraising. We are committed to education, training, advocacy, and mentoring in the field of fundraising for the benefit of all, with the spirit of aloha. Founded in Hawaii in 1983, the Association of Fundraising Professionals (AFP) Aloha Chapter is a professional association whose membership is comprised of persons involved in non-profit development, non-profit management and fundraising consulting. The chapter members represent organizations on Oahu, Maui, Kauai and the Big Island. .

We support SB 1067 SD2 which authorizes the Attorney General to require electronic financial reporting by professional solicitors, imposes a fine for late financial reporting by professional solicitors and for commercial co-ventures in violation of HRS 467B, and clarifies exemptions from registration requirements.

We support all regulatory efforts that enable the Attorney General to ensure transparency to protect consumers from fraudulent fundraising solicitation activities. Measures to encourage timely and accurate filing of reports will additionally serve to protect and maintain the integrity and ethical practice of the fundraising profession.

Thank you for the opportunity to testify.



Aloha United Way

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Honolulu, Hawaii 96817-3938
Telephone (808) 543-2202
Fax (808) 543-2222
www.auw.org

January 15, 2016

To: Representative Karl Rhoads, Chair, Committee on Judiciary
Representative Joy A. San Buenaventura, Vice-Chair, Committee on Judiciary

Re: SB 1067 SD 2 Relating to Charitable Solicitation – **SUPPORT**
Hearing: Thursday, January 21, 2016; Room 325; 2:00 PM

Honorable Chairs & Committee Members:

Aloha United Way **supports** SB 1067 SD 1 which improves HRS Chapter 467B by making reporting requirements more consistent and appropriate to the size of the nonprofit.

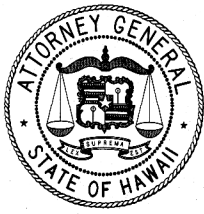
Nonprofit funding spent on reporting is not being spent on the nonprofits mission to improve the quality of life in our community. There is a delicate balance between collecting the information required to govern the operation of nonprofits and the costs associated with providing the reports. The changes envisioned in SB 1067 SD 1 make appropriate adjustments to the reporting requirements while preserving the Attorney General's mandate to gather adequate information to monitor and evaluate the agency's performance.

Thank you for the opportunity to submit testimony. We urge your favorable consideration of SB 1067 SD 1.

Sincerely,

A handwritten signature in black ink, appearing to read "Cindy Adams", with a long horizontal flourish extending to the right.

Cindy Adams
President & Chief Executive Officer



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

ON THE FOLLOWING MEASURE:

S.B. NO. 1067, S.D. 2, RELATING TO CHARITABLE SOLICITATION.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Thursday, January 21, 2016

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Hugh R. Jones, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Attorney General supports the passage of this bill.

The purposes of this bill are to amend Hawaii's charitable solicitation law to: (1) clarify that only charitable organizations that solicit contributions from the public are subject to registration requirements and allow charities that have a group exemption ruling from the IRS to register on behalf of all subordinate organizations; (2) clarify provisions applicable to commercial co-venturers and create penalties for non-compliance; (3) provide for electronic submission of end of solicitation campaign financial reports by registered professional (paid) solicitors; (4) impose a late fee for the late submission of annual financial reports by registered professional solicitors identical to the existing late fee in section 467B-6.5(e), Hawaii Revised Statutes (HRS), for the late submission of financial reports by registered charities; (5) repeal the annual fee for charitable organizations that have under \$25,000 in gross revenues and tie the requirement for audited financial statements to "contributions" and not gross revenues; and (6) clarify the registration exemption applicable to accredited educational institutions and facilitate the electronic submission of exemption applications by charitable organizations eligible for a registration exemption.

Clarification of Registration Requirements

Section 1 of the bill makes clear that charitable organizations that do not solicit contributions are not subject to registration. This would include most private foundations and endowed charities.

Electronic Submission of Professional Solicitor Financial Reports and Late Fees

Section 2 of the bill provides for the electronic submission of the financial reports that professional solicitors are required to submit to the Attorney General at the end of a solicitation campaign that the professional solicitor has conducted on behalf of a charity. Section 467B-2.1(c), HRS, presently provides for electronic registration by charitable organizations that must register with the Attorney General.

In April 2015, the Department of the Attorney General deployed an Internet-based registration and registration renewal system (System) for professional solicitors and professional fundraising counsels. The System processes registrations and renewals and allows registered fundraisers to submit contracts, and allows registered professional solicitors to submit their end of solicitation campaign financial reports electronically as well. This System provides for more robust public access to information that is submitted by registered fundraisers that used to be submitted in paper form and then compiled on the Attorney General's website.

Section 2 of the bill also allows for the assessment of late fees to professional solicitors that fail to timely file an end of campaign financial report. The Attorney General has discovered that a significant number of registered professional solicitors fail to timely file end of solicitation campaign financial reports required by section 467B-2.5, HRS. In some cases registered solicitors' annual financial reports have been delinquent despite efforts by the Department to prod solicitors to be compliant. This bill will create a financial incentive to timely file the required end of solicitation campaign financial report by creating a late fee identical to the existing late fee provided in section 467B-6.5(e), HRS, applicable to annual financial reporting by registered charities.

Clarification of Commercial Co-Venturer Requirements and Electronic Submission of Consent Forms

Section 3 of this bill proposes to amend section 467B-5.5, HRS, to require an accounting to each charity by a commercial co-venturer no more than 90 days after any charitable sales promotion and authorizes the Attorney General to issue cease and desist orders to commercial co-venturers who are in violation of the requirements applicable to commercial co-venturers and to impose civil penalties for violations. The Attorney General currently has the authority to issue cease and desist orders for violations by registered charities and professional fundraisers.

Additionally, section 3 of this bill provides for the electronic submission of the consent forms signed by both the charity and the commercial co-venturer memorializing the agreement between the charity and the commercial co-venturer with respect to the charitable sales promotion.

Clarification of Annual Financial Reporting by Registered Charities

Section 4 of the bill modifies the due date by which a registered charity's annual financial report is due to the Attorney General. Under the current law, a registered charity's annual financial report is due to the Attorney General on the same day that the charity files its annual information return with the IRS. The amendment in section 4 of this bill allows the charity to submit its annual financial report with the Attorney General within 10 days after it has been filed with the Internal Revenue Service.

Section 4 also clarifies that a registered charity must submit an audited financial statement annually if its contributions exceed \$500,000. Presently the audit "threshold" is tied to gross revenues. This change will spare many registered charities the significant expense of conducting audits based on the fact that under chapter 467B, HRS, the definition of "contribution" does not include amounts received for membership dues, government grants, or grants from other organizations that have been granted tax exempt status under section 501(c)(3) of the Internal Revenue Code.

Section 4 also repeals the \$10 annual fee for registered charities with under \$25,000 in gross revenues. The Attorney General hopes that this change will serve as an incentive for charities that might otherwise qualify for exemption to register because annual financial reporting would be without cost.

Clarification of Exemptions to Registration

Section 5 of the bill clarifies the exemption for accredited educational institutions due to a name change in one of the accrediting bodies. In April of 2015, in an effort to further the Department's efforts to convert all charitable filings to a paperless system and streamline the exemption from registration application process, the Department launched an online module that allows charities eligible for a registration exemption to submit an exemption application electronically. Accordingly, section 5 of this bill provides for the electronic submission of exemption applications.

The Attorney General requests the Committee's favorable consideration of this measure.



LATE

**Testimony to the House Judiciary Committee
Representative Karl Rhoads, Chair
Representative Joy San Buenaventura, Vice Chair
Thursday, January 21, 2016, 2 p.m.
Conference Room 325
SB1067 SD 2 - Relating to Charitable Solicitation**

Dear Chair Rhoads, Vice Chair San Buenaventura and members of the Judiciary Committee:

On behalf of the Hawai'i Alliance of Nonprofit Organizations, I would like to offer our comments in **support of SB 1067 SD 2** relating to charitable solicitation.

Hawai'i Alliance of Nonprofit Organizations (HANO) is a statewide, sector-wide professional association of nonprofits. Our mission is to unite and strengthen the nonprofit sector as a collective force to improve the quality of life in Hawai'i. Our member organizations provide essential services to every community in the state.

HANO supports this measure because it improves and clarifies the charitable solicitation law. The SD2 version also includes two provisions which HANO strongly supports:

- **Filing fees:** The SD2 reduces the annual filing fee from \$10 to \$0 for small organizations (under \$25,000 in annual revenue). This change would encourage additional small organizations to file reports instead of filing for exemptions. With more organizations filing reports, the state will have more data about Hawaii's nonprofit sector.
- **Audited financial reports:** The SD2 requires audited financial reports for organizations with contributions (instead of gross revenues) over \$500,000. Audited financial reports prepared by CPAs are extremely costly, and represent a major burden for smaller nonprofits. Furthermore, they may be unnecessary for many smaller nonprofits with relatively uncomplicated financial structures. This change will relieve many small to medium nonprofits from the burden of this expense. Please note that nonprofits will still be subject to other reporting requirements, including submitting their IRS Form 990 that includes extensive financial and governance disclosures.

Thank you for the opportunity to provide written testimony.

Mahalo,
Lisa Maruyama
President & CEO