
A BILL FOR AN ACT

RELATING TO CHARITABLE ORGANIZATIONS.

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

1 SECTION 1. The legislature finds that dark money is
2 defined as funds raised for the purpose of influencing elections
3 by nonprofit organizations that are not required to disclose the
4 identities of their donors. Dark money can come from
5 organizations, like social welfare organizations granted tax
6 exempt status under 501(c)(4) of the Internal Revenue Code that
7 are not required to disclose their donors. By doing so, there
8 is a lack of transparency that fails to inform the public on who
9 is trying to influence an election. Although dark money can
10 come in through different tax exempt organizations, this Act
11 attempts to address one area of dark money through the 501(c)(4)
12 organizations.

13 The legislature further finds that to be tax exempt as a
14 social welfare organization described in section 501(c)(4) of
15 the Internal Revenue Code, an organization must not be organized
16 for profit and must be operated exclusively to promote social
17 welfare. According to the Internal Revenue Service, to be



1 operated exclusively to promote social welfare, an organization
2 must operate primarily to further the common good and general
3 welfare of the people of the community, such as by bringing
4 about civic betterment and social improvements. The promotion
5 of social welfare does not include direct or indirect
6 participation or intervention in political campaigns on behalf
7 of or in opposition to any candidate for public office.

8 However, the Internal Revenue Service states that a social
9 welfare organization may engage in some political activities, so
10 long as that is not the organization's primary activity. This
11 means that an organization can use 49.99 per cent of its funds
12 to engage in political activity and still maintain its tax
13 exempt status, all while hiding its donors' involvement in
14 political campaigning. Furthermore, the Internal Revenue
15 Service is not currently authorized to use any funds to
16 investigate these activities in order to ensure compliance.
17 This allows 501(c)(4) organizations to engage in and spend
18 unregulated amounts of money on political activity without any
19 consequences or oversight, conceivably well above the political
20 activity percentage threshold allowed.



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1 While the State does not have the authority to revoke
2 federal tax exempt status by the Internal Revenue Service, the
3 State should be given oversight into 501(c)(4) organizations
4 that operate in Hawaii to ensure that the majority of each
5 501(c)(4) organization's operations and spending are focused on
6 social welfare and not political activities. The State may then
7 submit its findings to the Internal Revenue Service and the
8 public.

9 The purpose of this Act is to promote transparency by tax
10 exempt social welfare organizations by subjecting 501(c)(4)
11 organizations to the same requirements of other charitable
12 organizations regulated by the department of the attorney
13 general.

14 SECTION 2. Section 467B-1, Hawaii Revised Statutes, is
15 amended by amending the definition of "charitable organization"
16 to read as follows:

17 "Charitable organization" means:

18 (1) Any person determined by the Internal Revenue Service
19 to be a tax exempt organization pursuant to ~~[section]~~
20 sections 501(c)(3) and 501(c)(4) of the Internal
21 Revenue Code of 1986, as amended; or



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1 (2) Any person who is or holds itself out to be
2 established for any benevolent, educational,
3 philanthropic, humane, scientific, patriotic, social
4 welfare or advocacy, public health, environmental
5 conservation, civic, or other eleemosynary purpose, or
6 any person who in any manner employs a charitable
7 appeal as the basis of any solicitation or an appeal
8 that has a tendency to suggest there is a charitable
9 purpose to the solicitation. The term includes each
10 county or other local division of the charitable
11 organization within this State, if the division has
12 the authority and discretion to disburse funds or
13 property otherwise than by transfer to any parent
14 organization. The term does not include any federal,
15 state, or county agency, or political parties and
16 candidates for federal, state, or county office
17 required to file financial information with federal or
18 state election authorities or commissions."



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1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: *Disa Kitagawa*
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Report Title:

Charitable Organizations; Solicitation of Funds from the Public;
Social Welfare Organizations; Tax Exempt Nonprofit Organizations

Description:

Clarifies that social welfare organizations granted tax exempt status under 501(c)(4) of the Internal Revenue Code are subject to the same requirements of other charitable organizations that solicit funds from the public.

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