



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

S.B. NO. 1048, S.D. 1, RELATING TO SOLICITATION OF FUNDS FROM THE PUBLIC.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Wednesday, February 19, 2025 **TIME:** 9:45 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Kristie Cruz Chang,
Deputy Attorney General, at 808-586-1470)

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) opposes this bill in its current form.

This bill proposes to amend Act 205, Session Laws of Hawaii 2024 (Act 205), to amend standards and safeguards in online crowdfunding and change its effective date from January 1, 2026, to June 30, 2026.

The Department believes that this bill is a step backwards. Enacted in response to concerns over potentially fraudulent online fundraising platforms following the August 2023 Lahaina wildfires, Act 205 improved and expanded the Department's enforcement of charitable fundraising activities, including regulation of charitable fundraising on online platforms. The Department is extremely concerned that certain amendments in this bill may unintentionally exempt certain online fundraising platforms and platform charities from the requirements of Act 205, essentially allowing exceptions and loopholes to swallow the purpose of the original bill, which was to ensure that well-meaning people do not unwittingly donate to fraudulent charities.

I. Ambiguous Terminology

The bill requires the Department to indicate whether a charitable organization is prohibited from soliciting or operating in the State due to "ministerial deficiency" (page 3, line 11). This term is not defined in chapter 467B, Hawaii Revised Statutes (HRS),

making its fair and uniform application challenging, and the purpose of this provision is unclear. Under Act 205, charitable organizations deemed not to be in good standing by the Department are prohibited from soliciting donations. The Department maintains an online registry of charitable organizations that have satisfied the requirements in chapter 467B, HRS, and are allowed to solicit contributions in Hawaii. These mandatory requirements include registration, financial reporting, and annual fees. Failure to meet any of these requirements—whether classified as "ministerial deficiency" or not—would result in an organization being listed as not in good standing on the Department's registry, and current law prohibits any fundraising by, or on behalf of, a not-in-good-standing charity. Under this bill, therefore, a "ministerial deficiency" would allow a charity in bad standing to continue to solicit and receive charitable donations.

II. Exemption from Filing Written Contracts

The bill proposes to exempt a copy of the written contract between a platform charity and a charitable organization from being filed with the Attorney General when a platform charity uses a third-party disbursement intermediary to facilitate the transfer funds (page 9, lines 12-17). This exemption would undermine the Department's oversight and enforcement of charitable fundraising activity because the filing requirement for written contracts allows the Department to track charitable fundraising within the State. Without these contracts, the Department would not have knowledge of charitable fundraising activities, increasing the risk of fraud and mismanagement. This is exactly the situation that existed before the Lahaina wildfire and is the situation Act 205 sought to remedy.

III. Recommended Revisions

To address these concerns, the Department recommends the following amendments:

1. **Delete the proposed new provision in section 467B-2.3(d), HRS, on page 3, lines 7-11.** The provision appears to characterize noncompliance with registration, financial reporting, and annual fee requirements under chapter 467B, HRS, as ministerial. However, strict compliance with chapter 467B,

HRS, ensures fairness and consistency in applying the law to all charitable organizations, charitable fundraising platforms, and platform charities.

2. **Delete the proposed new provision in section 467B-12.5(a), HRS, on page 9, lines 12-17.** All charitable organizations, charitable fundraising platforms, and platform charities should be required to file written contracts with the Department before commencing charitable solicitations within the State. This requirement is essential for maintaining the Department's oversight and enforcement over such activities.

IV. Recommended Additions to the Bill

While the Department agrees with the purpose of this bill to clarify existing standards and safeguards in online crowdfunding, it believes the bill does not address the concern of duplicative registration, reporting, and fee requirements for some entities.

To provide clearer statutory authority and improve regulatory efficiency, the Department respectfully requests that your Committee consider replacing this bill with House Bill No. 992, H.D. 1. This alternative legislation would enhance the Department's ability to regulate charitable fundraising platforms and platform charities, allowing greater protection for the donor community, while eliminating duplicative registration, reporting, and fee requirements for the affected entities.

Thank you for the opportunity to provide testimony.



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Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

Thank you for the opportunity to testify on SB1048 to amend provisions of Act 205.

GoFundMe strongly supports SB1048 and shares the goal of **protecting the philanthropic space from misuse while reducing unnecessary burdens.**

GoFundMe has become a [trusted leader in online fundraising](#) and charitable giving, helping to raise and safely distribute more than \$30 billion dollars to individuals and nonprofits worldwide.

In response to the devastating Lahaina wildfires in August 2023, over \$65 million was raised on GoFundMe, including funding directly for individuals to aid in their recovery; and funding for nonprofit organizations. We have best-in-class trust and safety protections in place in the rare occasions when something goes wrong, including our industry-leading [GoFundMe Giving Guarantee](#) that protects donors.

Despite its good intentions, Act 205, as enacted, poses significant risks to charitable fundraising in Hawaii. If left unchanged, it will slow down donations, impose administrative burdens on charities and platforms, and reduce support for Hawaii residents—especially in times of crisis.

These concerns are not hypothetical—we’ve seen challenges in implementing California’s AB 488, which have resulted in widespread confusion and unnecessary barriers for the nonprofit community. **SB1048 provides commonsense fixes to prevent Hawaii from facing the same challenges.**

We continue to have conversations with the Attorney General Office in pursuit of our shared goals. In fact, we are meeting in person today to discuss the issues, and hope, given those shared goals, there is opportunity for even more alignment. We also believe that it is also critical to hear the perspectives of nonprofit organizations that would be most impacted by these changes and potential barriers to fundraising efforts.

The areas of concern addressed in SB1048 include:

- **Registration & Ten-Day Waiting Period requirements:** We support eliminating the 10-day waiting period for platforms and charities, which would slow down fundraising especially in the wake of a crisis, when every moment counts.
- **Bonding Requirement:** We support eliminating the bonding requirement that poses a significant barrier to nonprofits and platforms.
- **Donor Data Retention:** We propose that a donor email and IP address be sufficient information for online transactions. Consumers do not expect to have to give their home address for an online transaction, as required in Act 205, and requiring them to do so may discourage would-be donors from completing their donations.



- **Reporting requirements:** The requirement for charitable fundraising platforms to file a detailed financial report for each solicitation campaign would create an unworkable administrative burden, and hamper the ability to effectively utilize these platforms to fundraise on behalf of charities. In 2024 alone, 253 fundraisers on GoFundMe in Hawaii for charitable organizations would have required individual reports. Additionally, the potential that a donor's donation amount and home address would be reported to the state creates privacy concerns and would likely have a chilling effect on donations.
- **Written consent:** SB1048 proposes that a master agreement between a platform and a charity can take the place of a separate written contract with two signatures; and that a disclosure model could be used when a charity has not provided written consent for a grassroots fundraiser on its behalf.
- **Indemnification:** SB1048 proposes eliminating vicarious liability, which creates disproportionate risk for platforms to be held liable for the actions of charities.
- **Departmental Discretion:** SB1048 proposes giving the Department of the Attorney General authority to waive requirements if it deems the operations of a platform to meet the goals of this bill.
- **Timeline:** This bill proposes a later effective date of July 1, 2026 to allow time for effective implementation and stakeholder engagement.

We believe this bill **provides the necessary fixes to preserve trust in online fundraising while ensuring Hawaii residents continue to receive vital charitable support—especially in times of disaster.**