

JAN 23 2025

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- Platform charities. (a) Every platform
5 charity not exempted by section 467B-11.5 shall register with
6 the department as a platform charity before conducting
7 activities regulated by this chapter in accordance with section
8 467B-2.1. A platform charity shall be subject to the annual
9 financial report and annual filing fee requirements of section
10 467B-6.5. Each report shall:

11 (1) Enable the department to ascertain whether charitable
12 funds have been properly solicited, received, held,
13 controlled, or distributed;

14 (2) Provide information on the number of donations made,
15 amount raised, length of time for distributing
16 donations or grants of recommended donations, fees
17 charged by or through a charitable fundraising
18 platform or platform charity, and names of recipient

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charitable organizations or other charitable
organizations that were sent or have not yet been sent
donations or grants of recommended donations; and

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

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

(c) A platform charity shall only solicit, permit, or
otherwise enable solicitations or receive, control, or
distribute funds from donations for purported charitable
purposes for recipient charitable organizations or other
charitable organizations in good standing. To determine good
standing of a recipient charitable organization or other
charitable organization, a platform charity may rely on
information displayed on the department's registry.

(d) With respect to purported charitable purposes, a
platform charity that performs, permits, or otherwise enables
solicitation activities shall, before a person can complete a
donation or select or change a recipient charitable
organization, provide conspicuous disclosures that reduce the

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1 likelihood of deception, confusion, or misunderstanding,
2 including:

- 3 (1) A statement that donations are made to the charitable
4 fundraising platform, platform charity, recipient
5 charitable organization, or person engaging in peer-
6 to-peer charitable fundraising, whichever is
7 applicable;
- 8 (2) A statement that a recipient charitable organization
9 may not receive donations or grants or recommended
10 donations, with an explanation identifying the most
11 pertinent reasons that a recipient charitable
12 organization may not receive the funds; provided that
13 the explanation of the most pertinent reasons that a
14 recipient charitable organization may not receive the
15 funds may be provided through a conspicuous hyperlink,
16 so long as the disclosure is conspicuous when the
17 hyperlink is selected; provided further that this
18 paragraph shall not apply when there are no
19 circumstances under which a recipient charitable
20 organization may not receive the funds;
- 21 (3) The maximum length of time it will take to send the
22 donation or a grant of the recommended donation to a

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recipient charitable organization with an explanation
of the time needed, unless the donation is sent
contemporaneously to a recipient charitable
organization after the donation is made; provided that
the explanation as to the maximum length of time may
be provided through a conspicuous hyperlink, so long
as the disclosure is conspicuous when the hyperlink is
selected;

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

(e) Each platform charity that solicits, permits, or
otherwise enables solicitations shall obtain the written consent
of a recipient charitable organization before using the
recipient charitable organization's name in a solicitation for a
purported charitable purpose. Written consent shall be provided
directly to the platform charity or may be provided to a

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1 platform charity by one authorized officer, director, trustee,
2 or other duly authorized representative of the recipient
3 charitable organization and may apply to multiple affiliated
4 charitable fundraising platforms expressly identified in the
5 agreement providing consent.

6 (f) After a donor contributes donations and with respect
7 to purported charitable purposes, the platform charity shall
8 promptly provide a tax donation receipt to the donor in a manner
9 provided by section 170(f)(8) of the Internal Revenue Code of
10 1986, as amended.

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

21 (h) If a platform charity enters into any contract with a
22 vendor to solicit, receive, control, process, distribute, and

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1 otherwise account for donations on the charitable fundraising
2 platform, the contract shall be available for inspection by the
3 department.

4 (i) As used in this section, "good standing" means that a
5 platform charity, recipient charitable organization, or other
6 charitable organization is not prohibited from soliciting or
7 operating in the State by the department."

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

10 1. By amending the definition of "commercial co-venturer"
11 to read as follows:

12 "Commercial co-venturer" means a person who, for profit,
13 is regularly and primarily engaged in trade or commerce other
14 than in connection with soliciting for charitable organizations
15 or charitable purposes, and who conducts charitable sales
16 promotions. A person who meets the definition of both a
17 commercial co-venturer and a charitable fundraising platform
18 shall be considered a commercial co-venturer when the acts of
19 solicitation through an internet website, service, or other
20 platform to persons in this State are for six or fewer recipient
21 charitable organizations per calendar year, and the commercial
22 co-venturer complies with section 467B-5.5."

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1 2. By amending the definition of "owner" to read as
2 follows:

3 "\"Owner\" means any person who has a direct or indirect
4 interest in any professional fundraising counsel[, or
5 professional solicitor[, ~~charitable fundraising platform, or~~
6 ~~platform charity~~].\"

7 3. By amending the definition of "platform charity" to
8 read as follows:

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

- 13 (1) Solicits donations through a charitable fundraising
14 platform for itself from donors who use the charitable
15 fundraising platform with the implied or express
16 representation that the platform charity may grant
17 donations to recipient charitable organizations; or
18 (2) Grants funds to recipient charitable organizations
19 based on purchases made or other activity performed by
20 persons who use a charitable fundraising platform.

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

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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. A person who meets the definition
 10 of both a platform charity and charitable fundraising platform
 11 is deemed a charitable fundraising platform."

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

14 "§467B-1.5 Professional solicitors~~[,]~~ and charitable
 15 fundraising platforms~~[, platform charities]~~; required
 16 disclosures. (a) Every professional solicitor, charitable
 17 fundraising platform, ~~[platform charity,]~~ and every employee or
 18 agent thereof, who solicits contributions from a prospective
 19 donor or contributor in this State shall at the outset of any
 20 oral or written request for a contribution:

- 21 (1) Identify themselves by their true surname and first
 22 name, and the name of their employer or the contractor

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1 as the case may be, that is compensating the
2 individual making the solicitation;

3 (2) Identify the name of the professional solicitor~~[,]~~ or
4 charitable fundraising platform~~[, or platform charity]~~
5 registered with the department that has contracted
6 with the charitable organization to provide the
7 solicitation services and, if the individual is
8 employed by a subcontractor, the name of the
9 registered subcontractor;

10 (3) Disclose that the person making the oral or written
11 request for a donation is being paid to make such
12 solicitation and the name of the charitable
13 organization on whose behalf the person making the
14 request is soliciting; and

15 (4) Disclose, orally and in writing, the fact that a copy
16 of the professional solicitor's~~[,]~~ or charitable
17 fundraising platform's~~[, or platform charity's]~~
18 registration data and financial reports are available
19 from the department.

20 (b) A professional solicitor~~[,]~~ or charitable fundraising
21 platform~~[, or platform charity]~~ who makes an oral solicitation
22 by telephone, door-to-door, or otherwise, ~~[prior to]~~ before

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1 collecting or attempting to collect any contribution, shall
2 provide a written confirmation of the expected contribution and
3 clearly disclose that the contribution is not tax-deductible, if
4 applicable, or, if the professional solicitor[7] or charitable
5 fundraising platform[~~7~~, ~~or platform charity~~] maintains that the
6 contribution is tax-deductible in whole or in part, the portion
7 of the contribution that the professional solicitor[7] or
8 charitable fundraising platform[~~7~~, ~~or platform charity~~] maintains
9 is tax-deductible. The written confirmation shall also
10 conspicuously disclose the name and current address of the
11 registered professional solicitor[7] or charitable fundraising
12 platform[~~7~~, ~~or platform charity~~]."

13 SECTION 4. Section 467B-2.3, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[~~4~~] §467B-2.3 [~~4~~] **Charitable fundraising platforms[~~7~~**
16 **~~platform charities~~**]. (a) [~~Each charitable fundraising platform~~
17 ~~shall be subject to the department's supervision for activities~~
18 ~~regulated by this section.~~] Before soliciting, permitting, or
19 otherwise enabling any solicitations for purported charitable
20 purposes, a charitable fundraising platform shall register with
21 the department on a form provided by the department.
22 [~~Registrations under this section shall be subject to an annual~~

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~~report and an annual renewal fee imposed by the department. Fee revenues from this section shall be deposited into the solicitation of funds for charitable purposes special fund.]~~

The registration statement shall contain the information set forth in subsection (b). The registration under this section shall be accompanied by a fee in the amount of \$250, or in the amount and with any additional sums as may be prescribed by the attorney general. Renewal registration statements shall be filed with the department on or before July 1 of each calendar year by each charitable fundraising platform. The renewal statement shall contain the information set forth in subsection (b). A renewal fee of \$250, or in any amount and with any additional sums as may be prescribed by the attorney general, shall accompany the renewal statement. If a renewal registration required under this section is not filed, unless it is shown that the failure is due to reasonable cause, a 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.

~~[(b) A platform charity shall be subject to the department's supervision. The platform charity shall register~~

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1 ~~with the department as a platform charity before conducting~~
2 ~~activities regulated by this section.~~

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

7 (b) Each registration and renewal registration report
8 shall:

- 9 (1) Enable the department to ascertain whether charitable
10 funds have been properly solicited, received, held,
11 controlled, or distributed;
- 12 (2) Provide information on the number of donations made,
13 amount raised, length of time for distributing
14 donations or grants of recommended donations, fees
15 charged by or through a charitable fundraising
16 platform or platform charity, and names of recipient
17 charitable organizations or other charitable
18 organizations that were sent or have not yet been sent
19 donations or grants of recommended donations; and
- 20 (3) Protect from disclosure any personally identifiable
21 information of donors or other users of the charitable
22 fundraising platform.

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1 ~~[(d)] No platform charity shall facilitate acts of~~
2 ~~solicitation on a charitable fundraising platform unless the~~
3 ~~platform charity is in good standing.~~

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

15 ~~[(f)]~~ (d) With respect to purported charitable purposes, a
16 charitable fundraising platform ~~[or platform charity]~~ that
17 performs, permits, or otherwise enables solicitation activities
18 shall, before a person can complete a donation or select or
19 change a recipient charitable organization, provide conspicuous
20 disclosures that reduce the likelihood of deception, confusion,
21 or misunderstanding, including:

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(1) A statement that donations are made to the charitable fundraising platform, platform charity, recipient charitable organization, or person engaging in peer-to-peer charitable fundraising, whichever is applicable;

(2) A statement that a recipient charitable organization may not receive donations or grants or recommended donations, with an explanation identifying the most pertinent reasons ~~[under which]~~ that a recipient charitable organization may not receive the funds; provided that the explanation ~~[as to the maximum length of time]~~ of the most pertinent reasons that a recipient charitable organization may not receive the funds may be provided through a conspicuous hyperlink, so long as the disclosure is conspicuous when the hyperlink is selected; provided further that this paragraph shall not apply when there are no circumstances under which a recipient charitable organization may not receive the funds;

(3) The maximum length of time it will take to send the donation or a grant of the recommended donation to a recipient charitable organization with an explanation

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1 of the time needed, unless the donation is sent
2 contemporaneously to a recipient charitable
3 organization after the donation is made; provided that
4 the explanation as to the maximum length of time may
5 be provided through a conspicuous hyperlink, so long
6 as the disclosure is conspicuous when the hyperlink is
7 selected;

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

14 (5) A statement as to the tax deductibility of the
15 donation.

16 ~~[(g)]~~ (e) Each charitable fundraising platform ~~[or~~
17 ~~platform-charity]~~ that solicits, permits, or otherwise enables
18 solicitations shall obtain the written consent of a recipient
19 charitable organization before using the recipient charitable
20 organization's name in a solicitation for a purported charitable
21 purpose. Written consent shall be provided directly to the
22 charitable fundraising platform ~~[or platform-charity]~~, or may be

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1 provided to a charitable fundraising platform [~~or platform~~
2 ~~charity~~] by one authorized officer, director, trustee, or other
3 duly authorized representative of the recipient charitable
4 organization and may apply to multiple affiliated charitable
5 fundraising platforms expressly identified in the agreement
6 providing consent.

7 [~~(h)~~] (f) After a donor contributes donations and with
8 respect to purported charitable purposes, the charitable
9 fundraising platform [~~or platform charity~~] shall promptly
10 provide a tax donation receipt to the donor in a [~~format~~
11 ~~determined by the department.~~] manner provided by section
12 170(f)(8) of the Internal Revenue Code of 1986, as amended.

13 [~~(i)~~] (g) The charitable fundraising platform [~~or platform~~
14 ~~charity~~] shall not divert or otherwise misuse any donations made
15 for purported charitable purposes that the charitable
16 fundraising platform [~~or platform charity~~] receives through
17 solicitation on the charitable fundraising platform, and shall
18 hold the donations in a separate account or accounts from other
19 funds belonging to the charitable fundraising platform [~~or~~
20 ~~platform charity~~]. The charitable fundraising platform [~~or~~
21 ~~platform charity~~] shall promptly ensure that donations and
22 grants of recommended donations are sent to the recipient

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1 charitable organizations with an accounting of any fees assessed
2 for processing the funds, and in accordance with any rules
3 adopted by the department pursuant to chapter 91. A platform
4 charity shall be vicariously liable for a charitable fundraising
5 platform's misuse of funds, and vice versa.

6 ~~[(+j)]~~ (h) If a charitable fundraising platform ~~[or~~
7 ~~platform-charity]~~ enters into any contract with a vendor to
8 solicit, receive, control, process, distribute, and otherwise
9 account for donations on the charitable fundraising platform,
10 the contract shall be available for inspection by the
11 department.

12 (i) The attorney general may require that registration and
13 renewal registration and contracts be filed with the department
14 electronically and may require the use of electronic signatures.

15 ~~[(+k)]~~ (j) As used in this section, "good standing" means
16 that a platform charity, recipient charitable organization, or
17 other charitable ~~[organization's tax-exempt status has not been~~
18 ~~revoked by the Internal Revenue Service or]~~ organization is not
19 prohibited from soliciting or operating in the ~~[state]~~ State by
20 the department.

21 SECTION 5. Section 467B-2.5, Hawaii Revised Statutes, is
22 amended to read as follows:

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1 "§467B-2.5 Professional solicitor~~[,]~~ and charitable
2 fundraising platform~~[, and platform charity]~~ financial reports;
3 contribution account. (a) A professional solicitor~~[,]~~ or
4 charitable fundraising platform~~[, or platform charity]~~ shall file
5 with the attorney general a financial report for any charitable
6 solicitation campaign, including gross revenue from Hawaii donors
7 and national gross revenue and an itemization of all expenses
8 incurred on a form prescribed by the attorney general no more
9 than ninety days after the end of the solicitation campaign and,
10 for solicitation campaigns lasting more than one year, within
11 ninety days after each anniversary of the commencement of the
12 solicitation campaign and within ninety days after the end of
13 the solicitation campaign.

14 (b) The attorney general may require the financial report
15 required by subsection (a) to be submitted electronically
16 and may require the use of electronic signatures. This report
17 shall be signed by the professional solicitor, charitable
18 fundraising platform, ~~[platform charity,]~~ or ~~[by]~~ an authorized
19 officer or agent of the professional solicitor~~[,]~~ or charitable
20 fundraising platform, ~~[or platform charity]~~ who shall certify
21 that the statements therein are true and correct to the best of
22 the solicitor's, charitable fundraising platform's, officer's,

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1 or agent's knowledge subject to penalties imposed by section
2 710-1063. If a financial report required under this section is
3 not filed in a timely manner, taking into account any extension
4 of time for filing, unless it is shown that the failure is due
5 to reasonable cause, an initial late filing fee of \$100 shall be
6 imposed, and an additional late filing fee of \$20 per day shall
7 be imposed, for each day during which the violation continues;
8 provided that the total fee amount imposed under this subsection
9 shall not exceed \$1,000. The attorney general may waive all or
10 part of the late filing fee imposed by this subsection if there
11 is a reasonable cause for the failure to timely file. The
12 professional solicitor[~~7~~] or charitable fundraising platform[~~7~~
13 ~~or platform charity~~] shall provide a copy of the financial report
14 to the charitable organization to which the financial report
15 pertains within ten days of its submission of the report to the
16 attorney general.

17 (c) A professional solicitor[~~7~~] or charitable fundraising
18 platform[~~7~~ ~~or platform charity~~] shall maintain during each
19 solicitation campaign and for not less than three years after the
20 completion of that campaign the following records, which shall be
21 available for inspection upon demand by the attorney general:

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

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

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

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

(d) Any material change in any information filed with the attorney general pursuant to this section shall be reported in writing by the professional solicitor~~[7]~~ or charitable fundraising platform~~[7, or platform-charity]~~ to the attorney general not more than seven days after the change occurs.

(e) Each contribution in the control or custody of the professional solicitor~~[7]~~ or charitable fundraising platform~~[7 or platform-charity]~~ in its entirety and within five days of its receipt, shall be deposited in an account at a bank or other federally insured financial institution, which shall be in the name of the charitable organization. The charitable

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

3 SECTION 6. Section 467B-12, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§467B-12 Filing requirements for professional fundraising
6 counsel[~~7~~] and professional solicitors [~~7, charitable fundraising~~
7 ~~platforms, and platform charities~~]. (a) Every professional
8 fundraising counsel[~~7~~] or professional solicitor, [~~charitable~~
9 ~~fundraising platform, or platform charity, prior to~~] before any
10 solicitation, shall register with the department. The
11 registration statement shall contain the information set forth
12 in subsection (e). The registration statement shall be
13 accompanied by a fee in the amount of \$250, or in the amount and
14 with any additional sums as may be prescribed by the attorney
15 general. Renewal registration statements shall be filed with
16 the department on or before July 1 of each calendar year by each
17 professional fundraising counsel[~~7~~] or professional solicitor[~~7~~
18 ~~charitable fundraising platform, or platform charity~~]. The
19 renewal statement shall contain the information set forth in
20 subsection (e). A renewal fee of \$250, or in any amount and
21 with any additional sums as may be prescribed by the attorney
22 general, shall accompany the renewal statement. If a renewal

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1 registration required under this section is not filed, unless it
2 is shown that the failure is due to reasonable cause, a fine of
3 \$20 shall be imposed for each day during which the violation
4 continues; provided that the total amount imposed under this
5 subsection shall not exceed \$1,000.

6 (b) Each professional solicitor, [~~charitable fundraising~~
7 ~~platform, or platform charity,~~] at the time of each filing,
8 shall file with and have approved by the attorney general a bond
9 in which the applicant is the principal obligor in the penal sum
10 of \$25,000 issued with good and sufficient surety or sureties
11 approved by the attorney general, and which shall remain in
12 effect for one year. The bond shall inure to the benefit of the
13 State, conditioned that the applicant, its officers, directors,
14 employees, agents, servants, and independent contractors shall
15 not violate this chapter. A partnership or corporation that is
16 a professional solicitor[~~, charitable fundraising platform, or~~
17 ~~platform charity~~] may file a consolidated bond on behalf of all
18 its members, officers, and employees.

19 (c) The attorney general shall examine each registration
20 statement and supporting document filed by a professional
21 fundraising counsel[~~, or~~] or professional solicitor[~~, charitable~~
22 ~~fundraising platform, or platform charity~~] and shall determine

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1 whether the registration requirements are satisfied. If the
2 attorney general determines that the registration requirements
3 are not satisfied, the attorney general shall notify the
4 professional fundraising counsel[~~7~~] or professional solicitor[~~7~~
5 ~~charitable fundraising platform, or platform charity~~] in writing
6 within fifteen business days of its receipt of the registration
7 statement; otherwise the registration statement is deemed to be
8 approved. Within seven business days after receipt of a
9 notification that the registration requirements are not
10 satisfied, the professional fundraising counsel[~~7~~] or
11 professional solicitor[~~, charitable fundraising platform, or~~
12 ~~platform charity~~] may request a hearing.

13 (d) The attorney general may require that registration and
14 renewal registration, surety bonds, and contracts be filed with
15 the department electronically and may require the use of
16 electronic signatures.

17 (e) Each registration and renewal registration shall
18 contain:

19 (1) The names and addresses of all owners, officers, and
20 directors of a professional fundraising counsel [~~or~~
21 ~~charitable fundraising platform~~], and the names and

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addresses of all owners, officers, and directors of a professional solicitor [~~or platform charity~~];

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

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

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

(5) A statement whether the [+]registrant[+] has entered into a consent agreement with, or been disciplined by or subject to administrative action by, another governmental agency;

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

(7) The date that the registrant began soliciting Hawaii residents on behalf of a charitable organization or

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1 providing professional fundraising counsel services;

2 and

3 (8) Whether any owners, directors, or officers are related
4 to:

5 (A) Any other officers, directors, owners, or
6 employees of the registrant;

7 (B) Any officer, director, trustee, or employee of a
8 charitable organization under contract with the
9 registrant; and

10 (C) Any vendor or supplier providing goods or
11 services to a charitable organization under
12 contract with the registrant."

13 SECTION 7. Section 467B-12.5, Hawaii Revised Statutes, is
14 amended by amending subsections (a), (b), and (c) to read as
15 follows:

16 "(a) There shall be a written contract between a
17 charitable organization and a professional fundraising
18 counsel[~~7~~] or professional solicitor[~~7~~ ~~charitable fundraising~~
19 ~~platform, or platform charity~~] that shall be filed by the
20 professional fundraising counsel[~~7~~] or professional solicitor[~~7~~
21 ~~charitable fundraising platform, or platform charity~~] with the
22 attorney general at least ten business days [~~prior to~~] before

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1 the performance by the professional fundraising counsel[7] or
2 professional solicitor[, ~~charitable fundraising platform, or~~
3 ~~platform charity~~] of any service. No solicitation or service
4 pursuant to the contract shall begin before the contract is
5 filed with the attorney general. The contract shall be signed
6 by two authorized officials of the charitable organization, one
7 of whom shall be a member of the organization's governing body,
8 and the authorized contracting officer for the professional
9 fundraising counsel[7] or professional solicitor[, ~~charitable~~
10 ~~fundraising platform, or platform charity~~]. The contract shall
11 contain all of the following provisions:

- 12 (1) The legal name and address of the charitable
13 organization;
- 14 (2) A statement of the charitable purpose for which the
15 solicitation campaign is being conducted;
- 16 (3) A statement of the respective obligations of the
17 professional fundraising counsel[7] or professional
18 solicitor[, ~~charitable fundraising platform, or~~
19 ~~platform charity~~] and the charitable organization;
- 20 (4) A statement of the guaranteed minimum percentage of
21 the gross receipts from contributions that will be
22 remitted to or retained by the charitable

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1 organization, if any, or, if the solicitation involves
2 the sale of goods, services, or tickets to a
3 fundraising event, the percentage of the purchase
4 price that will be remitted to the charitable
5 organization, if any. The stated percentage shall
6 exclude any amount that the charitable organization is
7 to pay as fundraising costs;

8 (5) Information concerning the compensation of the
9 professional solicitor and professional fundraising
10 counsel as follows:

11 (A) If the compensation of the professional
12 fundraising counsel~~[,]~~ or professional
13 solicitor~~[, charitable fundraising platform, or~~
14 ~~platform charity]~~ is contingent upon the number
15 of contributions or the amount of revenue
16 received, a statement shall be included
17 specifying the percentage of the gross revenue
18 that is the basis for that compensation. The
19 stated percentage shall include any amount that
20 the professional fundraising counsel~~[,]~~ or
21 professional solicitor~~[, charitable fundraising~~

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1 ~~platform, or platform charity~~] is to be

2 reimbursed for fundraising costs;

3 (B) If the compensation of the professional

4 solicitor[, ~~charitable fundraising platform, or~~

5 ~~platform charity~~] is not contingent upon the

6 number of contributions or amount of revenue

7 received from the solicitation campaign, the

8 compensation shall be expressed as a reasonable

9 estimate of the percentage of the gross revenue,

10 and the contract shall clearly disclose the

11 assumptions upon which the estimate is based.

12 The stated assumptions shall be based upon all of

13 the relevant facts known to the professional

14 solicitor regarding the solicitation to be

15 conducted by the professional solicitor; or

16 (C) If the compensation of the professional

17 fundraising counsel[, ~~charitable fundraising~~

18 ~~platform, or platform charity~~] is not contingent

19 on the number of contributions or amount of

20 revenue received from the solicitation campaign,

21 the compensation shall be stated in a dollar

22 amount;

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(6) The effective and termination dates of the contract or, if the contract does not have a set termination date, a clause allowing either party a reasonable period to terminate the contract or notify the other party if either party chooses not to renew. The contract shall also contain the date services will commence with respect to solicitation in this State of contributions for a charitable organization;

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

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

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

(b) No professional fundraising counsel~~[,]~~ or professional solicitor~~[, charitable fundraising platform, or platform charity]~~ shall contract with a charitable organization unless the professional fundraising counsel~~[,]~~ or professional

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1 solicitor[, ~~charitable fundraising platform, or platform~~
2 ~~charity~~] is registered with the department. A contract with an
3 unregistered professional fundraising counsel[~~7~~] or professional
4 solicitor[, ~~charitable fundraising platform, or platform~~
5 ~~charity~~] shall be voidable at the option of the charitable
6 organization.

7 (c) Whenever a charitable organization contracts with a
8 professional fundraising counsel[~~7~~] or professional solicitor,
9 [~~charitable fundraising platform, or platform charity,~~] the
10 charitable organization shall have the right to cancel the
11 contract without cost, penalty, or liability, for a period of
12 ten days following the date on which that contract is executed.
13 Any provision in the contract that is intended to waive this
14 right of cancellation shall be void and unenforceable."

15 SECTION 8. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 9. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

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1 SECTION 10. This Act, upon its approval, shall take effect
2 on January 1, 2026.

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INTRODUCED BY: 

5

BY REQUEST

S.B. NO. 1311

Report Title:

Solicitations; Fundraising; Platforms; Registration

Description:

Revises registration, fee, reporting, and enforcement requirements for charitable fundraising platforms and platform charities with chapter 467B, HRS, requirements. Removes duplication of registration, fee, and reporting requirements for charitable fundraising platforms and platform charities.

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 SOLICITATION OF FUNDS FROM THE PUBLIC.

PURPOSE: To clarify and update Hawaii's law related to solicitation of funds from the public by revising registration, reporting, fees, and other regulatory requirements for charitable fundraising platforms and platform charities created by Act 205, Session Laws of Hawaii (SLH) 2024.

MEANS: Add a new section to chapter 467B, Hawaii Revised Statutes (HRS), and amend sections 467B-1, 467B-1.5, 467B-2.3, 467B-2.5, 467B-12, and 467B-12.5(a), (b), and (c), HRS.

JUSTIFICATION: Chapter 467B, HRS, requires the Department of the Attorney General to regulate charitable organizations, professional solicitors, professional fundraising counsels and their activities in the state. On July 5, 2024, Act 205, SLH 2024, was enacted, requiring the department to regulate the activities of two new entities: charitable fundraising platforms and platform charities.

The addition of the new section to chapter 467B, HRS, would create separate registration, reporting, and fee requirements specific to platform charities, which would address the potential for duplication of registration, reporting, and fee requirements for platform charities.

The amendments to section 467B-2.3, HRS, would create separate registration, reporting, and fee requirements specific to charitable fundraising platforms, which would address the potential for duplication of registration, reporting, and fee requirements for charitable fundraising platforms.

Updates to sections 467B-1, 467B-1.5, 467B-2.3, 467B-2.5, 467B-12, and 467B-12.5, HRS, would clarify the definitions for charitable fundraising platforms and platform charities, provide clear registration, reporting, and fee applicability for entities that meet more than one definition under the chapter, and revise the chapter's prohibited acts, enforcement powers, and remedies to include charitable fundraising platforms and platform charities.

Impact on the public: The public and non-profit entities subject to chapter 467B, HRS, would benefit from the clarification of regulatory requirements provided by this bill.

Impact on the department and other agencies: This bill provides the department with the statutory clarity and capability to effectively regulate charitable fundraising platforms and platform charities, allowing greater protection for the donor community while eliminating duplicative registration, reporting, and fee requirements for the affected entities.

Based solely on the enactment of Act 205, SLH 2024, funding to provide additional staff and system upgrades to the department's registry is necessary to implement regulation of charitable fundraising platforms and platform charities. As such, a request to increase our appropriation from the Solicitation of Funds for Charitable Purposes Special Fund in the amount of \$620,000 will be included in the budget bill for the Department of the Attorney General.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: ATG-100, 02 - Legal Services.

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OTHER AFFECTED
AGENCIES:

None.

EFFECTIVE DATE:

January 1, 2026.