
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 PART I

2 SECTION 1. Chapter 467B, Hawaii Revised Statutes, is
3 amended by adding a new section to be appropriately designated
4 and to read as follows:

5 "§467B- Charitable fundraising platforms; platform
6 charities. (a) Each charitable fundraising platform shall be
7 subject to the department's supervision for activities regulated
8 by this section. Before soliciting, permitting, or otherwise
9 enabling any solicitations for purported charitable purposes, a
10 charitable fundraising platform shall register with the
11 department on a form provided by the department. Registrations
12 under this section shall be subject to an annual registration
13 and renewal fee imposed by the department. Fee revenues from
14 this section shall be deposited into the solicitation of funds
15 for charitable purposes special fund.

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



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. Each report shall:

7 (1) Enable the department to ascertain whether charitable
8 funds have been properly solicited, received, held,
9 controlled, or distributed;

10 (2) Provide information on the number of donations made,
11 amount raised, length of time for distributing
12 donations or grants of recommended donations, fees
13 charged by or through a charitable fundraising
14 platform or platform charity, and names of recipient
15 charitable organizations or other charitable
16 organizations that were sent or have not yet been sent
17 donations or grants of recommended donations; and

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



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) A charitable fundraising platform or platform charity
5 shall only solicit, permit, or otherwise enable solicitations,
6 or receive, control, or distribute funds from donations for
7 purported charitable purposes for recipient charitable
8 organizations or other charitable organizations in good
9 standing. To determine good standing of a recipient charitable
10 organization or other charitable organization, a charitable
11 fundraising platform or platform charity may rely on electronic
12 lists periodically published by the Internal Revenue Service,
13 department of taxation, or department; provided that if none of
14 the foregoing agencies publishes a list, then the charitable
15 fundraising platform or platform charity shall not be required
16 to comply with this section for the length of time that the
17 lists are unavailable.

18 (f) With respect to purported charitable purposes, a
19 charitable fundraising platform or platform charity that
20 performs, permits, or otherwise enables solicitation activities
21 shall, before a person can complete a donation or select or



1 change a recipient charitable organization, provide conspicuous
2 disclosures that reduce the likelihood of deception, confusion,
3 or misunderstanding, including:

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

9 (2) A statement that a recipient charitable organization
10 may not receive donations or grants or recommended
11 donations, with an explanation identifying the most
12 pertinent reasons under which a recipient charitable
13 organization may not receive the funds; provided that
14 the explanation as to the maximum length of time may
15 be provided through a conspicuous hyperlink, so long
16 as the disclosure is conspicuous when the hyperlink is
17 selected; provided further that this paragraph shall
18 not apply when there are no circumstances under which
19 a recipient charitable organization may not receive
20 the funds;



- 1 (3) The maximum length of time it will take to send the
2 donation or a grant of the recommended donation to a
3 recipient charitable organization with an explanation
4 of the time needed, unless the donation is sent
5 contemporaneously to a recipient charitable
6 organization after the donation is made; provided that
7 the explanation as to the maximum length of time may
8 be provided through a conspicuous hyperlink, so long
9 as the disclosure is conspicuous when the hyperlink is
10 selected;
- 11 (4) The fees or any other amounts that will be deducted
12 from or added to the donation or a grant of the
13 recommended donation and that are charged or retained
14 by the charitable fundraising platform, platform
15 charity, or any other partnering vendor, other than
16 any applicable digital payment processing fees; and
- 17 (5) A statement as to the tax deductibility of the
18 donation.
- 19 (g) Each charitable fundraising platform or platform
20 charity that solicits, permits, or otherwise enables
21 solicitations shall obtain the written consent of a recipient



1 charitable organization before using the recipient charitable
2 organization's name in a solicitation for a purported charitable
3 purpose. Written consent shall be provided directly to the
4 charitable fundraising platform or platform charity, or may be
5 provided to a charitable fundraising platform or platform
6 charity by one authorized officer, director, trustee, or other
7 duly authorized representative of the recipient charitable
8 organization and may apply to multiple affiliated charitable
9 fundraising platforms expressly identified in the agreement
10 providing consent.

11 (h) After a donor contributes donations and with respect
12 to purported charitable purposes, the charitable fundraising
13 platform or platform charity shall promptly provide a tax
14 donation receipt to the donor in a format determined by the
15 department.

16 (i) The charitable fundraising platform or platform
17 charity shall not divert or otherwise misuse any donations made
18 for purported charitable purposes that the charitable
19 fundraising platform or platform charity receives through
20 solicitation on the charitable fundraising platform, and shall
21 hold the donations in a separate account or accounts from other



1 funds belonging to the charitable fundraising platform or
2 platform charity. The charitable fundraising platform or
3 platform charity shall promptly ensure that donations and grants
4 of recommended donations are sent to the recipient charitable
5 organizations with an accounting of any fees assessed for
6 processing the funds, and in accordance with any rules adopted
7 by the department pursuant to chapter 91. A platform charity
8 shall be vicariously liable for a charitable fundraising
9 platform's misuse of funds, and vice versa.

10 (j) If a charitable fundraising platform or platform
11 charity enters into any contract with a vendor to solicit,
12 receive, control, process, distribute, and otherwise account for
13 donations on the charitable fundraising platform, the contract
14 shall be available for inspection by the department.

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

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



1 1. By adding five new definitions to be appropriately
2 inserted and to read:

3 "Charitable fundraising platform" means any person that
4 uses the Internet to provide an internet website, service, or
5 other platform to persons in the State, and performs, permits,
6 or otherwise enables acts of solicitation to occur, which
7 includes the following and any similar activity:

8 (1) Listing or referencing by name one or more recipient
9 charitable organizations to receive donations or
10 grants of recommended donations made by the platform
11 based on purchases made or other activity performed by
12 persons who use the platform; and

13 (2) Providing to charitable organizations a customizable
14 internet-based website, software as a service, or
15 other platform that allows charitable organizations to
16 solicit or receive donations on or through the
17 platform, including through peer-to-peer charitable
18 fundraising; provided that the customizable platform
19 provided by the charitable fundraising platform does
20 not include the charitable organization's own



1 platform, but may integrate with the charitable
2 organization's platform.

3 "Charitable fundraising platform" does not include:

4 (1) A charitable organization's own platform that solicits
5 donations only for itself;

6 (2) A vendor that solely provides technical or supportive
7 services to a charitable fundraising platform so that
8 the charitable fundraising platform can function and
9 operate, including vendors used for hosting or domain
10 services, security certificates, internet access,
11 internet application development, or digital payment
12 processing. If that vendor also performs, permits, or
13 otherwise enables acts of solicitation described by
14 paragraph (1) on its own platform to persons in the
15 State, it is a charitable fundraising platform for its
16 own platform;

17 (3) A sponsoring organization of donor advised funds that
18 solicits donors to open donor advised fund accounts or
19 similar accounts, receives recommendations from donors
20 on charitable organizations that may receive grants of
21 funds previously contributed to the sponsoring



- 1 organization for a donor's donor advised fund account,
2 and the sponsoring organization does not list or
3 reference by name one or more recipient charitable
4 organizations for solicitation purposes on its
5 platform for persons who do not have advisory
6 privileges with respect to the granting of funds in a
7 donor advised fund of the sponsoring organization; or
8 (4) A person or entity that meets the definitions of both
9 a professional solicitor and a charitable fundraising
10 platform is only a professional solicitor when the
11 person or entity for compensation performs any of the
12 following acts of solicitation:
- 13 (A) Direct mail solicitation, excluding electronic
14 mail or messages;
- 15 (B) Estate gift or estate planning solicitation;
- 16 (C) In-person solicitation through a fundraising
17 event, door-to-door or other public spaces, or a
18 vending machine or similar equipment that does
19 not use a person to perform the solicitation;
- 20 (D) Noncash solicitation;



1 (E) Nonincidental acts of solicitation that are not
2 internet based, including solicitation through
3 print, radio, or television;

4 (F) Solicitation involving receiving something of
5 value, or a chance to win something of value, in
6 connection with a donation; or

7 (G) Telephone solicitation.

8 "Donor advised fund" shall have the same meaning as in
9 section 4966(d) (2) of the Internal Revenue Code of 1986, as
10 amended.

11 "Peer-to-peer charitable fundraising" means a solicitation
12 campaign created by a person to support a recipient charitable
13 organization, through or with other assistance provided by a
14 charitable fundraising platform or platform charity.

15 "Platform charity" means a charitable organization that
16 facilitates acts of solicitation on a charitable fundraising
17 platform, which includes either of the following and any similar
18 activity:

19 (1) Solicits donations through a charitable fundraising
20 platform for itself from donors who use the charitable
21 fundraising platform with the implied or express



1 representation that the platform charity may grant
2 donations to recipient charitable organizations; or
3 (2) Grants funds to recipient charitable organizations
4 based on purchases made or other activity performed by
5 persons who use a charitable fundraising platform.

6 "Platform charity" does not include a sponsoring organization of
7 donor advised funds that solicits donors to open donor advised
8 fund accounts or similar accounts, receives recommendations from
9 donors on charitable organizations that may receive grants of
10 funds previously contributed to the sponsoring organization for
11 a donor's donor advised fund account, and the sponsoring
12 organization does not list or reference by name one or more
13 recipient charitable organizations for solicitation purposes on
14 its platform for persons who do not have advisory privileges
15 with respect to the granting of funds in a donor advised fund of
16 the sponsoring organization.

17 "Recipient charitable organization" means a charitable
18 organization that is listed or referenced by name on a
19 charitable fundraising platform or by a platform charity for
20 solicitation purposes."



1 2. By amending the definition of "charitable sales
2 promotion" to read:

3 ""Charitable sales promotion" means an advertising or sales
4 campaign, conducted by a commercial co-venturer, charitable
5 fundraising platform, or platform charity, that represents that
6 the purchase or use of goods or services offered by the
7 commercial co-venturer, charitable fundraising platform, or
8 platform charity will benefit, in whole or in part, a charitable
9 organization or charitable purpose."

10 3. By amending the definition of "gross revenue" to read:

11 ""Gross revenue" means income of any kind from all sources,
12 including all amounts received as the result of any solicitation
13 by a professional solicitor[-], charitable fundraising platform,
14 or platform charity."

15 4. By amending the definition of "owner" to read:

16 ""Owner" means any person who has a direct or indirect
17 interest in any professional fundraising counsel [~~or~~],
18 professional solicitor[-], charitable fundraising platform, or
19 platform charity."

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



1 "§467B-1.5 Professional solicitors[?], charitable
2 fundraising platforms, platform charities; required disclosures.

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

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

12 (2) Identify the name of the professional solicitor,
13 charitable fundraising platform, or platform charity
14 registered with the department [~~of the attorney~~
15 ~~general~~] that has contracted with the charitable
16 organization to provide the solicitation services and,
17 if the individual is employed by a subcontractor, the
18 name of the registered subcontractor;

19 (3) Disclose that the person making the oral or written
20 request for a donation is being paid to make such
21 solicitation and the name of the charitable



1 organization on whose behalf the person making the
2 request is soliciting; and
3 (4) Disclose, orally and in writing, the fact that a copy
4 of the professional solicitor's, charitable
5 fundraising platform's, or platform charity's
6 registration data and financial reports are available
7 from the department [~~of the attorney general~~].

8 (b) A professional solicitor, charitable fundraising
9 platform, or platform charity who makes an oral solicitation by
10 telephone, door-to-door, or otherwise, prior to collecting or
11 attempting to collect any contribution, shall provide a written
12 confirmation of the expected contribution and clearly disclose
13 that the contribution is not tax-deductible, if applicable, or,
14 if the professional solicitor, charitable fundraising platform,
15 or platform charity maintains that the contribution is tax-
16 deductible in whole or in part, the portion of the contribution
17 that the professional solicitor, charitable fundraising
18 platform, or platform charity maintains is tax-deductible. The
19 written confirmation shall also conspicuously disclose the name
20 and current address of the registered professional solicitor[~~or~~],
21 charitable fundraising platform, or platform charity."



1 SECTION 4. Section 467B-2.5, Hawaii Revised Statutes, is
2 amended to read as follows:

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

17 (b) The attorney general may require the financial
18 report required by subsection (a) to be submitted
19 electronically and may require the use of electronic
20 signatures. This report shall be signed by the professional
21 solicitor, charitable fundraising platform, platform charity, or



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



1 (c) A professional solicitor, charitable fundraising
2 platform, or platform charity shall maintain during each
3 solicitation campaign and for not less than three years
4 after the completion of that campaign the following records,
5 which shall be available for inspection upon demand by the
6 attorney general:

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

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

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

14 (4) The location and account number of each bank or
15 other financial institution account in which the
16 professional solicitor, charitable fundraising
17 platform, or platform charity has deposited
18 revenue from the solicitation campaign.

19 (d) Any material change in any information filed with the
20 attorney general pursuant to this section shall be reported in
21 writing by the professional solicitor, charitable fundraising



1 platform, or platform charity to the attorney general not more
2 than seven days after the change occurs.

3 (e) Each contribution in the control or custody of the
4 professional solicitor, charitable fundraising platform, or
5 platform charity in its entirety and within five days of its
6 receipt, shall be deposited in an account at a bank or other
7 federally insured financial institution, which shall be in the
8 name of the charitable organization. The charitable
9 organization shall maintain and administer the account and shall
10 have sole control of all withdrawals."

11 SECTION 5. Section 467B-5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§467B-5 Records to be kept.** (a) Every charitable
14 organization, professional fundraising counsel, professional
15 solicitor, [~~and~~] commercial co-venturer, charitable fundraising
16 platform, and platform charity subject to this chapter shall
17 keep true and accurate records as to its activities in a form
18 that will accurately provide support for the information
19 required by this chapter. Upon demand, the records shall be
20 made available to the attorney general for inspection. Except



1 as provided in subsection (b), records shall be retained for a
2 period of not less than three years.

3 (b) If a professional solicitor, charitable fundraising
4 platform, or platform charity sells tickets to an event and
5 represents that tickets will be donated for use by another, the
6 professional solicitor, charitable fundraising platform, or
7 platform charity for not less than three years after the
8 completion of such event, shall maintain the following records,
9 which shall be available for inspection upon demand by the
10 attorney general:

11 (1) The number of tickets purchased and donated by each
12 contributor; and

13 (2) The name and address of all organizations receiving
14 donated tickets for use by others, including the
15 number of tickets received by each organization."

16 SECTION 6. Section 467B-5.5, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "~~§467B-5.5 Commercial [co-venturer's]~~ co-venturers,
19 charitable fundraising platforms, and platform charities
20 charitable sales promotions. (a) All charitable sales
21 promotions by a commercial co-venturer, charitable fundraising



1 platform, or platform charity shall disclose the name of the
2 commercial co-venturer[-], charitable fundraising platform, or
3 platform charity.

4 (b) Prior to the commencement of any charitable sales
5 promotion in this State conducted by a commercial co-venturer,
6 charitable fundraising platform, or platform charity using the
7 name of a charitable organization, the commercial co-venturer,
8 charitable fundraising platform, or platform charity shall
9 obtain the written consent of the charitable organization whose
10 name will be used during the charitable sales promotion. The
11 commercial co-venturer, charitable fundraising platform, or
12 platform charity shall file a copy of the written consent with
13 the department not less than ten days prior to the commencement
14 of the charitable sales promotion within this State. An
15 authorized representative of the charitable organization and the
16 commercial co-venturer, charitable fundraising platform, or
17 platform charity shall sign the written consent, and the terms
18 of the written consent shall include the following:

- 19 (1) The goods or services to be offered to the public;
20 (2) The geographic area where, and the starting and final
21 date when, the offering is to be made;



- 1 (3) The manner in which the name of the charitable
2 organization is to be used, including any
3 representation to be made to the public as to the
4 amount or per cent per unit of goods or services
5 purchased or used that is to benefit the charitable
6 organization;
- 7 (4) A provision for an accounting on a per unit basis,
8 which shall be prepared by the commercial co-venturer,
9 charitable fundraising platform, or platform charity
10 and given to the charitable organization, and the date
11 when it is to be made, which date shall be no more
12 than ninety days after the end of the charitable sales
13 promotion and, for promotions lasting more than one
14 year, shall be within ninety days after each
15 anniversary of the commencement of the charitable
16 sales promotion and within ninety days after the end
17 of the charitable sales promotion; and
- 18 (5) The date when and the manner in which the benefit is
19 to be conferred on the charitable organization, which
20 date shall be within ninety days after the end of the
21 charitable sales promotion and, for charitable sales



1 promotions lasting more than one year, shall be within
2 ninety days after each anniversary of the commencement
3 of the promotion and within ninety days after the end
4 of the charitable sales promotion.

5 (c) A copy of an accounting shall be provided to the
6 attorney general not more than twenty days after the copy is
7 requested by the attorney general. An accounting shall be kept
8 by the commercial co-venturer, charitable fundraising platform,
9 or platform charity for a period of three years, unless the
10 commercial co-venturer, charitable fundraising platform, or
11 platform charity and the charitable organization mutually agree
12 that the accounting should be kept by the charitable
13 organization instead of the commercial co-venturer[-],
14 charitable fundraising platform, or platform charity.

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



1 (e) The written consent required under subsection (b)
2 shall be signed by the authorized representative of the
3 commercial co-venturer, charitable fundraising platform, or
4 platform charity and the charitable organization certifying that
5 the statements made therein are true and correct to the best of
6 their knowledge subject to penalties imposed by section 710-
7 1063. The attorney general may require the written consent to
8 be submitted electronically and may require the use of
9 electronic signatures.

10 (f) The attorney general may issue a cease and desist
11 order whenever the attorney general finds that a commercial co-
12 venturer, charitable fundraising platform, or platform charity
13 has engaged in an act or practice that violates this chapter.

14 (g) When the attorney general finds that a commercial co-
15 venturer, charitable fundraising platform, or platform charity
16 has violated or is operating in violation of this chapter, the
17 attorney general may impose an administrative fine not to exceed
18 \$1,000 for each act that constitutes a violation of this chapter
19 and an additional penalty, not to exceed \$100 per day, for each
20 day during which the violation continues. Any person aggrieved
21 by an action of the attorney general under this section may



1 request a hearing to review that action in accordance with
2 chapter 91 and rules adopted by the attorney general. Any
3 request for hearing shall be made within ten days after the
4 attorney general has served the person with notice of the
5 action, which notice shall be deemed effective upon mailing."

6 SECTION 7. Section 467B-8, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§467B-8 Information filed to become public records.**

9 Statements, reports, professional fundraising counsel contracts
10 [~~or~~], professional solicitor contracts, commercial co-venturer
11 consents, charitable fundraising platform contracts and
12 consents, and platform charity contracts and consents, and all
13 other documents and information required to be filed under this
14 chapter or by the attorney general shall become government
15 records in the department and be open to the general public for
16 inspection pursuant to chapter 92F; provided that information in
17 any registration statement concerning the residential addresses
18 of any officer or director or that identifies a charitable
19 organization's financial or banking accounts and audited
20 financial statements submitted by registered charitable
21 organizations shall be confidential under chapter 92F."



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

3 "~~§467B-9~~ **Prohibited acts.** (a) No person, for the purpose
4 of soliciting contributions from persons in the State, shall use
5 the name of any other person except that of an officer,
6 director, or trustee of the charitable organization by or for
7 which contributions are solicited, without the written consent
8 of the other persons.

9 A person shall be deemed to have used the name of another
10 person for the purpose of soliciting contributions if the latter
11 person's name is listed on any stationery, advertisement,
12 brochure, or correspondence in or by which a contribution is
13 solicited by or on behalf of a charitable organization or the
14 latter person's name is listed or referred to in connection with
15 a request for a contribution as one who has contributed to,
16 sponsored, or endorsed the charitable organization or its
17 activities.

18 (b) No charitable organization, professional solicitor,
19 professional fundraising counsel, ~~[or]~~ commercial co-venturer,
20 charitable fundraising platform, or platform charity soliciting
21 contributions shall use a name, symbol, or statement so closely



1 related or similar to that used by another charitable
2 organization or governmental agency that the use thereof would
3 tend to confuse or mislead the public.

4 (c) No person, in connection with any solicitation or
5 sale, shall misrepresent or mislead anyone by any manner, means,
6 practice, or device whatsoever, to believe that the solicitation
7 or sale is being conducted on behalf of a charitable
8 organization or that the proceeds of the solicitation or sale
9 will be used for charitable purposes, if that is not the fact.

10 (d) No professional solicitor, charitable fundraising
11 platform, or platform charity, and no agent, employee,
12 independent contractor, or other person acting on behalf of the
13 professional solicitor, charitable fundraising platform, or
14 platform charity, shall solicit in the name of or on behalf of
15 any charitable organization unless:

16 (1) The professional solicitor, charitable fundraising
17 platform, or platform charity has obtained the written
18 authorization of two officers of the organization,
19 which authorization shall bear the signature of the
20 professional solicitor, charitable fundraising
21 platform, or platform charity and the officers of the



1 charitable organization and shall expressly state on
2 its face the period for which it is valid, which shall
3 not exceed one year from the date of issuance, and has
4 filed a copy of the written authorization with the
5 attorney general prior to the solicitation; and

6 (2) The professional solicitor, charitable fundraising
7 platform, or platform charity, and any person who, for
8 compensation, acts as an agent, employee, independent
9 contractor, or otherwise on behalf of the professional
10 solicitor, charitable fundraising platform, or
11 platform charity, carries a copy of the authorization
12 while conducting solicitations, and exhibits it on
13 request to persons solicited or police officers or
14 agents of the department.

15 (e) No charitable organization, professional fundraising
16 counsel, professional solicitor, [~~or~~] commercial co-venturer,
17 charitable fundraising platform, or platform charity subject to
18 this chapter shall use or exploit the fact of filing any
19 statement, report, professional fundraising counsel contracts,
20 written consents, [~~or~~] professional solicitor contracts,
21 charitable fundraising platform contracts, or platform charity



1 contracts and written consents, or other documents or
2 information required to be filed under this chapter or with the
3 department so as to lead the public to believe that the filing
4 in any manner constitutes an endorsement or approval by the
5 State of the purposes or goals for the solicitation by the
6 charitable organization, professional fundraising counsel,
7 professional solicitor, [~~or~~] commercial co-venturer[~~+~~],
8 charitable fundraising platform, or platform charity; provided
9 that the use of the following statement shall not be deemed a
10 prohibited exploitation: "Information regarding this
11 organization has been filed with the State of Hawaii department
12 of the attorney general. Filing does not imply endorsement or
13 approval of the organization or the public solicitation for
14 contributions."

15 (f) No person, while soliciting, shall impede or obstruct,
16 with the intent to physically inconvenience the general public
17 or any member thereof in any public place or in any place open
18 to the public.

19 (g) No person shall submit for filing on behalf of any
20 charitable organization, professional fundraising counsel,
21 professional solicitor, [~~or~~] commercial co-venturer, charitable



1 fundraising platform, or platform charity, any statement,
2 financial statement, report, attachment, or other information to
3 be filed with the department that contains information,
4 statements, or omissions that are false or misleading.

5 (h) No person shall solicit contributions from persons in
6 the State or otherwise operate in the State as a charitable
7 organization, an exempt charitable organization, professional
8 fundraising counsel, professional solicitor, [~~or~~] commercial co-
9 venturer, charitable fundraising platform, or platform charity,
10 unless the person has filed the information required by this
11 chapter with the department in a timely manner.

12 (i) No person shall aid, abet, or otherwise permit any
13 persons to solicit contributions from persons in the State
14 unless the person soliciting contributions has complied with the
15 requirements of this chapter.

16 (j) No person shall fail to file the information and
17 registration statement, annual or financial reports, and other
18 statements required by this chapter or fail to provide any
19 information demanded by the attorney general pursuant to this
20 chapter in a timely manner.



1 (k) No person shall employ in any solicitation or
2 collection of contributions for a charitable organization, any
3 device, scheme, or artifice to defraud or obtain money or
4 property by means of any false, deceptive, or misleading
5 pretense, representation, or promise.

6 (l) No person, in the course of any solicitation, shall
7 represent that funds collected will be used for a particular
8 charitable purpose, or particular charitable purposes, if the
9 funds solicited are not used for the represented purposes.

10 (m) No person shall receive compensation from a charitable
11 organization for obtaining moneys or bequests for that
12 charitable organization if that person has also received
13 compensation for advising the donor to make the donation;
14 provided that compensation may be received if the person obtains
15 the written consent of the donor to receive compensation from
16 the charitable organization.

17 (n) No person shall act as a professional solicitor,
18 charitable fundraising platform, or platform charity if the
19 person, any officer, any person with a controlling interest
20 therein, or any person the professional solicitor, charitable
21 fundraising platform, or platform charity employs, engages, or



1 procures to solicit for compensation, has been convicted by any
2 federal or state court of any felony, or of any misdemeanor
3 involving dishonesty or arising from the conduct of a
4 solicitation for a charitable organization or purpose.

5 (o) No charitable organization shall use the services of
6 an unregistered professional solicitor [~~or~~], professional
7 fundraising counsel[~~or~~], charitable fundraising platform, or
8 platform charity."

9 SECTION 9. Section 467B-9.5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**S467B-9.5 Financial statements.** Whenever the attorney
12 general has reasonable grounds to believe that any charitable
13 organization, professional fundraising counsel, professional
14 solicitor, [~~or~~] commercial co-venturer, charitable fundraising
15 platform, or platform charity has engaged in any act or practice
16 constituting a violation of this chapter or any rule or order
17 adopted or issued, the attorney general may require the
18 charitable organization, professional fundraising counsel,
19 professional solicitor, [~~or~~] commercial co-venturer, charitable
20 fundraising platform, or platform charity to submit to the
21 department an audited financial statement prepared in accordance



1 with generally accepted accounting principles by an independent
2 certified public accountant, or as otherwise required by the
3 attorney general."

4 SECTION 10. Section 467B-9.6, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§467B-9.6 Enforcement.** (a) If any charitable
7 organization, professional fundraising counsel, professional
8 solicitor, [~~or~~] commercial co-venturer, charitable fundraising
9 platform, or platform charity fails to file any statement,
10 report, written consent, or other information required to be
11 filed under this chapter, the attorney general may demand that
12 the charitable organization, the professional fundraising
13 counsel, professional solicitor, [~~or~~] commercial co-venturer,
14 charitable fundraising platform, or platform charity provide the
15 statement, report, written consent, or other information not
16 more than twenty days after demanded by the attorney general.
17 This demand may be mailed to the address on file with the
18 department.

19 (b) Whenever the attorney general has reason to believe
20 that any charitable organization, professional fundraising
21 counsel, professional solicitor, commercial co-venturer,



1 charitable fundraising platform, or platform charity, or other
2 person is operating in violation of this chapter, the attorney
3 general may investigate and bring an action in any court of this
4 State to enjoin the charitable organization, professional
5 fundraising counsel, professional solicitor, commercial co-
6 venturer, charitable fundraising platform, or platform charity,
7 or other person from continuing the violation or doing any acts
8 in furtherance thereof, and for any other relief that the court
9 deems appropriate."

10 SECTION 11. Section 467B-9.7, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) The attorney general may refuse to register, revoke,
13 or suspend the registration of any charitable organization,
14 professional fundraising counsel, [~~or~~] professional solicitor,
15 charitable fundraising platform, or platform charity, or issue a
16 cease and desist order whenever the attorney general finds that
17 a charitable organization, professional fundraising counsel,
18 [~~or~~] professional solicitor, charitable fundraising platform, or
19 platform charity, or its agent, servant, or employee:



- 1 (1) Has violated or is operating in violation of this
- 2 chapter, the rules of the attorney general, or an
- 3 order issued by the attorney general;
- 4 (2) Has refused or failed, after notice, to produce any
- 5 records of the organization or to disclose any
- 6 information required to be disclosed under this
- 7 chapter or the rules of the attorney general;
- 8 (3) Has made a material false statement in an application,
- 9 statement, or report required to be filed under this
- 10 chapter; or
- 11 (4) Has failed to file the financial report required by
- 12 section 467B-2.5, or filed an incomplete financial
- 13 report."

14 SECTION 12. Section 467B-12, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§467B-12 Filing requirements for professional fundraising**
 17 **counsel [~~and~~], professional solicitors[~~-~~], charitable**
 18 **fundraising platforms, and platform charities.** (a) Every
 19 professional fundraising counsel [~~or~~], professional solicitor,
 20 charitable fundraising platform, or platform charity, prior to
 21 any solicitation, shall register with the department. The



1 registration statement shall contain the information set forth
2 in subsection (e). The registration statement shall be
3 accompanied by a fee in the amount of \$250, or in the amount and
4 with any additional sums as may be prescribed by the attorney
5 general. Renewal registration statements shall be filed with
6 the department on or before July 1 of each calendar year by each
7 professional fundraising counsel [~~or~~], professional
8 solicitor[-], charitable fundraising platform, or platform
9 charity. The renewal statement shall contain the information
10 set forth in subsection (e). A renewal fee of \$250, or in any
11 amount and with any additional sums as may be prescribed by the
12 attorney general, shall accompany the renewal statement. If a
13 renewal registration required under this section is not filed,
14 unless it is shown that the failure is due to reasonable cause,
15 a fine of \$20 shall be imposed for each day during which the
16 violation continues; provided that the total amount imposed
17 under this subsection shall not exceed \$1,000.

18 (b) Each professional solicitor, charitable fundraising
19 platform, or platform charity, at the time of each filing, shall
20 file with and have approved by the attorney general a bond in
21 which the applicant is the principal obligor in the penal sum of



1 \$25,000 issued with good and sufficient surety or sureties
2 approved by the attorney general and which shall remain in
3 effect for one year. The bond shall inure to the benefit of the
4 State, conditioned that the applicant, its officers, directors,
5 employees, agents, servants, and independent contractors shall
6 not violate this chapter. A partnership or corporation that is
7 a professional solicitor, charitable fundraising platform, or
8 platform charity may file a consolidated bond on behalf of all
9 its members, officers, and employees.

10 (c) The attorney general shall examine each registration
11 statement and supporting document filed by a professional
12 fundraising counsel [~~or~~], professional solicitor, charitable
13 fundraising platform, or platform charity, and shall determine
14 whether the registration requirements are satisfied. If the
15 attorney general determines that the registration requirements
16 are not satisfied, the attorney general shall notify the
17 professional fundraising counsel [~~or~~], professional solicitor,
18 charitable fundraising platform, or platform charity in writing
19 within fifteen business days of its receipt of the registration
20 statement; otherwise the registration statement is deemed to be
21 approved. Within seven business days after receipt of a



1 notification that the registration requirements are not
2 satisfied, the professional fundraising counsel [~~or~~],
3 professional solicitor, charitable fundraising platform, or
4 platform charity may request a hearing.

5 (d) The attorney general may require that registration and
6 renewal registration, surety bonds, and contracts be filed with
7 the department electronically and may require the use of
8 electronic signatures.

9 (e) Each registration and renewal registration shall
10 contain:

11 (1) The names and addresses of all owners, officers, and
12 directors of a professional fundraising counsel [~~or~~] or
13 charitable fundraising platform, and the names and
14 addresses of all owners, officers, and directors of a
15 professional solicitor [~~or~~] or platform charity;

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

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



- 1 (4) The names and addresses of any individuals supervising
- 2 any solicitation activity;
- 3 (5) A statement whether the [registrant] has entered into
- 4 a consent agreement with, or been disciplined by or
- 5 subject to administrative action by, another
- 6 governmental agency;
- 7 (6) A statement whether any officer, director, or any
- 8 person with a controlling interest in the registrant
- 9 has ever been convicted of a felony or a misdemeanor
- 10 involving dishonesty in the solicitation for a
- 11 charitable purpose;
- 12 (7) The date that the registrant began soliciting Hawaii
- 13 residents on behalf of a charitable organization or
- 14 providing professional fundraising counsel services;
- 15 and
- 16 (8) Whether any owners, directors, or officers are related
- 17 to:
- 18 (A) Any other officers, directors, owners, or
- 19 employees of the registrant;



1 (B) Any officer, director, trustee, or employee of a
2 charitable organization under contract with the
3 registrant; and

4 (C) Any vendor or supplier providing goods or
5 services to a charitable organization under
6 contract with the registrant."

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

10 "(a) There shall be a written contract between a
11 charitable organization and a professional fundraising counsel
12 [~~or~~], professional solicitor, charitable fundraising platform,
13 or platform charity, that shall be filed by the professional
14 fundraising counsel [~~or~~], professional solicitor, charitable
15 fundraising platform, or platform charity with the attorney
16 general at least ten business days prior to the performance by
17 the professional fundraising counsel [~~or~~], professional
18 solicitor, charitable fundraising platform, or platform charity
19 of any service. No solicitation or service pursuant to the
20 contract shall begin before the contract is filed with the
21 attorney general. The contract shall be signed by two



1 authorized officials of the charitable organization, one of whom
2 shall be a member of the organization's governing body, and the
3 authorized contracting officer for the professional fundraising
4 counsel [~~or~~], professional solicitor[-], charitable fundraising
5 platform, or platform charity. The contract shall contain all
6 of the following provisions:

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



1 organization, if any. The stated percentage shall
2 exclude any amount that the charitable organization is
3 to pay as fundraising costs;

4 (5) Information concerning the compensation of the
5 professional solicitor and professional fundraising
6 counsel as follows:

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

20 (B) If the compensation of the professional
21 solicitor, charitable fundraising platform, or



1 platform charity is not contingent upon the
2 number of contributions or amount of revenue
3 received from the solicitation campaign, the
4 compensation shall be expressed as a reasonable
5 estimate of the percentage of the gross revenue,
6 and the contract shall clearly disclose the
7 assumptions upon which the estimate is based.
8 The stated assumptions shall be based upon all of
9 the relevant facts known to the professional
10 solicitor regarding the solicitation to be
11 conducted by the professional solicitor; or
12 (C) If the compensation of the professional
13 fundraising counsel, charitable fundraising
14 platform, or platform charity is not contingent
15 on the number of contributions or amount of
16 revenue received from the solicitation campaign,
17 the compensation shall be stated in a dollar
18 amount;
19 (6) The effective and termination dates of the contract
20 or, if the contract does not have a set termination
21 date, a clause allowing either party a reasonable



1 period to terminate the contract or notify the other
2 party if either party chooses not to renew. The
3 contract shall also contain the date services will
4 commence with respect to solicitation in this State of
5 contributions for a charitable organization;

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

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

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

16 (b) No professional fundraising counsel ~~[or]~~, professional
17 solicitor, charitable fundraising platform, or platform charity
18 shall contract with a charitable organization unless the
19 professional fundraising counsel ~~[or]~~, professional solicitor,
20 charitable fundraising platform, or platform charity is
21 registered with the department. A contract with an unregistered



1 professional fundraising counsel [~~or~~], professional solicitor,
2 charitable fundraising platform, or platform charity shall be
3 voidable at the option of the charitable organization.

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

12 PART II

13 SECTION 14. This Act does not affect rights and duties
14 that matured, penalties that were incurred, and proceedings that
15 were begun before its effective date.

16 SECTION 15. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 16. This Act shall take effect on July 1, 3000;
19 provided that part I shall take effect on January 1, 2026.



Report Title:

Donations; Solicitations; Charitable Funding Platforms; Platform Charities; Registration

Description:

Beginning 1/1/2026, authorizes the Department of the Attorney General to regulate charitable fundraising platforms and platform charities. Includes provisions relating to the misuse of funds. Imposes vicarious liability upon a platform charity for a charitable fundraising platform's misuse of funds, and vice versa. Effective 7/1/3000. (HD2)

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

