
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) A 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 solicitations for purported charitable purposes, a
10 charitable fundraising platform shall register with the
11 department on a form provided by the department. Persons or
12 entities that meet the definition of a charitable fundraising
13 platform and platform charity shall register as charitable
14 fundraising platforms before conducting activities regulated by
15 this section. Registrations under this section shall be subject
16 to an annual registration and renewal fee imposed by the
17 department. Fee revenues from this section shall be deposited



1 into the solicitation of funds for charitable purposes special
2 fund.

3 (b) A platform charity shall be subject to the
4 department's supervision. The platform charity shall register
5 with the department as a platform charity before conducting
6 activities regulated by this section.

7 (c) Each charitable fundraising platform and platform
8 charity shall file periodic reports with the department on a
9 form provided by the department. Reports shall be filed
10 pursuant to section 467B-12. Each report shall:

11 (1) Enable the department to ascertain whether charitable
12 funds have been properly solicited, received, held,
13 controlled, or distributed;

14 (2) Provide information on the number of donations made,
15 the amounts raised, the length of time for
16 distributing donations or grants of recommended
17 donations, the fees charged by or through a charitable
18 fundraising platform or platform charity, and
19 information on recipient charitable organizations or
20 other charitable organizations that were sent or were

1 not sent donations or grants of recommended donations;

2 and

3 (3) Not include the disclosure of personally identifiable
4 information of donors or other persons using a
5 charitable fundraising platform.

6 (d) A platform charity shall not facilitate acts of
7 solicitation on a charitable fundraising platform unless the
8 platform charity is in good standing.

9 (e) A charitable fundraising platform or platform charity
10 shall only solicit, permit, or otherwise enable solicitations,
11 or receive, control, or distribute funds from donations for
12 purported charitable purposes for recipient charitable
13 organizations or other charitable organizations in good
14 standing. To determine good standing of recipient charitable
15 organizations or other charitable organizations, a charitable
16 fundraising platform or platform charity may rely on electronic
17 lists periodically published by the Internal Revenue Service,
18 the department of taxation, or the department; provided that if
19 none of the foregoing agencies publishes a list, then the
20 charitable fundraising platform or platform charity shall not be



1 required to comply with this section for the length of time that
2 lists are unavailable.

3 (f) With respect to purported charitable purposes, a
4 charitable fundraising platform or platform charity that
5 performs, permits, or otherwise enables solicitation activities
6 shall, before a person can complete a donation or select or
7 change a recipient charitable organization, provide conspicuous
8 disclosures that prevent a likelihood of deception, confusion,
9 or misunderstanding, including:

10 (1) A statement that donations are made to the charitable
11 fundraising platform, the platform charity, the
12 recipient charitable organization, or the person
13 engaging in peer-to-peer charitable fundraising,
14 whichever is applicable;

15 (2) A statement that a recipient charitable organization
16 may not receive donations or grants or recommended
17 donations, with an explanation identifying the most
18 pertinent reasons under which a recipient charitable
19 organization may not receive the funds; provided that
20 the explanation as to the maximum length of time may
21 be provided through a conspicuous hyperlink, so long



1 as the disclosure is conspicuous when the hyperlink is
2 selected; provided further that this paragraph shall
3 not apply when there are no circumstances under which
4 a recipient charitable organization may not receive
5 the funds;

6 (3) The maximum length of time it takes to send the
7 donation or a grant of the recommended donation to a
8 recipient charitable organization with an explanation
9 as to the length of time, unless the donation is sent
10 contemporaneously to a recipient charitable
11 organization after the donation is made; provided that
12 the explanation as to the maximum length of time may
13 be provided through a conspicuous hyperlink, so long
14 as the disclosure is conspicuous when the hyperlink is
15 selected;

16 (4) The fees or other amounts, if any, deducted from or
17 added to the donation or a grant of the recommended
18 donation that are charged or retained by the
19 charitable fundraising platform, platform charity, or
20 any other partnering vendor, other than digital



1 payment processing fees when no fees or amounts are
2 deducted or added; and

3 (5) A statement as to the tax deductibility of the
4 donation; provided that this paragraph shall not apply
5 to tier 3 activities.

6 (g) A charitable fundraising platform or platform charity
7 that solicits, permits, or otherwise enables solicitations shall
8 obtain the written consent of a recipient charitable
9 organization before using its name in a solicitation for a
10 purported charitable purpose. Written consent shall be provided
11 directly to the charitable fundraising platform or platform
12 charity, or may be provided to a charitable fundraising platform
13 or platform charity and apply to any affiliated charitable
14 fundraising platforms expressly identified in an agreement
15 providing consent, by one authorized officer, director, trustee,
16 or other duly authorized representative of the recipient
17 charitable organization.

18 (h) After donors contribute donations and with respect to
19 purported charitable purposes, the charitable fundraising
20 platform or platform charity shall promptly provide a tax
21 donation receipt in a format determined by the department.



1 (i) The charitable fundraising platform or platform
2 charity shall not divert or otherwise misuse the donations for
3 purported charitable purposes that the charitable fundraising
4 platform or platform charity receives through solicitation on
5 the charitable fundraising platform, and shall hold them in a
6 separate account or accounts from other funds belonging to the
7 charitable fundraising platform or platform charity. The
8 charitable fundraising platform or platform charity shall
9 promptly ensure donations and grants of recommended donations
10 are sent to recipient charitable organizations with an
11 accounting of any fees imposed for processing the funds, and in
12 accordance with any rules adopted pursuant to chapter 91. A
13 platform charity shall be vicariously liable for a charitable
14 fundraising platform's misuse of funds, and vice versa.

15 (j) If a charitable fundraising platform or platform
16 charity enters into any contracts with a vendor to solicit,
17 receive, control, process, distribute, and otherwise account for
18 donations on the charitable fundraising platform, the contract
19 shall be available for inspection by the department.

20 (k) As used in this section:



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

- 6 (1) Listing or referencing by name one or more recipient
7 charitable organizations to receive donations or
8 grants of recommended donations made by the platform
9 based on purchases made or other activity performed by
10 persons who use the platform; and
- 11 (2) Providing to charitable organizations a customizable
12 internet-based website, software as a service, or
13 other platform that allows charitable organizations to
14 solicit or receive donations on or through the
15 platform, including through peer-to-peer charitable
16 fundraising; provided that the customizable platform
17 provided by the charitable fundraising platform does
18 not include the charitable organization's own
19 platform, but may integrate with the charitable
20 organization's platform.

21 "Charitable fundraising platform" does not include:



- 1 (1) A charitable organization's own platform that solicits
2 donations only for itself;
- 3 (2) A vendor that solely provides technical or supportive
4 services to a charitable fundraising platform so that
5 the charitable fundraising platform can function and
6 operate, including vendors used for hosting or domain
7 services, security certificates, internet access,
8 internet application development, or digital payment
9 processing. If that vendor also performs, permits, or
10 otherwise enables acts of solicitation described by
11 paragraph (1) on its own platform to persons in the
12 State, it is a charitable fundraising platform for its
13 own platform;
- 14 (3) A sponsoring organization of donor advised funds that
15 solicits donors to open donor advised fund accounts or
16 similar accounts, receives recommendations from donors
17 on charitable organizations that may receive grants of
18 funds previously contributed to the sponsoring
19 organization for a donor's donor advised fund account,
20 and the sponsoring organization does not list or
21 reference by name one or more recipient charitable



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



1 (F) Solicitation involving receiving something of
2 value, or a chance to win something of value, in
3 connection with a donation; or

4 (G) Telephone solicitation.

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

8 "Good standing" means that a platform charity, recipient
9 charitable organization, or other charitable organization's
10 tax-exempt status has not been revoked by the Internal Revenue
11 Service or is not prohibited from soliciting or operating in the
12 state by the department.

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

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



- 1 (1) Solicits donations through a charitable fundraising
2 platform for itself from donors who use the charitable
3 fundraising platform with the implied or express
4 representation that the platform charity may grant
5 donations to recipient charitable organizations; or
6 (2) Grants funds to recipient charitable organizations
7 based on purchases made or other activity performed by
8 persons who use a charitable fundraising platform.

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

20 "Recipient charitable organization" means a charitable
21 organization that is listed or referenced by name on a



1 charitable fundraising platform or by a platform charity for
2 solicitation purposes."

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

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

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

14 2. By amending the definition of "gross revenue" to read:

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

19 3. By amending the definition of "owner" to read:

20 ""Owner" means any person who has a direct or indirect
21 interest in any professional fundraising counsel [~~or~~]



1 professional solicitor[~~-~~], charitable fundraising platform, or
2 platform charity."

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

5 "~~§~~467B-1.5 Professional solicitors[~~-~~], charitable
6 fundraising platforms, platform charities; required disclosures.

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

12 (1) Identify themselves by their true surname and first
13 name, and the name of their employer or the contractor
14 as the case may be, that is compensating the
15 individual making the solicitation;

16 (2) Identify the name of the professional solicitor,
17 charitable fundraising platform, or platform charity
18 registered with the department of the attorney general
19 that has contracted with the charitable organization
20 to provide the solicitation services and, if the



1 individual is employed by a subcontractor, the name of
2 the registered subcontractor;

3 (3) Disclose that the person making the oral or written
4 request for a donation is being paid to make such
5 solicitation and the name of the charitable
6 organization on whose behalf the person making the
7 request is soliciting; and

8 (4) Disclose, orally and in writing, the fact that a copy
9 of the professional solicitor's, charitable
10 fundraising platform's, or platform charity's,
11 registration data and financial reports are available
12 from the department of the attorney general.

13 (b) A professional solicitor, charitable fundraising
14 platform, or platform charity who makes an oral solicitation by
15 telephone, door-to-door, or otherwise, prior to collecting or
16 attempting to collect any contribution, shall provide a written
17 confirmation of the expected contribution and clearly disclose
18 that the contribution is not tax-deductible, if applicable, or,
19 if the professional solicitor, charitable fundraising platform,
20 or platform charity maintains that the contribution is tax-
21 deductible in whole or in part, the portion of the contribution



1 that the professional solicitor, charitable fundraising
2 platform, or platform charity maintains is tax-deductible. The
3 written confirmation shall also conspicuously disclose the name
4 and current address of the registered professional solicitor[-],
5 charitable fundraising platform, or platform charity."

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

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



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



1 provide a copy of the financial report to the charitable
2 organization to which the financial report pertains within
3 ten days of its submission of the report to the attorney
4 general.

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

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



1 (d) Any material change in any information filed with the
2 attorney general pursuant to this section shall be reported in
3 writing by the professional solicitor, charitable fundraising
4 platform, or platform charity to the attorney general not more
5 than seven days after the change occurs.

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

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

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



1 required by this chapter. Upon demand, the records shall be
2 made available to the attorney general for inspection. Except
3 as provided in subsection (b), records shall be retained for a
4 period of not less than three years.

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

13 (1) The number of tickets purchased and donated by each
14 contributor; and

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

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

20 "§467B-5.5 Commercial co-venturer's, charitable
21 fundraising platform, and platform charity charitable sales



1 **promotions.** (a) All charitable sales promotions by a
2 commercial co-venturer, charitable fundraising platform, and
3 platform charity shall disclose the name of the commercial co-
4 venturer[-], charitable fundraising platform, and platform
5 charity.

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

21 (1) The goods or services to be offered to the public;



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



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

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

16 (d) A late filing fee of \$20 shall be imposed on a
17 commercial co-venturer, charitable fundraising platform, or
18 platform charity who fails to file a written consent as required
19 by subsection (b), unless it is shown that the failure is due to
20 reasonable cause, for each day during which the violation



1 continues; provided that the total amount imposed under this
2 subsection shall not exceed \$1,000.

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

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

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



1 day during which the violation continues. Any person aggrieved
2 by an action of the attorney general under this section may
3 request a hearing to review that action in accordance with
4 chapter 91 and rules adopted by the attorney general. Any
5 request for hearing shall be made within ten days after the
6 attorney general has served the person with notice of the
7 action, which notice shall be deemed effective upon mailing."

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

10 **"§467B-8 Information filed to become public records.**
11 Statements, reports, professional fundraising counsel contracts
12 [~~or~~], professional solicitor contracts, charitable fundraising
13 platform contracts and consents, platform charity contracts and
14 consents, and commercial co-venturer consents, and all other
15 documents and information required to be filed under this
16 chapter or by the attorney general shall become government
17 records in the department and be open to the general public for
18 inspection pursuant to chapter 92F; provided that information in
19 any registration statement concerning the residential addresses
20 of any officer or director or that identifies a charitable
21 organization's financial or banking accounts and audited



1 financial statements submitted by registered charitable
2 organizations shall be confidential under chapter 92F."

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

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

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

20 (b) No charitable organization, professional solicitor,
21 professional fundraising counsel, or commercial co-venturer,



1 charitable fundraising platform, or platform charity soliciting
2 contributions shall use a name, symbol, or statement so closely
3 related or similar to that used by another charitable
4 organization or governmental agency that the use thereof would
5 tend to confuse or mislead the public.

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

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

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



1 professional solicitor, charitable fundraising
2 platform, or platform charity and the officers of the
3 charitable organization and shall expressly state on
4 its face the period for which it is valid, which shall
5 not exceed one year from the date of issuance, and has
6 filed a copy of the written authorization with the
7 attorney general prior to the solicitation; and
8 (2) The professional solicitor, charitable fundraising
9 platform, platform charity, and any person who, for
10 compensation, acts as an agent, employee, independent
11 contractor, or otherwise on behalf of the professional
12 solicitor, charitable fundraising platform, or
13 platform charity carries a copy of the authorization
14 while conducting solicitations, and exhibits it on
15 request to persons solicited or police officers or
16 agents of the department.

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



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

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



1 (g) No person shall submit for filing on behalf of any
2 charitable organization, professional fundraising counsel,
3 professional solicitor, [~~or~~] commercial co-venturer, charitable
4 fundraising platform, or platform charity any statement,
5 financial statement, report, attachment, or other information to
6 be filed with the department that contains information,
7 statements, or omissions that are false or misleading.

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

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

19 (j) No person shall fail to file the information and
20 registration statement, annual or financial reports, and other
21 statements required by this chapter or fail to provide any



1 information demanded by the attorney general pursuant to this
2 chapter in a timely manner.

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

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

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

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



1 therein, or any person the professional solicitor, charitable
2 fundraising platform, or platform charity employs, engages, or
3 procures to solicit for compensation, has been convicted by any
4 federal or state court of any felony, or of any misdemeanor
5 involving dishonesty or arising from the conduct of a
6 solicitation for a charitable organization or purpose.

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

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

13 "**§467B-9.5 Financial statements.** Whenever the attorney
14 general has reasonable grounds to believe that any charitable
15 organization, professional fundraising counsel, professional
16 solicitor, [~~or~~] commercial co-venturer, charitable fundraising
17 platform, or platform charity has engaged in any act or practice
18 constituting a violation of this chapter or any rule or order
19 adopted or issued, the attorney general may require the
20 charitable organization, professional fundraising counsel,
21 professional solicitor, [~~or~~] commercial co-venturer, charitable



1 fundraising platform, or platform charity to submit to the
2 department an audited financial statement prepared in accordance
3 with generally accepted accounting principles by an independent
4 certified public accountant, or as otherwise required by the
5 attorney general."

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

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



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

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

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



1 [~~or~~] professional solicitor, charitable fundraising platform, or
2 platform charity, or its agent, servant, or employee:

3 (1) Has violated or is operating in violation of this
4 chapter, the rules of the attorney general, or an
5 order issued by the attorney general;

6 (2) Has refused or failed, after notice, to produce any
7 records of the organization or to disclose any
8 information required to be disclosed under this
9 chapter or the rules of the attorney general;

10 (3) Has made a material false statement in an application,
11 statement, or report required to be filed under this
12 chapter; or

13 (4) Has failed to file the financial report required by
14 section 467B-2.5, or filed an incomplete financial
15 report."

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

18 "§467B-12 Filing requirements for professional fundraising
19 counsel and professional solicitors[~~-~~], charitable fundraising
20 platform, and platform charity. (a) Every professional
21 fundraising counsel [~~or~~], professional solicitor, charitable



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

20 (b) Each professional solicitor, charitable fundraising
21 platform, or platform charity, at the time of each filing, shall



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

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



1 statement; otherwise the registration statement is deemed to be
2 approved. Within seven business days after receipt of a
3 notification that the registration requirements are not
4 satisfied, the professional fundraising counsel [~~or~~],
5 professional solicitor, charitable fundraising platform, or
6 platform charity may request a hearing.

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

11 (e) Each registration and renewal registration shall
12 contain:

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

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



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



- 1 (A) Any other officers, directors, owners, or
2 employees of the registrant;
- 3 (B) Any officer, director, trustee, or employee of a
4 charitable organization under contract with the
5 registrant; and
- 6 (C) Any vendor or supplier providing goods or
7 services to a charitable organization under
8 contract with the registrant."

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

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



1 contract shall begin before the contract is filed with the
2 attorney general. The contract shall be signed by two
3 authorized officials of the charitable organization, one of whom
4 shall be a member of the organization's governing body, and the
5 authorized contracting officer for the professional fundraising
6 counsel [~~or~~], professional solicitor[~~r~~], charitable fundraising
7 platform, or platform charity. The contract shall contain all
8 of the following provisions:

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



1 fundraising event, the percentage of the purchase
2 price that will be remitted to the charitable
3 organization, if any. The stated percentage shall
4 exclude any amount that the charitable organization is
5 to pay as fundraising costs;

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

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



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



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

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

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

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

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



1 registered with the department. A contract with an unregistered
2 professional fundraising counsel [~~or~~], professional solicitor,
3 charitable fundraising platform, or platform charity shall be
4 voidable at the option of the charitable organization.

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

13 PART II

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

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



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



Report Title:

Donations; Solicitations; Platforms; Registration

Description:

Regulates charitable fundraising platforms and activities of 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 1/1/3000. (HD1)

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