
A BILL FOR AN ACT

RELATING TO CHARITABLE ORGANIZATIONS.

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

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

4 "§467B- Collection boxes; required disclosures. (a)

5 The front of every collection box shall conspicuously display
6 the following:

7 (1) The name, address, telephone number, and, if
8 available, the internet address of the owner and
9 operator of the collection box; and

10 (2) A statement, in at least two-inch typeface, that
11 reads:

12 (A) "This collection box is owned and operated by a
13 for-profit organization."; or

14 (B) "This collection box is owned and operated by a
15 nonprofit organization."

16 For purposes of this chapter, a professional solicitor shall be
17 classified as a for-profit organization.



1 (b) If the collection box is owned by a charitable
2 organization, the front of the collection box shall also
3 conspicuously display a statement describing the charitable
4 cause that will benefit from the donations.

5 (c) If the collection box is owned by a for-profit entity,
6 the front of the collection box shall also conspicuously display
7 a statement that reads "This donation is not tax deductible."
8 If the collection box is owned and operated by a for-profit
9 professional solicitor, the professional solicitor may post
10 notice of donations to a charitable cause only on the sides of
11 the box; provided that this notice shall be smaller in size than
12 the for-profit entity's name and address and shall constitute
13 only twenty-five per cent of the notice space of the box.

14 (d) For purposes of this section, a "collection box" means
15 an unattended canister, box, bin, receptacle, or similar device,
16 used for soliciting and collecting donations of salvageable
17 personal property."

18 SECTION 2. Section 28-5.2, Hawaii Revised Statutes, is
19 amended by amending subsection (d) to read as follows:

20 "(d) As used in this section [~~"charitable asset"~~]:



1 "Charitable asset" means property that is given, received,
2 or held for a charitable purpose. The term does not include
3 property acquired or held for a for-profit purpose.

4 "Property" includes all interests in real property or
5 tangible or intangible personal property, including cash,
6 remainder interests, land, and conservation or preservation
7 easements or restrictions. The remainder interest in a
8 charitable remainder trust is property held for a charitable
9 purpose, as is the current interest in a charitable lead trust,
10 property held for ten years in a building fund, and property
11 given to a charitable organization subject to a restriction on
12 its use. Property held in a revocable trust that provides a
13 remainder interest for a charitable purpose is not a charitable
14 asset while the settlor is alive because the settlor can revoke
15 or change the interest."

16 SECTION 3. Section 467B-2.1, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§467B-2.1 Registration of charitable organizations[-];**
19 **deactivation.** (a) Every public benefit corporation domiciled
20 in Hawaii and every charitable organization not exempted by
21 section 467B-11.5 shall register with the department prior to



1 conducting any solicitation of contributions or prior to having
 2 any solicitation of contributions conducted on its behalf by
 3 others. [~~Two~~] An authorized [~~officers~~] officer or agent of the
 4 charitable organization shall sign the registration form and
 5 shall certify that the statements therein are true and correct
 6 to the best of [~~their~~] the officer's or agent's knowledge
 7 subject to penalties imposed by section 710-1063. A central or
 8 parent organization that has received a group exemption letter
 9 from the Internal Revenue Service may submit a consolidated
 10 application for registration for itself and any or all of the
 11 subordinate organizations covered under the group exemption that
 12 are included in the central or parent organization's annual
 13 information return to the Internal Revenue Service.

14 (b) Any charitable organization registered in Hawaii or
 15 any charitable organization exempt from registration pursuant to
 16 section 467B-11.5 that will no longer be conducting any
 17 solicitation of contributions or having any solicitation of
 18 contributions conducted on its behalf by others and that wishes
 19 to be deactivated shall file a request for deactivation in
 20 writing with the attorney general. The attorney general shall
 21 deactivate the organization after being satisfied that all



1 obligations of the organization under this chapter have been
2 met. Deactivation of a charitable organization shall not
3 deprive the attorney general of jurisdiction over the activities
4 of the charitable organization that occurred while the
5 organization was registered or should have been registered.

6 ~~[(b)]~~ (c) The attorney general may make available a
7 registration and a deactivation form to assist in the
8 registration or deactivation by charitable organizations.

9 ~~[(e)]~~ (d) The attorney general may require that
10 registration or deactivation forms be filed with the department
11 electronically and may require the use of electronic
12 signatures."

13 SECTION 4. Section 467B-2.5, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) Within ninety days after a solicitation campaign or
16 event has been completed ~~[and on]~~ or within ninety days of the
17 anniversary of the commencement of a solicitation campaign
18 lasting more than one year, a professional solicitor shall file
19 with the attorney general a financial report for the campaign,
20 including gross revenue from Hawaii donors and national 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 and may require the use of electronic signatures. This report
4 shall be signed [~~under penalty provided by section 710-1063~~] by
5 the professional solicitor or by an authorized [contracting]
6 officer or agent [for] of the professional solicitor [and shall
7 report gross revenue from Hawaii donors and national gross
8 revenue from a solicitation activity or campaign.] who shall
9 certify that the statements therein are true and correct to the
10 best of the solicitor's or officer's or agent's knowledge,
11 subject to penalties imposed by section 710-1063. If a
12 financial report required under this section is not filed in a
13 timely manner, taking into account any extension of time for
14 filing, unless it is shown that the failure is due to reasonable
15 cause, an initial late filing fee of \$100 shall be imposed, and
16 an additional late filing fee of \$20 per day shall be imposed,
17 for each day during which the violation continues; provided that
18 the total fee amount imposed under this subsection shall not
19 exceed \$1,000. The attorney general may waive all or part of
20 the late filing fee imposed by this subsection if there is a
21 reasonable cause for the failure to timely file. The



1 professional solicitor shall provide a copy of the financial
2 report to the charitable organization to which the financial
3 report pertains within ten days of its submission of the report
4 to the attorney general. A professional solicitor shall
5 maintain during each solicitation campaign and for not less than
6 three years after the completion of that campaign the following
7 records, which shall be available for inspection upon demand by
8 the attorney general:

- 9 (1) The date and amount of each contribution received and
10 the name and address of each contributor;
- 11 (2) The name and residence of each employee, agent, or
12 other person involved in the solicitation;
- 13 (3) Records of all revenue received and expenses incurred
14 in the course of the solicitation campaign; and
- 15 (4) The location and account number of each bank or other
16 financial institution account in which the
17 professional solicitor has deposited revenue from the
18 solicitation campaign."

19 SECTION 5. Section 467B-6.5, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "**§467B-6.5 Annual financial reports; fiscal records and**
2 **fees.** (a) Every registered charitable organization shall
3 annually file with the department a report for its most recently
4 completed fiscal year. If the charitable organization files a
5 Form 990 [~~or~~], 990-EZ, or 990-PF with the Internal Revenue
6 Service, the annual report shall be a copy of that Form 990
7 [~~or~~], 990-EZ [~~or~~], or 990-PF. If the registered charitable
8 organization is required to file a Form 990-T with the Internal
9 Revenue Service, the annual report shall include a copy of that
10 Form 990-T. If a charitable organization is not required to
11 file a Form 990 [~~or~~], 990-EZ, or 990-PF with the Internal
12 Revenue Service, the annual report shall contain all information
13 prescribed by the department. The annual report for a
14 charitable organization that files a Form 990 [~~or~~], 990-EZ, or
15 990-PF shall be electronically submitted to the department
16 within ten business days of the date that the organization files
17 the Form with the Internal Revenue Service. The annual report
18 for a charitable organization that files a Form 990-N or that is
19 not required to file a Form 990 [~~or~~], 990-EZ, or 990-PF shall be
20 electronically submitted to the department not later than the
21 fifteenth day of the fifth month following the close of its



1 fiscal year. An authorized officer or agent of the charitable
2 organization shall sign the annual report and shall certify that
3 the statements therein are true and correct to the best of the
4 officer's or agent's knowledge subject to penalties imposed by
5 section 710-1063. A charitable organization that has obtained
6 an extension of time to file a Form 990 [~~or~~], 990-EZ, or 990-PF
7 from the Internal Revenue Service shall provide a copy to the
8 attorney general within twenty days after the copy is requested
9 by the attorney general. [~~The annual report shall be~~
10 ~~accompanied by a filing fee as prescribed by subsection (d).~~]
11 The department shall accept, under conditions prescribed by the
12 attorney general, a copy or duplicate original of financial
13 statements, reports, or returns filed by the charitable
14 organization with the Internal Revenue Service or another state
15 having requirements similar to the provisions of this section;
16 provided that the attorney general may prescribe the form of the
17 annual financial report for charitable organizations that file
18 the Form 990-N with the Internal Revenue Service, or who are not
19 required to file a Form 990 [~~or~~], 990-EZ, or 990-PF with the
20 Internal Revenue Service.



1 (b) A charitable organization with contributions in excess
2 of \$500,000 in the year covered by the annual financial report
3 and a charitable organization required to obtain an audit report
4 by a governmental authority or a third party shall include with
5 its annual financial report, an audit report, prepared in
6 accordance with generally accepted accounting principles, by a
7 certified public accountant.

8 ~~[(c) The department, upon written request and for good~~
9 ~~cause shown, may grant an extension of time, not to exceed three~~
10 ~~months, for the filing of the annual report required by this~~
11 ~~section.~~

12 ~~(d)]~~ (c) Each charitable organization filing a report
13 required by this section shall pay a filing fee to the
14 department based on the total amount of its gross revenues
15 during the time covered by the report at the close of the
16 calendar or fiscal year adopted by the charitable organization
17 as follows:

- 18 (1) \$0, if gross revenue is less than \$25,000;
19 (2) \$25, if gross revenue is at least \$25,000 but less
20 than \$50,000;



- 1 (3) \$50, if gross revenue is at least \$50,000 but less
2 than \$100,000;
- 3 (4) \$100, if gross revenue is at least \$100,000 but less
4 than \$250,000;
- 5 (5) \$150, if gross revenue is at least \$250,000 but less
6 than \$500,000;
- 7 (6) \$200, if gross revenue is at least \$500,000 but less
8 than \$1,000,000;
- 9 (7) \$250, if gross revenue is at least \$1,000,000 but less
10 than \$2,000,000;
- 11 (8) \$350, if gross revenue is at least \$2,000,000 but less
12 than \$5,000,000; or
- 13 (9) \$600, if gross revenue is \$5,000,000 or more.
- 14 [~~(e)~~] (d) If a return, report, or filing fee required
15 under this section is not filed or paid, taking into account any
16 extension of time for filing, unless it is shown that the
17 failure is due to reasonable cause, a late filing fee of \$20
18 shall be imposed for each day during which the violation
19 continues; provided that the total amount imposed under this
20 subsection shall not exceed \$1,000.



1 [~~(f)~~] (e) Every charitable organization subject to section
2 467B-2.1 and this section shall keep true fiscal records that
3 shall be available to the department for inspection upon
4 request. The organization shall retain the records for no less
5 than three years after the end of the fiscal year to which they
6 relate.

7 [~~(g)~~] (f) The attorney general may require the annual
8 financial report and audit report required by subsections (a)
9 and (b) to be electronically submitted and to include electronic
10 signatures."

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

13 "**§467B-11.5 Charitable organizations exempted from**
14 **registration and financial disclosure requirements.** The
15 following charitable organizations shall not be subject to
16 sections 467B-2.1 and 467B-6.5, if the organization submits an
17 application for an exemption to the department and the
18 department approves the organization's application:

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



1 ~~6033(a)(3)(A)(i) and (iii) and 6033(a)(3)(C)(i)]~~
2 section 6033(a)(3)(A)(i) and (iii) and (C)(i) of the
3 Internal Revenue Code, as amended;

4 (2) Parent-teacher associations;

5 (3) Any educational institution that is licensed or
6 accredited by any of the following licensing or
7 accrediting organizations~~[+]~~ or their successor
8 organizations:

9 (A) Hawaii Association of Independent Schools;

10 ~~[-B-]~~ ~~Hawaii Council of Private Schools;~~

11 ~~[-C-]~~ (B) Western Association of Schools and Colleges;

12 ~~[-D-]~~ (C) Middle States Association of Colleges and
13 Schools;

14 ~~[-E-]~~ (D) New England Association of Schools and
15 Colleges;

16 ~~[-F-]~~ ~~North Central Association of Colleges and~~
17 ~~Schools;~~

18 (E) Higher Learning Commission;

19 ~~[-G-]~~ (F) Northwest Commission on Colleges and
20 Universities;



1 the United States Department of Defense, of its
2 activities including itemized accounts of all receipts
3 and expenditures;

4 [~~6~~] (7) Any agency of this State, another state, or the
5 federal government; and

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

15 The attorney general may require the application for exemption
16 to be filed electronically with the department and may require
17 the use of electronic signatures."

18 SECTION 7. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 8. This Act shall take effect on July 1, 2017.



Report Title:

Charitable Organizations; Collection Boxes; Charitable Assets; Reports

Description:

Specifies disclosure requirements for collection boxes. Adds a definition of "property", as the term relates to the protection of charitable assets. Clarifies registration and deactivation procedures for charitable organizations. Clarifies requirements for the financial reports that must be filed by professional solicitors. Permits charitable organizations that file an IRS Form 990-PF to file annual reports on the same schedule as charitable organizations that file IRS Form 990 or 990-EZ. Makes housekeeping 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.

