



GOV. MSG. NO. 1306

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

July 5, 2024

The Honorable Ronald D. Kouchi
President of the Senate,
and Members of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki
Speaker, and Members of the
House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 5, 2024, the following bill was signed into law:

SB2983 SD2 HD2 CD1

RELATING TO SOLICITATION OF FUNDS
FROM THE PUBLIC.
ACT 205

Sincerely,

Josh Green, M.D.
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO SOLICITATION OF FUNDS FROM THE PUBLIC.

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

1 SECTION 1. Chapter 467B, Hawaii Revised Statutes, is
 2 amended by adding a new section to be appropriately designated
 3 and to read as follows:

4 **"§467B- Charitable fundraising platforms; platform**
 5 **charities.** (a) Each charitable fundraising platform shall be
 6 subject to the department's supervision for activities regulated
 7 by this section. Before soliciting, permitting, or otherwise
 8 enabling any solicitations for purported charitable purposes, a
 9 charitable fundraising platform shall register with the
 10 department on a form provided by the department. Registrations
 11 under this section shall be subject to an annual report and an
 12 annual renewal fee imposed by the department. Fee revenues from
 13 this section shall be deposited into the solicitation of funds
 14 for charitable purposes special fund.

15 (b) A platform charity shall be subject to the
 16 department's supervision. The platform charity shall register
 17 with the department as a platform charity before conducting
 18 activities regulated by this section.



1 (c) Each charitable fundraising platform and platform
2 charity shall file periodic reports with the department on a
3 form provided by the department. Reports shall be filed
4 pursuant to section 467B-12. Each report shall:

5 (1) Enable the department to ascertain whether charitable
6 funds have been properly solicited, received, held,
7 controlled, or distributed;

8 (2) Provide information on the number of donations made,
9 amount raised, length of time for distributing
10 donations or grants of recommended donations, fees
11 charged by or through a charitable fundraising
12 platform or platform charity, and names of recipient
13 charitable organizations or other charitable
14 organizations that were sent or have not yet been sent
15 donations or grants of recommended donations; and

16 (3) Protect from disclosure any personally identifiable
17 information of donors or other users of the charitable
18 fundraising platform.

19 (d) No platform charity shall facilitate acts of
20 solicitation on a charitable fundraising platform unless the
21 platform charity is in good standing.



1 (e) A charitable fundraising platform or platform charity
2 shall only solicit, permit, or otherwise enable solicitations,
3 or receive, control, or distribute funds from donations for
4 purported charitable purposes for recipient charitable
5 organizations or other charitable organizations in good
6 standing. To determine good standing of a recipient charitable
7 organization or other charitable organization, a charitable
8 fundraising platform or platform charity may rely on electronic
9 lists periodically published by the Internal Revenue Service,
10 department of taxation, or department.

11 (f) With respect to purported charitable purposes, a
12 charitable fundraising platform or platform charity that
13 performs, permits, or otherwise enables solicitation activities
14 shall, before a person can complete a donation or select or
15 change a recipient charitable organization, provide conspicuous
16 disclosures that reduce the likelihood of deception, confusion,
17 or misunderstanding, including:

18 (1) A statement that donations are made to the charitable
19 fundraising platform, platform charity, recipient
20 charitable organization, or person engaging in peer-



1 to-peer charitable fundraising, whichever is
2 applicable;

3 (2) A statement that a recipient charitable organization
4 may not receive donations or grants or recommended
5 donations, with an explanation identifying the most
6 pertinent reasons under which a recipient charitable
7 organization may not receive the funds; provided that
8 the explanation as to the maximum length of time may
9 be provided through a conspicuous hyperlink, so long
10 as the disclosure is conspicuous when the hyperlink is
11 selected; provided further that this paragraph shall
12 not apply when there are no circumstances under which
13 a recipient charitable organization may not receive
14 the funds;

15 (3) The maximum length of time it will take to send the
16 donation or a grant of the recommended donation to a
17 recipient charitable organization with an explanation
18 of the time needed, unless the donation is sent
19 contemporaneously to a recipient charitable
20 organization after the donation is made; provided that
21 the explanation as to the maximum length of time may



1 be provided through a conspicuous hyperlink, so long
2 as the disclosure is conspicuous when the hyperlink is
3 selected;

4 (4) The fees or any other amounts that will be deducted
5 from or added to the donation or a grant of the
6 recommended donation and that are charged or retained
7 by the charitable fundraising platform, platform
8 charity, or any other partnering vendor, other than
9 any applicable digital payment processing fees; and

10 (5) A statement as to the tax deductibility of the
11 donation.

12 (g) Each charitable fundraising platform or platform
13 charity that solicits, permits, or otherwise enables
14 solicitations shall obtain the written consent of a recipient
15 charitable organization before using the recipient charitable
16 organization's name in a solicitation for a purported charitable
17 purpose. Written consent shall be provided directly to the
18 charitable fundraising platform or platform charity, or may be
19 provided to a charitable fundraising platform or platform
20 charity by one authorized officer, director, trustee, or other
21 duly authorized representative of the recipient charitable



1 organization and may apply to multiple affiliated charitable
2 fundraising platforms expressly identified in the agreement
3 providing consent.

4 (h) After a donor contributes donations and with respect
5 to purported charitable purposes, the charitable fundraising
6 platform or platform charity shall promptly provide a tax
7 donation receipt to the donor in a format determined by the
8 department.

9 (i) The charitable fundraising platform or platform
10 charity shall not divert or otherwise misuse any donations made
11 for purported charitable purposes that the charitable
12 fundraising platform or platform charity receives through
13 solicitation on the charitable fundraising platform, and shall
14 hold the donations in a separate account or accounts from other
15 funds belonging to the charitable fundraising platform or
16 platform charity. The charitable fundraising platform or
17 platform charity shall promptly ensure that donations and grants
18 of recommended donations are sent to the recipient charitable
19 organizations with an accounting of any fees assessed for
20 processing the funds, and in accordance with any rules adopted
21 by the department pursuant to chapter 91. A platform charity



1 shall be vicariously liable for a charitable fundraising
2 platform's misuse of funds, and vice versa.

3 (j) If a charitable fundraising platform or platform
4 charity enters into any contract with a vendor to solicit,
5 receive, control, process, distribute, and otherwise account for
6 donations on the charitable fundraising platform, the contract
7 shall be available for inspection by the department.

8 (k) As used in this section, "good standing" means that a
9 platform charity, recipient charitable organization, or other
10 charitable organization's tax-exempt status has not been revoked
11 by the Internal Revenue Service or is not prohibited from
12 soliciting or operating in the state by the department."

13 SECTION 2. Section 467B-1, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By adding five new definitions to be appropriately
16 inserted and to read:

17 "Charitable fundraising platform" means any person that
18 uses the Internet to provide an internet website, service, or
19 other platform to persons in the State, and performs, permits,
20 or otherwise enables acts of solicitation to occur, which
21 includes the following and any similar activity:



1 (1) Listing or referencing by name one or more recipient
2 charitable organizations to receive donations or
3 grants of recommended donations made by the platform
4 based on purchases made or other activity performed by
5 persons who use the platform; and

6 (2) Providing to charitable organizations a customizable
7 internet-based website, software as a service, or
8 other platform that allows charitable organizations to
9 solicit or receive donations on or through the
10 platform, including through peer-to-peer charitable
11 fundraising; provided that the customizable platform
12 provided by the charitable fundraising platform does
13 not include the charitable organization's own
14 platform, but may integrate with the charitable
15 organization's platform.

16 "Charitable fundraising platform" does not include:

17 (1) A charitable organization's own platform that solicits
18 donations only for itself;

19 (2) A vendor that solely provides technical or supportive
20 services to a charitable fundraising platform so that
21 the charitable fundraising platform can function and



1 operate, including vendors used for hosting or domain
2 services, security certificates, internet access,
3 internet application development, or digital payment
4 processing. If that vendor also performs, permits, or
5 otherwise enables acts of solicitation described by
6 paragraph (1) on its own platform to persons in the
7 State, it is a charitable fundraising platform for its
8 own platform;

9 (3) A sponsoring organization of donor advised funds that
10 solicits donors to open donor advised fund accounts or
11 similar accounts, receives recommendations from donors
12 on charitable organizations that may receive grants of
13 funds previously contributed to the sponsoring
14 organization for a donor's donor advised fund account,
15 and the sponsoring organization does not list or
16 reference by name one or more recipient charitable
17 organizations for solicitation purposes on its
18 platform for persons who do not have advisory
19 privileges with respect to the granting of funds in a
20 donor advised fund of the sponsoring organization; or



1 (4) A person or entity that meets the definitions of both
2 a professional solicitor and a charitable fundraising
3 platform is only a professional solicitor when the
4 person or entity for compensation performs any of the
5 following acts of solicitation:

6 (A) Direct mail solicitation, excluding electronic
7 mail or messages;

8 (B) Estate gift or estate planning solicitation;

9 (C) In-person solicitation through a fundraising
10 event, door-to-door or other public spaces, or a
11 vending machine or similar equipment that does
12 not use a person to perform the solicitation;

13 (D) Noncash solicitation;

14 (E) Nonincidental acts of solicitation that are not
15 internet based, including solicitation through
16 print, radio, or television;

17 (F) Solicitation involving receiving something of
18 value, or a chance to win something of value, in
19 connection with a donation; or

20 (G) Telephone solicitation.



1 "Donor advised fund" shall have the same meaning as in
2 section 4966(d)(2) of the Internal Revenue Code of 1986, as
3 amended.

4 "Peer-to-peer charitable fundraising" means a solicitation
5 campaign created by a person to support a recipient charitable
6 organization, through or with other assistance provided by a
7 charitable fundraising platform or platform charity.

8 "Platform charity" means a charitable organization that
9 facilitates acts of solicitation on a charitable fundraising
10 platform, which includes either of the following and any similar
11 activity:

12 (1) Solicits donations through a charitable fundraising
13 platform for itself from donors who use the charitable
14 fundraising platform with the implied or express
15 representation that the platform charity may grant
16 donations to recipient charitable organizations; or

17 (2) Grants funds to recipient charitable organizations
18 based on purchases made or other activity performed by
19 persons who use a charitable fundraising platform.

20 "Platform charity" does not include a sponsoring organization of
21 donor advised funds that solicits donors to open donor advised



1 fund accounts or similar accounts, receives recommendations from
2 donors on charitable organizations that may receive grants of
3 funds previously contributed to the sponsoring organization for
4 a donor's donor advised fund account, and the sponsoring
5 organization does not list or reference by name one or more
6 recipient charitable organizations for solicitation purposes on
7 its platform for persons who do not have advisory privileges
8 with respect to the granting of funds in a donor advised fund of
9 the sponsoring organization.

10 "Recipient charitable organization" means a charitable
11 organization that is listed or referenced by name on a
12 charitable fundraising platform or by a platform charity for
13 solicitation purposes."

14 2. By amending the definition of "charitable sales
15 promotion" to read:

16 ""Charitable sales promotion" means an advertising or sales
17 campaign, conducted by a commercial co-venturer, charitable
18 fundraising platform, or platform charity, that represents that
19 the purchase or use of goods or services offered by the
20 commercial co-venturer, charitable fundraising platform, or



1 platform charity will benefit, in whole or in part, a charitable
2 organization or charitable purpose."

3 3. By amending the definition of "gross revenue" to read:

4 ""Gross revenue" means income of any kind from all sources,
5 including all amounts received as the result of any solicitation
6 by a professional solicitor[-], charitable fundraising platform,
7 or platform charity."

8 4. By amending the definition of "owner" to read:

9 ""Owner" means any person who has a direct or indirect
10 interest in any professional fundraising counsel [~~or~~],
11 professional solicitor[-], charitable fundraising platform, or
12 platform charity."

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

15 "**\$467B-1.5 Professional solicitors[+], charitable**
16 **fundraising platforms, platform charities; required disclosures.**

17 (a) Every professional solicitor, charitable fundraising
18 platform, platform charity, and every employee or agent thereof,
19 who solicits contributions from a prospective donor or
20 contributor in this State shall at the outset of any oral or
21 written request for a contribution:



- 1 (1) Identify themselves by their true surname and first
2 name, and the name of their employer or the contractor
3 as the case may be, that is compensating the
4 individual making the solicitation;
- 5 (2) Identify the name of the professional solicitor,
6 charitable fundraising platform, or platform charity
7 registered with the department [~~of the attorney~~
8 ~~general~~] that has contracted with the charitable
9 organization to provide the solicitation services and,
10 if the individual is employed by a subcontractor, the
11 name of the registered subcontractor;
- 12 (3) Disclose that the person making the oral or written
13 request for a donation is being paid to make such
14 solicitation and the name of the charitable
15 organization on whose behalf the person making the
16 request is soliciting; and
- 17 (4) Disclose, orally and in writing, the fact that a copy
18 of the professional solicitor's, charitable
19 fundraising platform's, or platform charity's
20 registration data and financial reports are available
21 from the department [~~of the attorney general~~].



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

15 SECTION 4. Section 467B-2.5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§467B-2.5 Professional solicitor, charitable**
18 **fundraising platform, and platform charity financial reports;**
19 **contribution account.** (a) A professional solicitor, charitable
20 fundraising platform, or platform charity shall file with the
21 attorney general a financial report for any charitable



1 solicitation campaign, including gross revenue from Hawaii
2 donors and national gross revenue and an itemization of all
3 expenses incurred on a form prescribed by the attorney
4 general no more than ninety days after the end of the
5 solicitation campaign and, for solicitation campaigns
6 lasting more than one year, within ninety days after each
7 anniversary of the commencement of the solicitation
8 campaign and within ninety days after the end of the
9 solicitation campaign.

10 (b) The attorney general may require the financial
11 report required by subsection (a) to be submitted
12 electronically and may require the use of electronic
13 signatures. This report shall be signed by the professional
14 solicitor, charitable fundraising platform, platform charity, or
15 by an authorized officer or agent of the professional solicitor,
16 charitable fundraising platform, or platform charity who shall
17 certify that the statements therein are true and correct to the
18 best of the solicitor's, officer's, or agent's knowledge subject
19 to penalties imposed by section 710-1063. If a financial report
20 required under this section is not filed in a timely manner,
21 taking into account any extension of time for filing, unless it



1 is shown that the failure is due to reasonable cause, an initial
2 late filing fee of \$100 shall be imposed, and an additional late
3 filing fee of \$20 per day shall be imposed, for each day during
4 which the violation continues; provided that the total fee
5 amount imposed under this subsection shall not exceed \$1,000.

6 The attorney general may waive all or part of the late filing
7 fee imposed by this subsection if there is a reasonable cause
8 for the failure to timely file. The professional solicitor,
9 charitable fundraising platform, or platform charity shall
10 provide a copy of the financial report to the charitable
11 organization to which the financial report pertains within
12 ten days of its submission of the report to the attorney
13 general.

14 (c) A professional solicitor, charitable fundraising
15 platform, or platform charity shall maintain during each
16 solicitation campaign and for not less than three years
17 after the completion of that campaign the following records,
18 which shall be available for inspection upon demand by the
19 attorney general:

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



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

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

6 (4) The location and account number of each bank or
7 other financial institution account in which the
8 professional solicitor, charitable fundraising
9 platform, or platform charity has deposited
10 revenue from the solicitation campaign.

11 (d) Any material change in any information filed with the
12 attorney general pursuant to this section shall be reported in
13 writing by the professional solicitor, charitable fundraising
14 platform, or platform charity to the attorney general not more
15 than seven days after the change occurs.

16 (e) Each contribution in the control or custody of the
17 professional solicitor, charitable fundraising platform, or
18 platform charity in its entirety and within five days of its
19 receipt, shall be deposited in an account at a bank or other
20 federally insured financial institution, which shall be in the
21 name of the charitable organization. The charitable



1 organization shall maintain and administer the account and shall
2 have sole control of all withdrawals."

3 SECTION 5. Section 467B-5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§467B-5 Records to be kept.** (a) Every charitable
6 organization, professional fundraising counsel, professional
7 solicitor, [~~and~~] commercial co-venturer, charitable fundraising
8 platform, and platform charity subject to this chapter shall
9 keep true and accurate records as to its activities in a form
10 that will accurately provide support for the information
11 required by this chapter. Upon demand, the records shall be
12 made available to the attorney general for inspection. Except
13 as provided in subsection (b), records shall be retained for a
14 period of not less than three years.

15 (b) If a professional solicitor, charitable fundraising
16 platform, or platform charity sells tickets to an event and
17 represents that tickets will be donated for use by another, the
18 professional solicitor, charitable fundraising platform, or
19 platform charity, for not less than three years after the
20 completion of such event, shall maintain the following records,



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

3 (1) The number of tickets purchased and donated by each
4 contributor; and

5 (2) The name and address of all organizations receiving
6 donated tickets for use by others, including the
7 number of tickets received by each organization."

8 SECTION 6. Section 467B-5.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§467B-5.5 Commercial [~~co-venturer's~~] co-venturers,**
11 **charitable fundraising platforms, and platform charities**
12 **charitable sales promotions.** (a) All charitable sales
13 promotions by a commercial co-venturer, charitable fundraising
14 platform, or platform charity shall disclose the name of the
15 commercial co-venturer[+], charitable fundraising platform, or
16 platform charity.

17 (b) Prior to the commencement of any charitable sales
18 promotion in this State conducted by a commercial co-venturer,
19 charitable fundraising platform, or platform charity using the
20 name of a charitable organization, the commercial co-venturer,
21 charitable fundraising platform, or platform charity shall



1 obtain the written consent of the charitable organization whose
2 name will be used during the charitable sales promotion. The
3 commercial co-venturer, charitable fundraising platform, or
4 platform charity shall file a copy of the written consent with
5 the department not less than ten days prior to the commencement
6 of the charitable sales promotion within this State. An
7 authorized representative of the charitable organization and the
8 commercial co-venturer, charitable fundraising platform, or
9 platform charity shall sign the written consent, and the terms
10 of the written consent shall include the following:

- 11 (1) The goods or services to be offered to the public;
- 12 (2) The geographic area where, and the starting and final
13 date when, the offering is to be made;
- 14 (3) The manner in which the name of the charitable
15 organization is to be used, including any
16 representation to be made to the public as to the
17 amount or per cent per unit of goods or services
18 purchased or used that is to benefit the charitable
19 organization;
- 20 (4) A provision for an accounting on a per unit basis,
21 which shall be prepared by the commercial co-venturer,



1 charitable fundraising platform, or platform charity
2 and given to the charitable organization, and the date
3 when it is to be made, which date shall be no more
4 than ninety days after the end of the charitable sales
5 promotion and, for promotions lasting more than one
6 year, shall be within ninety days after each
7 anniversary of the commencement of the charitable
8 sales promotion and within ninety days after the end
9 of the charitable sales promotion; and
10 (5) The date when and the manner in which the benefit is
11 to be conferred on the charitable organization, which
12 date shall be within ninety days after the end of the
13 charitable sales promotion and, for charitable sales
14 promotions lasting more than one year, shall be within
15 ninety days after each anniversary of the commencement
16 of the promotion and within ninety days after the end
17 of the charitable sales promotion.
18 (c) A copy of an accounting shall be provided to the
19 attorney general not more than twenty days after the copy is
20 requested by the attorney general. An accounting shall be kept
21 by the commercial co-venturer, charitable fundraising platform,



1 or platform charity for a period of three years, unless the
2 commercial co-venturer, charitable fundraising platform, or
3 platform charity and the charitable organization mutually agree
4 that the accounting should be kept by the charitable
5 organization instead of the commercial co-venturer[-],
6 charitable fundraising platform, or platform charity.

7 (d) A late filing fee of \$20 shall be imposed on a
8 commercial co-venturer, charitable fundraising platform, or
9 platform charity who fails to file a written consent as required
10 by subsection (b), unless it is shown that the failure is due to
11 reasonable cause, for each day during which the violation
12 continues; provided that the total amount imposed under this
13 subsection shall not exceed \$1,000.

14 (e) The written consent required under subsection (b)
15 shall be signed by the authorized representative of the
16 commercial co-venturer, charitable fundraising platform, or
17 platform charity and the charitable organization certifying that
18 the statements made therein are true and correct to the best of
19 their knowledge subject to penalties imposed by section 710-
20 1063. The attorney general may require the written consent to



1 be submitted electronically and may require the use of
2 electronic signatures.

3 (f) The attorney general may issue a cease and desist
4 order whenever the attorney general finds that a commercial co-
5 venturer, charitable fundraising platform, or platform charity
6 has engaged in an act or practice that violates this chapter.

7 (g) When the attorney general finds that a commercial co-
8 venturer, charitable fundraising platform, or platform charity
9 has violated or is operating in violation of this chapter, the
10 attorney general may impose an administrative fine not to exceed
11 \$1,000 for each act that constitutes a violation of this chapter
12 and an additional penalty, not to exceed \$100 per day, for each
13 day during which the violation continues. Any person aggrieved
14 by an action of the attorney general under this section may
15 request a hearing to review that action in accordance with
16 chapter 91 and rules adopted by the attorney general. Any
17 request for hearing shall be made within ten days after the
18 attorney general has served the person with notice of the
19 action, which notice shall be deemed effective upon mailing."

20 SECTION 7. Section 467B-8, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§467B-8 Information filed to become public records.**
2 Statements, reports, professional fundraising counsel contracts
3 [~~or~~], professional solicitor contracts, commercial co-venturer
4 consents, charitable fundraising platform contracts and
5 consents, and platform charity contracts and consents, and all
6 other documents and information required to be filed under this
7 chapter or by the attorney general shall become government
8 records in the department and be open to the general public for
9 inspection pursuant to chapter 92F; provided that information in
10 any registration statement concerning the residential addresses
11 of any officer or director or that identifies a charitable
12 organization's financial or banking accounts and audited
13 financial statements submitted by registered charitable
14 organizations shall be confidential under chapter 92F."

15 SECTION 8. Section 467B-9, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§467B-9 Prohibited acts.** (a) No person, for the purpose
18 of soliciting contributions from persons in the State, shall use
19 the name of any other person except that of an officer,
20 director, or trustee of the charitable organization by or for



1 which contributions are solicited, without the written consent
2 of the other persons.

3 A person shall be deemed to have used the name of another
4 person for the purpose of soliciting contributions if the latter
5 person's name is listed on any stationery, advertisement,
6 brochure, or correspondence in or by which a contribution is
7 solicited by or on behalf of a charitable organization or the
8 latter person's name is listed or referred to in connection with
9 a request for a contribution as one who has contributed to,
10 sponsored, or endorsed the charitable organization or its
11 activities.

12 (b) No charitable organization, professional solicitor,
13 professional fundraising counsel, [~~or~~] commercial co-venturer,
14 charitable fundraising platform, or platform charity soliciting
15 contributions shall use a name, symbol, or statement so closely
16 related or similar to that used by another charitable
17 organization or governmental agency that the use thereof would
18 tend to confuse or mislead the public.

19 (c) No person, in connection with any solicitation or
20 sale, shall misrepresent or mislead anyone by any manner, means,
21 practice, or device whatsoever, to believe that the solicitation



1 or sale is being conducted on behalf of a charitable
2 organization or that the proceeds of the solicitation or sale
3 will be used for charitable purposes, if that is not the fact.

4 (d) No professional solicitor, charitable fundraising
5 platform, or platform charity, and no agent, employee,
6 independent contractor, or other person acting on behalf of the
7 professional solicitor, charitable fundraising platform, or
8 platform charity, shall solicit in the name of or on behalf of
9 any charitable organization unless:

10 (1) The professional solicitor, charitable fundraising
11 platform, or platform charity has obtained the written
12 authorization of two officers of the organization,
13 which authorization shall bear the signature of the
14 professional solicitor, charitable fundraising
15 platform, or platform charity and the officers of the
16 charitable organization and shall expressly state on
17 its face the period for which it is valid, which shall
18 not exceed one year from the date of issuance, and has
19 filed a copy of the written authorization with the
20 attorney general prior to the solicitation; and



1 (2) The professional solicitor, charitable fundraising
2 platform, or platform charity and any person who, for
3 compensation, acts as an agent, employee, independent
4 contractor, or otherwise on behalf of the professional
5 solicitor, charitable fundraising platform, or
6 platform charity, carries a copy of the authorization
7 while conducting solicitations, and exhibits it on
8 request to persons solicited or police officers or
9 agents of the department.

10 (e) No charitable organization, professional fundraising
11 counsel, professional solicitor, [~~or~~] commercial co-venturer,
12 charitable fundraising platform, or platform charity subject to
13 this chapter shall use or exploit the fact of filing any
14 statement, report, professional fundraising counsel contracts,
15 written consents, [~~or~~] professional solicitor contracts,
16 charitable fundraising platform contracts, or platform charity
17 contracts and written consents, or other documents or
18 information required to be filed under this chapter or with the
19 department so as to lead the public to believe that the filing
20 in any manner constitutes an endorsement or approval by the
21 State of the purposes or goals for the solicitation by the



1 charitable organization, professional fundraising counsel,
2 professional solicitor, [~~or~~] commercial co-venturer[~~+~~],
3 charitable fundraising platform, or platform charity; provided
4 that the use of the following statement shall not be deemed a
5 prohibited exploitation: "Information regarding this
6 organization has been filed with the State of Hawaii department
7 of the attorney general. Filing does not imply endorsement or
8 approval of the organization or the public solicitation for
9 contributions."

10 (f) No person, while soliciting, shall impede or obstruct,
11 with the intent to physically inconvenience the general public
12 or any member thereof in any public place or in any place open
13 to the public.

14 (g) No person shall submit for filing on behalf of any
15 charitable organization, professional fundraising counsel,
16 professional solicitor, [~~or~~] commercial co-venturer, charitable
17 fundraising platform, or platform charity, any statement,
18 financial statement, report, attachment, or other information to
19 be filed with the department that contains information,
20 statements, or omissions that are false or misleading.



1 (h) No person shall solicit contributions from persons in
2 the State or otherwise operate in the State as a charitable
3 organization, an exempt charitable organization, professional
4 fundraising counsel, professional solicitor, [~~or~~] commercial co-
5 venturer, charitable fundraising platform, or platform charity
6 unless the person has filed the information required by this
7 chapter with the department in a timely manner.

8 (i) No person shall aid, abet, or otherwise permit any
9 persons to solicit contributions from persons in the State
10 unless the person soliciting contributions has complied with the
11 requirements of this chapter.

12 (j) No person shall fail to file the information and
13 registration statement, annual or financial reports, and other
14 statements required by this chapter or fail to provide any
15 information demanded by the attorney general pursuant to this
16 chapter in a timely manner.

17 (k) No person shall employ in any solicitation or
18 collection of contributions for a charitable organization, any
19 device, scheme, or artifice to defraud or obtain money or
20 property by means of any false, deceptive, or misleading
21 pretense, representation, or promise.



1 (l) No person, in the course of any solicitation, shall
2 represent that funds collected will be used for a particular
3 charitable purpose, or particular charitable purposes, if the
4 funds solicited are not used for the represented purposes.

5 (m) No person shall receive compensation from a charitable
6 organization for obtaining moneys or bequests for that
7 charitable organization if that person has also received
8 compensation for advising the donor to make the donation;
9 provided that compensation may be received if the person obtains
10 the written consent of the donor to receive compensation from
11 the charitable organization.

12 (n) No person shall act as a professional solicitor,
13 charitable fundraising platform, or platform charity if the
14 person, any officer, any person with a controlling interest
15 therein, or any person the professional solicitor, charitable
16 fundraising platform, or platform charity employs, engages, or
17 procures to solicit for compensation, has been convicted by any
18 federal or state court of any felony, or of any misdemeanor
19 involving dishonesty or arising from the conduct of a
20 solicitation for a charitable organization or purpose.



1 (o) No charitable organization shall use the services of
2 an unregistered professional solicitor [~~or~~], professional
3 fundraising counsel[~~er~~], charitable fundraising platform, or
4 platform charity."

5 SECTION 9. Section 467B-9.5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§467B-9.5 Financial statements.** Whenever the attorney
8 general has reasonable grounds to believe that any charitable
9 organization, professional fundraising counsel, professional
10 solicitor, [~~or~~] commercial co-venturer, charitable fundraising
11 platform, or platform charity has engaged in any act or practice
12 constituting a violation of this chapter or any rule or order
13 adopted or issued, the attorney general may require the
14 charitable organization, professional fundraising counsel,
15 professional solicitor, [~~or~~] commercial co-venturer, charitable
16 fundraising platform, or platform charity to submit to the
17 department an audited financial statement prepared in accordance
18 with generally accepted accounting principles by an independent
19 certified public accountant, or as otherwise required by the
20 attorney general."



1 SECTION 10. Section 467B-9.6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§~~467B-9.6 **Enforcement.** (a) If any charitable
4 organization, professional fundraising counsel, professional
5 solicitor, [~~or~~] commercial co-venturer, charitable fundraising
6 platform, or platform charity fails to file any statement,
7 report, written consent, or other information required to be
8 filed under this chapter, the attorney general may demand that
9 the charitable organization, the professional fundraising
10 counsel, professional solicitor, [~~or~~] commercial co-venturer,
11 charitable fundraising platform, or platform charity provide the
12 statement, report, written consent, or other information not
13 more than twenty days after demanded by the attorney general.
14 This demand may be mailed to the address on file with the
15 department.

16 (b) Whenever the attorney general has reason to believe
17 that any charitable organization, professional fundraising
18 counsel, professional solicitor, commercial co-venturer,
19 charitable fundraising platform, or platform charity, or other
20 person is operating in violation of this chapter, the attorney
21 general may investigate and bring an action in any court of this



1 State to enjoin the charitable organization, professional
2 fundraising counsel, professional solicitor, commercial co-
3 venturer, charitable fundraising platform, or platform charity,
4 or other person from continuing the violation or doing any acts
5 in furtherance thereof, and for any other relief that the court
6 deems appropriate."

7 SECTION 11. Section 467B-9.7, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) The attorney general may refuse to register, revoke,
10 or suspend the registration of any charitable organization,
11 professional fundraising counsel, [~~or~~] professional solicitor,
12 charitable fundraising platform, or platform charity, or issue a
13 cease and desist order whenever the attorney general finds that
14 a charitable organization, professional fundraising counsel,
15 [~~or~~] professional solicitor, charitable fundraising platform, or
16 platform charity, or its agent, servant, or employee:

17 (1) Has violated or is operating in violation of this
18 chapter, the rules of the attorney general, or an
19 order issued by the attorney general;

20 (2) Has refused or failed, after notice, to produce any
21 records of the organization or to disclose any



- 1 information required to be disclosed under this
2 chapter or the rules of the attorney general;
- 3 (3) Has made a material false statement in an application,
4 statement, or report required to be filed under this
5 chapter; or
- 6 (4) Has failed to file the financial report required by
7 section 467B-2.5, or filed an incomplete financial
8 report."

9 SECTION 12. Section 467B-12, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§467B-12 Filing requirements for professional fundraising**
12 **counsel [and], professional solicitors[-], charitable**
13 **fundraising platforms, and platform charities.** (a) Every
14 professional fundraising counsel [or], professional solicitor,
15 charitable fundraising platform, or platform charity, prior to
16 any solicitation, shall register with the department. The
17 registration statement shall contain the information set forth
18 in subsection (e). The registration statement shall be
19 accompanied by a fee in the amount of \$250, or in the amount and
20 with any additional sums as may be prescribed by the attorney
21 general. Renewal registration statements shall be filed with



1 the department on or before July 1 of each calendar year by each
2 professional fundraising counsel [~~or~~], professional
3 solicitor[~~or~~], charitable fundraising platform, or platform
4 charity. The renewal statement shall contain the information
5 set forth in subsection (e). A renewal fee of \$250, or in any
6 amount and with any additional sums as may be prescribed by the
7 attorney general, shall accompany the renewal statement. If a
8 renewal registration required under this section is not filed,
9 unless it is shown that the failure is due to reasonable cause,
10 a fine of \$20 shall be imposed for each day during which the
11 violation continues; provided that the total amount imposed
12 under this subsection shall not exceed \$1,000.

13 (b) Each professional solicitor, charitable fundraising
14 platform, or platform charity, at the time of each filing, shall
15 file with and have approved by the attorney general a bond in
16 which the applicant is the principal obligor in the penal sum of
17 \$25,000 issued with good and sufficient surety or sureties
18 approved by the attorney general and which shall remain in
19 effect for one year. The bond shall inure to the benefit of the
20 State, conditioned that the applicant, its officers, directors,
21 employees, agents, servants, and independent contractors shall



1 not violate this chapter. A partnership or corporation that is
2 a professional solicitor, charitable fundraising platform, or
3 platform charity may file a consolidated bond on behalf of all
4 its members, officers, and employees.

5 (c) The attorney general shall examine each registration
6 statement and supporting document filed by a professional
7 fundraising counsel [~~or~~], professional solicitor, charitable
8 fundraising platform, or platform charity and shall determine
9 whether the registration requirements are satisfied. If the
10 attorney general determines that the registration requirements
11 are not satisfied, the attorney general shall notify the
12 professional fundraising counsel [~~or~~], professional solicitor,
13 charitable fundraising platform, or platform charity in writing
14 within fifteen business days of its receipt of the registration
15 statement; otherwise the registration statement is deemed to be
16 approved. Within seven business days after receipt of a
17 notification that the registration requirements are not
18 satisfied, the professional fundraising counsel [~~or~~],
19 professional solicitor, charitable fundraising platform, or
20 platform charity may request a hearing.



1 (d) The attorney general may require that registration and
2 renewal registration, surety bonds, and contracts be filed with
3 the department electronically and may require the use of
4 electronic signatures.

5 (e) Each registration and renewal registration shall
6 contain:

7 (1) The names and addresses of all owners, officers, and
8 directors of a professional fundraising counsel~~[7]~~ or
9 charitable fundraising platform, and the names and
10 addresses of all owners, officers, and directors of a
11 professional solicitor~~[7]~~ or platform charity;

12 (2) A statement concerning the corporate form of the
13 registrant, whether corporation, limited liability
14 corporation, partnership, or individual;

15 (3) A statement whether the registrant has an office in
16 Hawaii and the name and phone number of the person in
17 charge of the office;

18 (4) The names and addresses of any individuals supervising
19 any solicitation activity;

20 (5) A statement whether the [registrant] has entered into
21 a consent agreement with, or been disciplined by or



1 subject to administrative action by, another
2 governmental agency;

3 (6) A statement whether any officer, director, or any
4 person with a controlling interest in the registrant
5 has ever been convicted of a felony or a misdemeanor
6 involving dishonesty in the solicitation for a
7 charitable purpose;

8 (7) The date that the registrant began soliciting Hawaii
9 residents on behalf of a charitable organization or
10 providing professional fundraising counsel services;
11 and

12 (8) Whether any owners, directors, or officers are related
13 to:

14 (A) Any other officers, directors, owners, or
15 employees of the registrant;

16 (B) Any officer, director, trustee, or employee of a
17 charitable organization under contract with the
18 registrant; and

19 (C) Any vendor or supplier providing goods or
20 services to a charitable organization under
21 contract with the registrant."



1 SECTION 13. Section 467B-12.5, Hawaii Revised Statutes, is
2 amended by amending subsections (a), (b), and (c) to read as
3 follows:

4 "(a) There shall be a written contract between a
5 charitable organization and a professional fundraising counsel
6 ~~[or]~~, professional solicitor, charitable fundraising platform,
7 or platform charity that shall be filed by the professional
8 fundraising counsel ~~[or]~~, professional solicitor, charitable
9 fundraising platform, or platform charity with the attorney
10 general at least ten business days prior to the performance by
11 the professional fundraising counsel ~~[or]~~, professional
12 solicitor, charitable fundraising platform, or platform charity
13 of any service. No solicitation or service pursuant to the
14 contract shall begin before the contract is filed with the
15 attorney general. The contract shall be signed by two
16 authorized officials of the charitable organization, one of whom
17 shall be a member of the organization's governing body, and the
18 authorized contracting officer for the professional fundraising
19 counsel ~~[or]~~, professional solicitor[-], charitable fundraising
20 platform, or platform charity. The contract shall contain all
21 of the following provisions:



- 1 (1) The legal name and address of the charitable
2 organization;
- 3 (2) A statement of the charitable purpose for which the
4 solicitation campaign is being conducted;
- 5 (3) A statement of the respective obligations of the
6 professional fundraising counsel [~~or~~], professional
7 solicitor, charitable fundraising platform, or
8 platform charity and the charitable organization;
- 9 (4) A statement of the guaranteed minimum percentage of
10 the gross receipts from contributions that will be
11 remitted to or retained by the charitable
12 organization, if any, or, if the solicitation involves
13 the sale of goods, services, or tickets to a
14 fundraising event, the percentage of the purchase
15 price that will be remitted to the charitable
16 organization, if any. The stated percentage shall
17 exclude any amount that the charitable organization is
18 to pay as fundraising costs;
- 19 (5) Information concerning the compensation of the
20 professional solicitor and professional fundraising
21 counsel as follows:



1 (A) If the compensation of the professional
2 fundraising counsel [~~or~~], professional solicitor,
3 charitable fundraising platform, or platform
4 charity is contingent upon the number of
5 contributions or the amount of revenue received,
6 a statement shall be included specifying the
7 percentage of the gross revenue that is the basis
8 for that compensation. The stated percentage
9 shall include any amount that the professional
10 fundraising counsel [~~or~~], professional solicitor,
11 charitable fundraising platform, or platform
12 charity is to be reimbursed for fundraising
13 costs;

14 (B) If the compensation of the professional
15 solicitor, charitable fundraising platform, or
16 platform charity is not contingent upon the
17 number of contributions or amount of revenue
18 received from the solicitation campaign, the
19 compensation shall be expressed as a reasonable
20 estimate of the percentage of the gross revenue,
21 and the contract shall clearly disclose the



1 assumptions upon which the estimate is based.

2 The stated assumptions shall be based upon all of

3 the relevant facts known to the professional

4 solicitor regarding the solicitation to be

5 conducted by the professional solicitor; or

6 (C) If the compensation of the professional

7 fundraising counsel, charitable fundraising

8 platform, or platform charity is not contingent

9 on the number of contributions or amount of

10 revenue received from the solicitation campaign,

11 the compensation shall be stated in a dollar

12 amount;

13 (6) The effective and termination dates of the contract

14 or, if the contract does not have a set termination

15 date, a clause allowing either party a reasonable

16 period to terminate the contract or notify the other

17 party if either party chooses not to renew. The

18 contract shall also contain the date services will

19 commence with respect to solicitation in this State of

20 contributions for a charitable organization;



1 (7) In the case of a professional fundraising counsel,
2 charitable fundraising platform, or platform charity,
3 a statement that the professional fundraising counsel
4 will not at any time have custody or control of
5 contributions[~~+~~], as applicable;

6 (8) A statement that the charitable organization exercises
7 control and approval over the content and volume of
8 any solicitation; and

9 (9) Any other information required by the rules of the
10 attorney general.

11 (b) No professional fundraising counsel [~~or~~], professional
12 solicitor, charitable fundraising platform, or platform charity
13 shall contract with a charitable organization unless the
14 professional fundraising counsel [~~or~~], professional solicitor,
15 charitable fundraising platform, or platform charity is
16 registered with the department. A contract with an unregistered
17 professional fundraising counsel [~~or~~], professional solicitor,
18 charitable fundraising platform, or platform charity shall be
19 voidable at the option of the charitable organization.

20 (c) Whenever a charitable organization contracts with a
21 professional fundraising counsel [~~or~~], professional solicitor,



1 charitable fundraising platform, or platform charity, the
2 charitable organization shall have the right to cancel the
3 contract without cost, penalty, or liability, for a period of
4 ten days following the date on which that contract is executed.
5 Any provision in the contract that is intended to waive this
6 right of cancellation shall be void and unenforceable."

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

10 SECTION 15. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

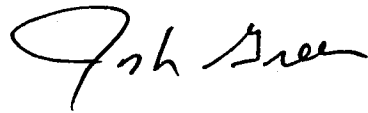
12 SECTION 16. This Act shall take effect on January 1, 2026.



S.B. NO.

2983
S.D. 2
H.D. 2
C.D. 1

APPROVED this **5th** day of **July**, 2024


A handwritten signature in black ink, appearing to read "Josh Green". The signature is written in a cursive, flowing style.


GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAI'I

Date: May 1, 2024
Honolulu, Hawai'i 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-Second Legislature of the State of Hawai'i, Regular Session of 2024.


President of the Senate


Clerk of the Senate

SB No. 2983, SD 2, HD 2, CD 1

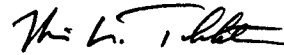
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 1, 2024
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2024.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives