
A BILL FOR AN ACT

RELATING TO CHARITABLE SOLICITATION.

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

1 SECTION 1. Section 467B-1, Hawaii Revised Statutes, is
2 amended by amending the definitions of "professional fund-
3 raising counsel" or "professional fundraising counsel" and
4 "solicit" and "solicitation" to read as follows:
5 "Professional fund-raising counsel" or "professional
6 fundraising counsel" means any person who, for compensation,
7 plans, conducts, manages, advises, consults, or prepares
8 material for, or with respect to, the solicitation of
9 contributions in this State for a charitable organization, but
10 who actually solicits no contributions as a part of the person's
11 services, and who does not employ, procure, or engage any
12 compensated person to solicit contributions. The term shall not
13 include a bona fide volunteer, salaried officer, or employee of
14 a charitable organization[-], or a person if the only services
15 performed by the person are to plan, conduct, manage, advise,
16 consult, or prepare grant or subsidy application materials for a
17 charitable organization.



1 "Solicit" and "solicitation" mean a request directly or
2 indirectly for money, credit, property, financial assistance, or
3 thing of value on the plea or representation that the money,
4 credit, property, financial assistance, or thing of value, or
5 any portion thereof, will be used for a charitable purpose or to
6 benefit a charitable organization. These terms shall include
7 the following:

- 8 (1) Any oral or written request [†]; [†]
9 (2) The making of any announcement to any organization for
10 the purpose of further dissemination, including
11 announcements to the press, over the radio or
12 television, or by telephone, telegraph, or facsimile,
13 concerning an appeal or campaign by or for any
14 charitable organization or purpose [†]; [†]
15 (3) The distribution, circulation, posting, or publishing
16 of any handbill, written advertisement, or other
17 publication that directly or by implication seeks to
18 obtain public support [†]; [†]
19 (4) Where the sale or offer or attempted sale, of any
20 advertisement, advertising space, book, card, tag,
21 coupon, device, magazine, membership, merchandise,



1 subscription, flower, ticket, candy, cookies, or other
2 tangible item in connection with which any appeal is
3 made for any charitable organization or purpose; or
4 where the name of any charitable organization is used
5 or referred to in any appeal as an inducement or
6 reason for making any sale; or where in connection
7 with any sale, any statement is made that the whole or
8 any part of the proceeds from any sale will be used
9 for any charitable purpose or to benefit any
10 charitable organization[+]; [+] and

- 11 (5) A request made through the use of receptacles for
12 contributions such as honor boxes, vending machines,
13 wishing wells, contribution boxes, and novelty
14 machines, where a charitable appeal is used or
15 referred to or implied as an inducement or reason to
16 contribute.

17 A solicitation occurs whether or not the person making the
18 solicitation receives any contribution. However, the term shall
19 not include the submission of a grant or subsidy proposal or
20 application to a governmental authority or any organization



1 exempt from taxation under section 501(c)(3) of the Internal
2 Revenue Code."

3 SECTION 2. Section 467B-1.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~[f]~~§467B-1.5~~[+]~~ Professional solicitors; required
6 disclosures. ~~[A professional solicitor who makes an oral~~
7 ~~solicitation by telephone, door to door, or otherwise shall~~
8 ~~furnish to each contributor, prior to collecting or attempting~~
9 ~~to collect any contribution, a written confirmation of the~~
10 ~~expected contribution, containing the following information~~
11 ~~clearly and conspicuously:~~

12 ~~(1) The full legal name, address, and telephone number of~~
13 ~~the individual professional solicitor who directly~~
14 ~~communicated with the contributor; and~~

15 ~~(2) A disclosure that the contribution is not tax-~~
16 ~~deductible, if applicable, or, if the professional~~
17 ~~solicitor maintains that the contribution is tax-~~
18 ~~deductible in whole or in part, the portion of the~~
19 ~~contribution that the professional solicitor maintains~~
20 ~~is tax deductible.]~~



1 (a) Every professional solicitor, and every employee or agent
2 thereof, who solicits contributions from a prospective donor or
3 contributor in this State shall at the outset of any oral or
4 written request for a contribution:

5 (1) Identify themselves by their true surname and first
6 name, and the name of their employer or the contractor
7 as the case may be, that is compensating the
8 individual making the solicitation;

9 (2) Identify the name of the professional solicitor
10 registered with the department of the attorney general
11 that has contracted with the charitable organization
12 to provide the solicitation services and, if the
13 individual is employed by a subcontractor, the name of
14 the registered subcontractor;

15 (3) Disclose that the person making the oral or written
16 request for a donation is being paid to make such
17 solicitation and the name of the charitable
18 organization on whose behalf the person making the
19 request is soliciting; and

20 (4) Disclose, orally and in writing, the fact that a copy
21 of the professional solicitor's registration data and



1 financial reports are available from the department of
2 the attorney general.

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

14 SECTION 3. Section 467B-2.5, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) Within ninety days after a solicitation campaign or
17 event has been completed and on the anniversary of the
18 commencement of a solicitation campaign lasting more than one
19 year, a professional solicitor shall file with the attorney
20 general a financial report for the campaign, including gross
21 revenue and an itemization of all expenses incurred on a form



1 prescribed by the attorney general. The attorney general may
2 require the financial report to be submitted electronically.
3 This report shall be signed under penalty provided by section
4 710-1063 by the authorized contracting agent for the
5 professional solicitor [~~and two authorized officials of the~~
6 ~~charitable organization~~] and shall report gross revenue from
7 Hawaii donors and national gross revenue from a solicitation
8 activity or campaign. If a financial report required under this
9 section is not filed in a timely manner, an initial late filing
10 fee of \$100 shall be imposed, and an additional late filing fee
11 of \$20 per day shall be imposed, for each day during which the
12 violation continues; provided that the total fee amount imposed
13 under this subsection shall not exceed \$1,000. The attorney
14 general may waive all or part of the late filing fee imposed by
15 this subsection if there is a reasonable cause for the failure
16 to timely file. The professional solicitor shall provide a copy
17 of the financial report to the charitable organization to which
18 the financial report pertains within ten days of its submission
19 of the report to the attorney general. A professional solicitor
20 shall maintain during each solicitation campaign and for not
21 less than three years after the completion of that campaign the



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

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

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

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

9 (4) The location and account number of each bank or other
10 financial institution account in which the
11 professional solicitor has deposited revenue from the
12 solicitation campaign."

13 SECTION 4. Section 467B-5.5, Hawaii Revised Statutes, is
14 amended by amending subsection (d) to read as follows:

15 "(d) A [~~fine~~] late filing fee of \$20 shall be imposed on a
16 commercial co-venturer who fails to file a written consent as
17 required by subsection (b), unless it is shown that the failure
18 is due to reasonable cause, for each day during which the
19 violation continues; provided that the total amount imposed
20 under this subsection shall not exceed \$1,000."



1 SECTION 5. Section 467B-6.5, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) If a return, report, or filing fee required under
4 this section is not filed or paid, taking into account any
5 extension of time for filing, unless it is shown that the
6 failure is due to reasonable cause, a [~~fine~~] late filing fee of
7 \$20 shall be imposed for each day during which the violation
8 continues; provided that the total amount imposed under this
9 subsection shall not exceed \$1,000."

10 SECTION 6. Section 467B-11.5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§467B-11.5 Charitable organizations exempted from
13 registration and financial disclosure requirements. The
14 following charitable organizations shall not be subject to
15 sections 467B-2.1 and 467B-6.5, if the organization submits
16 information as the department may require to substantiate an
17 exemption under this section:

18 (1) Any duly organized religious corporation, institution,
19 or society that is exempt from filing Form 990 with
20 the Internal Revenue Service pursuant to sections



- 1 6033(a)(3)(A)(i) and (iii) and 6033(a)(3)(C)(i) of the
2 Internal Revenue Code, as amended;
- 3 (2) Parent-teacher associations;
- 4 (3) Any educational institution that is licensed or
5 accredited by any of the following licensing or
6 accrediting organizations:
- 7 (A) Hawaii Association of Independent Schools;
- 8 (B) Hawaii Council of Private Schools;
- 9 (C) Western Association of Schools and Colleges;
- 10 (D) Middle States Association of Colleges and
11 Schools;
- 12 (E) New England Association of Schools and Colleges;
- 13 (F) North Central Association of Colleges and
14 Schools;
- 15 (G) Northwest Commission on Colleges and
16 Universities;
- 17 (H) Southern Association of Colleges and Schools;
- 18 [~~er~~]
- 19 (I) The National Association for the Education of
20 Young Children; or



- 1 (J) The Northwest Accreditation Commission for
2 primary and secondary schools;
3 and any organization exempt from taxation under
4 section 501(c)(3) of the Internal Revenue Code
5 expressly authorized by, and having an established
6 identity with, such an educational institution;
7 provided that the organization's solicitation of
8 contributions is primarily directed to the students,
9 alumni, faculty, and trustees of the institutions and
10 their respective families;
- 11 (4) Any nonprofit hospital, adult day health center,
12 hospice, intermediate care facility for individuals
13 with intellectual disabilities, skilled nursing
14 facility, and intermediate care facility that is
15 licensed or medicare certified by the State or any
16 similar provision of the laws of any other state;
- 17 (5) Any corporation established by an act of the United
18 States Congress that is required by federal law to
19 submit to Congress annual reports, fully audited by
20 the United States Department of Defense, of its



1 activities including itemized accounts of all receipts
2 and expenditures;

3 (6) Any agency of this State, another state, or the
4 federal government; and

5 (7) Any charitable organization that normally receives
6 less than \$25,000 in contributions annually, if the
7 organization does not employ or compensate a
8 professional solicitor or professional fundraising
9 counsel. For purposes of this paragraph, an
10 organization normally receives less than \$25,000 in
11 contributions annually if, during the immediately
12 preceding three fiscal years, it received, on average,
13 less than \$25,000 in contributions."

14 SECTION 7. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 8. This Act shall take effect upon its approval.
17



Report Title:

Charitable Solicitation; Professional Solicitors; Required Disclosures; Donors; Registration; Reports

Description:

Amends Hawaii's charitable solicitation law to: require affirmative disclosures to donors by professional solicitors; clarify exemptions from registration; and make other technical amendments. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

