

ACT 66

H.B. NO. 945

A Bill for an Act Relating to Charitable Organizations.

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

SECTION 1. Section 467B-2.5, Hawaii Revised Statutes, is amended to read as follows:

“§467B-2.5 Professional solicitor financial reports; contribution account.

(a) ~~[Within ninety days after a solicitation campaign or event has been completed or within ninety days of the anniversary of the commencement of a solicitation campaign lasting more than one year, a]~~ A professional solicitor shall file with the attorney general a financial report for [the] any charitable solicitation campaign, including gross revenue from Hawaii donors and national gross revenue and an itemization of all expenses incurred on a form prescribed by the attorney general[-] no more than ninety days after the end of the solicitation campaign and, for solicitation campaigns lasting more than one year, within ninety days after each anniversary of the commencement of the solicitation campaign and within ninety days after the end of the solicitation campaign.

(b) The attorney general may require the financial report required by subsection (a) to be submitted electronically and may require the use of electronic signatures. This report shall be signed by the professional solicitor or by an authorized officer or agent of the professional solicitor who shall certify that the statements therein are true and correct to the best of the solicitor's, officer's, or agent's knowledge subject to penalties imposed by section 710-1063. If a financial report required under this section is not filed in a timely manner, taking into account any extension of time for filing, unless it is shown that the failure is due to reasonable cause, an initial late filing fee of \$100 shall be imposed, and an additional late filing fee of \$20 per day shall be imposed, for each day during which the violation continues; provided that the total fee amount imposed under this subsection shall not exceed \$1,000. The attorney general may waive all or part of the late filing fee imposed by this subsection if there is a reasonable cause for the failure to timely file. The professional solicitor shall provide a copy of

the financial report to the charitable organization to which the financial report pertains within ten days of its submission of the report to the attorney general.

(c) A professional solicitor shall maintain during each solicitation campaign and for not less than three years after the completion of that campaign the following records, which shall be available for inspection upon demand by the attorney general:

- (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 has deposited revenue from the solicitation campaign.

[(b)] (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 to the attorney general not more than seven days after the change occurs.

[(e)] (e) Each contribution in the control or custody of the professional solicitor, 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 organization shall maintain and administer the account and shall have sole control of all withdrawals.”

SECTION 2. Section 467B-5.5, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Prior to the commencement of any charitable sales promotion in this State conducted by a commercial co-venturer using the name of a charitable organization, the commercial co-venturer shall obtain the written consent of the charitable organization whose name will be used during the charitable sales promotion. The commercial co-venturer shall file a copy of the written consent with the department not less than ten days prior to the commencement of the charitable sales promotion within this State. An authorized representative of the charitable organization and the commercial co-venturer shall sign the written consent, and the terms of the written consent shall include the following:

- (1) The goods or services to be offered to the public;
- (2) The geographic area where, and the starting and final date when, the offering is to be made;
- (3) The manner in which the name of the charitable organization is to be used, including any representation to be made to the public as to the amount or per cent per unit of goods or services purchased or used that is to benefit the charitable organization;
- (4) A provision for ~~[a final]~~ an accounting on a per unit basis ~~[to be]~~, which shall be prepared by the commercial co-venturer and given ~~[by the commercial co-venturer]~~ to the charitable organization, and the date when it is to be made, which date shall be no more than ninety days after the end of the charitable sales promotion~~]; and~~, for promotions lasting more than one year, shall be within ninety days after each anniversary of the commencement of the charitable sales promotion and within ninety days after the end of the charitable sales promotion; and

- (5) The date when and the manner in which the benefit is to be conferred on the charitable organization~~[-]~~, which date shall be within ninety days after the end of the charitable sales promotion and, for charitable sales promotions lasting more than one year, shall be within ninety days after each anniversary of the commencement of the promotion and within ninety days after the end of the charitable sales promotion.

(c) ~~[A final accounting for each charitable sales promotion shall be prepared by the commercial co-venturer following the completion of the promotion.]~~ A copy of ~~[the final]~~ an accounting shall be provided to the attorney general not more than twenty days after the copy is requested by the attorney general. ~~[The final]~~ An accounting shall be kept by the commercial co-venturer for a period of three years, unless the commercial co-venturer and the charitable organization mutually agree that the accounting should be kept by the charitable organization instead of the commercial co-venturer.”

SECTION 3. Section 467B-6.5, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) A charitable organization ~~[with contributions in excess of \$500,000 in the year covered by the annual financial report and a charitable organization]~~ required to obtain an audit report by a governmental authority or a third party shall include with its annual financial report, an audit report, prepared in accordance with generally accepted accounting principles, by a certified public accountant.

(c) Each charitable organization filing a report required by this section shall pay a filing fee to the department based on the ~~[total]~~ amount of its ~~[gross revenues]~~ total revenue during the time covered by the report at the close of the calendar or fiscal year adopted by the charitable organization as follows:

- (1) \$0, if ~~[gross]~~ total revenue is less than \$25,000;
- (2) \$25, if ~~[gross]~~ total revenue is at least \$25,000 but less than \$50,000;
- (3) \$50, if ~~[gross]~~ total revenue is at least \$50,000 but less than \$100,000;
- (4) \$100, if ~~[gross]~~ total revenue is at least \$100,000 but less than \$250,000;
- (5) \$150, if ~~[gross]~~ total revenue is at least \$250,000 but less than \$500,000;
- (6) \$200, if ~~[gross]~~ total revenue is at least \$500,000 but less than \$1,000,000;
- (7) \$250, if ~~[gross]~~ total revenue is at least \$1,000,000 but less than \$2,000,000;
- (8) \$350, if ~~[gross]~~ total revenue is at least \$2,000,000 but less than \$5,000,000; or
- (9) \$600, if ~~[gross]~~ total revenue is \$5,000,000 or more.

For purposes of this subsection, the term “total revenue” means the same as that used on the Internal Revenue Service Form 990, regardless of which form, if any, is filed with the Internal Revenue Service.”

SECTION 4. Section 467B-8, Hawaii Revised Statutes, is amended to read as follows:

“§467B-8 Information filed to become public records. Statements, reports, professional fundraising counsel contracts or professional solicitor contracts, commercial co-venturer consents, and all other documents and information required to be filed under this chapter or by the attorney general shall become government records in the department and be open to the general public for inspection pursuant to chapter 92F; provided that information in any regis-

ACT 66

tration statement concerning the residential addresses of any officer or director or that identifies a charitable organization's financial or banking accounts and audited financial statements submitted by registered [~~charities~~] charitable organizations shall be confidential under chapter 92F.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 7, 2019.)