
A BILL FOR AN ACT

RELATING TO THE PROTECTION OF CHARITABLE ASSETS.

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

1 SECTION 1. The attorney general's role in providing
2 oversight of Hawaii's charitable organizations is recognized
3 under common law and through various sections of the Hawaii
4 Revised Statutes. The purpose of this Act is to enact section 3
5 of the Model Protection of Charitable Assets Act that provides
6 the attorney general with oversight over charitable assets
7 regardless of the form in which they are held.

8 SECTION 2. Chapter 28, Hawaii Revised Statutes, is amended
9 by adding a new section to be appropriately designated and to
10 read as follows:

11 "§28- Protection of charitable assets; attorney
12 general's authority. (a) The attorney general shall represent
13 the public interest in the protection of charitable assets and
14 may:

15 (1) Enforce the application of a charitable asset in
16 accordance with:



1 (A) The law and terms governing the use, management,
2 investment, distribution, and expenditure of the
3 charitable asset; and

4 (B) The charitable purpose of the person holding the
5 asset;

6 (2) Act to prevent or remedy:

7 (A) The misapplication, diversion, or waste of a
8 charitable asset; or

9 (B) A breach of fiduciary or other legal duty in the
10 governance, management, or administration of a
11 charitable asset; and

12 (3) Commence or intervene in an action to:

13 (A) Prevent, remedy, or obtain damages for:

14 (i) The misapplication, diversion, or waste of a
15 charitable asset; or

16 (ii) For a breach of fiduciary or other legal
17 duty in the governance, management, or
18 administration of a charitable asset; or

19 (B) Determine that an asset is a charitable asset.

20 (b) If the attorney general has reason to believe that an
21 investigation is necessary to determine whether action is
22 advisable under this section, the attorney general may conduct



1 an investigation, including exercising administrative subpoena
2 power under sections 28-2.5 and 467B-9.3.

3 (c) This section shall not limit the powers and duties of
4 the attorney general under the laws of this State other than
5 this section.

6 (d) As used in this section, "charitable asset" means
7 property that is given, received, or held for a charitable
8 purpose. The term does not include property acquired or held
9 for a for-profit purpose."

10 SECTION 3. New statutory material is underscored.

11 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Protection of Charitable Assets

Description:

Enacts section 3 of the Model Protection of Charitable Assets Act to provide the Attorney General with oversight over charitable assets regardless of the form in which they are held. Authorizes the Attorney General to enforce the application of the charitable asset and prevent or remedy breaches of fiduciary or other duty or the diversion or waste of a charitable asset.
(HB2245 HD1)

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