

ACT 162

S. B. NO. 454

A Bill for an Act Relating to the Solicitation of Funds from the Public.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 467B-2(c), Hawaii Revised Statutes, is amended to read:

“(c) The registration forms and other documents prescribed by the director shall be signed by an authorized officer and by the chief fiscal officer of the charitable organization and shall be verified by oath.”

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

“**Sec. 467B-4 Nonresident registration.** Any charitable organization, professional fund raiser, professional solicitor, or resident having its principal place of business without the State or organized under any by virtue of the laws of a foreign state, which solicits contributions from people in this State, shall be deemed to have irrevocably appointed the director as its agent upon whom may be served any summons, subpoena, subpoena duces tecum or other process directed to such charitable organization, or any partner, principal,

officer, or director thereof, or to such professional solicitor, in any action or proceeding brought by the attorney general under this chapter. Service of such process upon the director shall be deemed sufficient service; provided that notice of the service and a copy of the process are sent by the director to the charitable organization, professional fund raiser or professional solicitor by registered mail with return receipt requested, at its office as set forth in the registration form required to be filed by this chapter or, in default of the filing of such form, at the last address known to the director. The service of process shall be completed within ten days after the receipt by the director of a return receipt purporting to be signed by the addressee or a person qualified to receive its registered mail or if acceptance was refused by the addressee or its agent, ten days after the return to the director of the original envelope bearing a notation by the postal authorities that receipt thereof was refused."

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

"Sec. 467B-5 Records to be kept by charitable organizations, professional fund-raising counsel and professional solicitors. Every charitable organization subject to this chapter shall, in accordance with the rules and regulations prescribed by the director, keep true and accurate fiscal records as to its activities in the State in the form as will accurately provide the information required by this chapter. Upon demand, the records shall be made available to the director for inspection. Such records shall be retained for a period of three years after the end of the period of registration to which they relate."

SECTION 4. Section 467B-10(f), Hawaii Revised Statutes, is amended to read:

"(f) Whenever the director has reason to believe that any charitable organization, professional fund-raising counsel or professional solicitor is operating in violation of this chapter or has knowingly and wilfully made any false statement in any registration application or statement, report or other information required to be filed by this chapter or whenever a charitable organization, professional fund-raising counsel or professional solicitor fails to file a registration statement required by this chapter, or whenever there is employed or is about to be employed in any solicitation or collection of contributions for a charitable organization any device, scheme or artifice to defraud or to obtain money or property by means of any false pretense, representation or promise, or whenever the officers or representatives of any charitable organization, professional fund-raising counsel or professional solicitor have refused or failed after notice to produce any records of the organization, or whenever the funds raised by solicitation activities are not devoted or will not be devoted to the charitable purposes of the charitable organization, in addition to all other actions authorized by law, the director may bring an action in the name of the State against the charitable organization and its officers, or professional fund-raising counsel or professional solicitor or any person employing any device, scheme, artifice, false representation or promise, to defraud or obtain money or other property, to enjoin the charitable organization, or professional fund-raising counsel or professional solicitor or other person from continuing the violation, solicitation or collection, or en-

gaging therein, or doing any acts in furtherance thereof and for such other relief as the court deems appropriate.”

SECTION 5. Section 467B-10(g), Hawaii Revised Statutes, is amended to read:

“(g) The director may exercise the authority granted in this section against any charitable organization which operates under the guise or pretense of being an organization exempted by the provisions of section 467B-11, and is not in fact an organization entitled to such an exemption.”

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

“**Sec. 467B-11 Exemptions.** This chapter shall not apply to:

- (1) A corporation sole or other religious corporation, trust or organization incorporated or established for religious purpose, nor to any agency or organization incorporated or established for charitable, hospital or educational purposes and engaged in effectuating one or more of such purposes, that is affiliated with, operated by, or supervised or controlled by a corporation sole or other religious corporation, trust or organization incorporated or established for religious purposes, nor to other religious agencies or organizations which serve religion by the preservation of religious rights and freedom from persecution or prejudice or by fostering religion, including the moral and ethical aspects of a particular religious faith.
- (2) Educational institutions that are recognized by the director or that are accredited by a regional accrediting association or by an organization affiliated with the national commission on accrediting, any foundation having an established identity with any of the aforementioned educational institutions, any other educational institution confining its solicitation of contributions to its student body, alumni, faculty and trustees, and their families, or a library established under the laws of this State; provided that the annual financial report of the institution or library shall be filed with the director.
- (3) Persons requesting contributions for the relief of any individual specified by name at the time of the solicitation when all of the contributions collected without any deductions whatsoever are turned over to the named beneficiary for his use.
- (4) Charitable organizations which do not intend to solicit and receive and do not actually raise or receive contributions from the public in excess of \$4,000 during a calendar year or do not receive contributions from more than ten persons during a calendar year, if all of their functions, including fund-raising activities, are carried on by persons who are unpaid for their services and if no part of the assets or income of the charitable organization inures to the benefit of or is paid to any officer or member thereof. Nevertheless, if the contributions raised from the public, whether all is or is not received by any charitable organization during any calendar year, shall be in excess of \$4,000, it shall, within thirty days after the date of receipt

register with the director as required by this chapter.

- (5) Hospitals which are nonprofit and charitable and are required by law to file financial reports at least annually with the State; provided that a copy of the annual fiscal report is also filed simultaneously with the director.
- (6) Organizations which solicit only within the membership of the charitable organization by the members thereof. The term 'membership' shall not include those persons who are granted a membership upon making a contribution as the result of solicitation.
- (7) Any Hawaii or foreign nonprofit corporation that has been on record with the department for at least five years and is in good standing with respect to complying with the laws of this State and provided further, all fund raising activities are carried on by persons who are not in any manner compensated for such services.

Any charitable organization claiming to be exempt from the registration provisions of this chapter which is about to or does solicit charitable contributions shall submit annually to the director on forms to be prescribed by the director the name, address and purpose of the organization and a statement setting forth the reason for the claim for exemption. If exempted, the director shall issue annually a letter of exemption which may be exhibited to the public. No registration fee shall be required of any exempt organization."

SECTION 7. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 8. This Act shall take effect upon its approval.

(Approved May 30, 1971.)

* Edited accordingly.