

## ACT 211

S.B. NO. 2693

A Bill for an Act Relating to States of Emergency.

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

SECTION 1. Chapter 127A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§127A- Charitable fraud during a state of emergency.** (a) A person commits the offense of charitable fraud during a state of emergency if, during a state of emergency declared by the governor under section 127A-14(a), the person intentionally, knowingly, or recklessly performs any of the following actions in connection with a solicitation or acceptance of a contribution to assist a disaster victim:

- (1) The person uses any deceptive act or practice, false pretense, false promise, or misrepresentation in connection with the solicitation of a contribution;
  - (2) The person misrepresents, misleads, or omits information concerning the intended uses of contributions; or
  - (3) The person uses contributions in a manner other than the specific purposes represented by the solicitor at the time the contribution was solicited.
- (b) Charitable fraud during a state of emergency is a:
- (1) Class B felony if the value of contributions obtained or attempted to be obtained is \$20,000 or more;
  - (2) Class C felony if the value of contributions obtained or attempted to be obtained is more than \$750 and less than \$20,000; or
  - (3) Misdemeanor if the value of contributions obtained or attempted to be obtained is \$750 or less.
- (c) For purposes of this section:

“Contribution” includes money, credit or debit card transactions, online payments, payments made through a third party, goods, services, or anything else of value, whether tangible or intangible.

“Disaster victim” means any person adversely affected by the disaster or emergency that caused the governor to declare a state of emergency.

“Solicit” or “solicitation” means a request directly or indirectly for contributions on the plea or misrepresentation that the contributions, or any portion thereof, will be used for disaster relief, be used to benefit disaster victims, or go to a charitable organization engaged in assisting disaster victims. A person “solicits”, or a “solicitation” occurs, regardless of whether the person making the solicitation receives any contribution. “Solicit” or “solicitation” includes the following:

- (1) Any oral or written request, or request made by electronic message, electronic mail, blog, post, or any other form of electronic communications;
- (2) The making of any announcement to any organization for the purpose of further dissemination, including announcements to the press, over the radio or television, or by telephone, telegraph, the Internet, social media, or facsimile, concerning an appeal or campaign by or for disaster relief, to benefit disaster victims, or any charitable organization engaged in assisting disaster victims;
- (3) The distribution, circulation, posting, or publishing of any handbill, written advertisement, or other publication that directly or by implication seeks to obtain public support;

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- (4) Where the sale, or offer or attempted sale, of any advertisement, advertising space, book, card, tag, coupon, device, magazine, membership, merchandise, subscription, flower, ticket, candy, cookies, or other tangible item in connection with which any appeal is made for disaster relief, to benefit disaster victims, or any charitable organization engaged in assisting disaster victims; or where the name of any disaster, disaster victims, or charitable organization engaged in assisting disaster victims is used or referred to in any appeal as an inducement or reason for making any sale; or where in connection with any sale, any statement is made that the whole or any part of the proceeds from any sale will be used for disaster relief, to benefit disaster victims, or go to a charitable organization engaged in assisting disaster victims; and
- (5) A request made through the use of receptacles for contributions such as honor boxes, vending machines, wishing wells, contribution boxes, and novelty machines, where a charitable appeal is used or referred to or implied as an inducement or reason to contribute.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved July 5, 2024.)

### Note

1. Edited pursuant to HRS §23G-16.5.