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# 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       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-~~ Platform charities. (a) Every platform  
5 charity not exempted by section 467B-11.5 shall register with  
6 the department as a platform charity before conducting  
7 activities regulated by this chapter in accordance with section  
8 467B-2.1. A platform charity shall be subject to the annual  
9 financial report and annual filing fee requirements of section  
10 467B-6.5. 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       amount raised, length of time for distributing  
16       donations or grants of recommended donations, fees  
17       charged by or through a charitable fundraising



1           platform or platform charity, and names of recipient  
2           charitable organizations or other charitable  
3           organizations that were sent or have not yet been sent  
4           donations or grants of recommended donations; and  
5       (3) Protect from disclosure any personally identifiable  
6           information of donors or other users of the charitable  
7           fundraising platform.

8           (b) No platform charity shall facilitate acts of  
9           solicitation on a charitable fundraising platform unless the  
10          platform charity is in good standing.

11          (c) A platform charity shall only solicit, permit, or  
12          otherwise enable solicitations or receive, control, or  
13          distribute funds from donations for purported charitable  
14          purposes for recipient charitable organizations or other  
15          charitable organizations in good standing. To determine good  
16          standing of a recipient charitable organization or other  
17          charitable organization, a platform charity may rely on  
18          information displayed on the department's registry.

19          (d) With respect to purported charitable purposes, a  
20          platform charity that performs, permits, or otherwise enables  
21          solicitation activities shall, before a person can complete a



1 donation or select or change a recipient charitable  
2 organization, provide conspicuous disclosures that reduce the  
3 likelihood of deception, confusion, or misunderstanding,  
4 including:

5     (1) A statement that donations are made to the charitable  
6         fundraising platform, platform charity, recipient  
7         charitable organization, or person engaging in peer-  
8         to-peer charitable fundraising, whichever is  
9         applicable;

10    (2) A statement that a recipient charitable organization  
11         may not receive donations or grants or recommended  
12         donations, with an explanation identifying the most  
13         pertinent reasons that a recipient charitable  
14         organization may not receive the funds; provided that  
15         the explanation of the most pertinent reasons that a  
16         recipient charitable organization may not receive the  
17         funds may be provided through a conspicuous hyperlink,  
18         so long as the disclosure is conspicuous when the  
19         hyperlink is selected; provided further that this  
20         paragraph shall not apply when there are no



1 circumstances under which a recipient charitable  
2 organization may not receive the funds;

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

13 (4) The fees or any other amounts that will be deducted  
14 from or added to the donation or a grant of the  
15 recommended donation and that are charged or retained  
16 by the charitable fundraising platform, platform  
17 charity, or any other partnering vendor, other than  
18 any applicable digital payment processing fees; and

19 (5) A statement as to the tax deductibility of the  
20 donation.



1       (e) Each platform charity that solicits, permits, or  
2       otherwise enables solicitations shall obtain the written consent  
3       of a recipient charitable organization before using the  
4       recipient charitable organization's name in a solicitation for a  
5       purported charitable purpose. Written consent shall be provided  
6       directly to the platform charity or may be provided to a  
7       platform charity by one authorized officer, director, trustee,  
8       or other duly authorized representative of the recipient  
9       charitable organization and may apply to multiple affiliated  
10       charitable fundraising platforms expressly identified in the  
11       agreement providing consent.

12       (f) After a donor contributes donations and with respect  
13       to purported charitable purposes, the platform charity shall  
14       promptly provide a tax donation receipt to the donor in a manner  
15       provided by section 170(f)(8) of the Internal Revenue Code of  
16       1986, as amended.

17       (g) The platform charity shall not divert or otherwise  
18       misuse any donations made for purported charitable purposes that  
19       the platform charity receives through solicitation on the  
20       charitable fundraising platform and shall hold the donations in  
21       a separate account or accounts from other funds belonging to the



1 platform charity. The platform charity shall promptly ensure  
2 that donations and grants of recommended donations are sent to  
3 the recipient charitable organizations with an accounting of any  
4 fees assessed for processing the funds, and in accordance with  
5 any rules adopted by the department pursuant to chapter 91.

6 (h) If a platform charity enters into any contract with a  
7 vendor to solicit, receive, control, process, distribute, and  
8 otherwise account for donations on the charitable fundraising  
9 platform, the contract shall be available for inspection by the  
10 department.

11 (i) As used in this section, "good standing" means that a  
12 platform charity, recipient charitable organization, or other  
13 charitable organization is not prohibited from soliciting or  
14 operating in the State by the department."

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

17 1. By amending the definition of "commercial co-venturer"  
18 to read:

19 "'Commercial co-venturer" means a person who, for profit,  
20 is regularly and primarily engaged in trade or commerce other  
21 than in connection with soliciting for charitable organizations



1 or charitable purposes, and who conducts charitable sales  
2 promotions. A person who meets the definition of both a  
3 commercial co-venturer and a charitable fundraising platform  
4 shall be considered a commercial co-venturer when the acts of  
5 solicitation through an internet website, service, or other  
6 platform to persons in this State are for six or fewer recipient  
7 charitable organizations per calendar year, and the commercial  
8 co-venturer complies with section 467B-5.5."

9 2. By amending the definition of "owner" to read:

10 ""Owner" means any person who has a direct or indirect  
11 interest in any professional fundraising counsel[~~7~~] or  
12 professional solicitor[~~7, charitable fundraising platform, or~~  
13 ~~platform-charity~~]."

14 3. By amending the definition of "platform charity" to  
15 read:

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

20 (1) [~~Solicits~~] Soliciting donations through a charitable  
21 fundraising platform for itself from donors who use



1 the charitable fundraising platform with the implied  
2 or express representation that the platform charity  
3 may grant donations to recipient charitable  
4 organizations; or

5 (2) ~~[Grants]~~ Granting funds to recipient charitable  
6 organizations based on purchases made or other  
7 activity performed by persons who use a charitable  
8 fundraising platform.

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



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

3       "**§467B-1.5 Professional solicitors[~~7~~] and charitable**  
4 **fundraising platforms[~~, platform charities~~]; required**  
5 **disclosures.** (a) Every professional solicitor, charitable  
6 fundraising platform, [~~platform charity,~~] and every employee or  
7 agent thereof, who solicits contributions from a prospective  
8 donor or contributor in this State shall at the outset of any  
9 oral or written request for a contribution:

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

14       (2) Identify the name of the professional solicitor[~~7~~] or  
15 charitable fundraising platform[~~, or platform charity~~]  
16 registered with the department that has contracted  
17 with the charitable organization to provide the  
18 solicitation services and, if the individual is  
19 employed by a subcontractor, the name of the  
20 registered subcontractor;



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

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

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



1 is tax-deductible. The written confirmation shall also  
2 conspicuously disclose the name and current address of the  
3 registered professional solicitor~~[7]~~ or charitable fundraising  
4 platform~~[, or platform charity]~~."

5 SECTION 4. Section 467B-2.3, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "[+]§467B-2.3[+] **Charitable fundraising platforms**~~+~~  
8 **platform charities**]. (a) ~~[Each charitable fundraising platform~~  
9 ~~shall be subject to the department's supervision for activities~~  
10 ~~regulated by this section.]~~ Before soliciting, permitting, or  
11 otherwise enabling any solicitations for purported charitable  
12 purposes, a charitable fundraising platform shall register with  
13 the department on a form provided by the department.  
14 ~~[Registrations under this section shall be subject to an annual~~  
15 ~~report and an annual renewal fee imposed by the department. Fee~~  
16 ~~revenues from this section shall be deposited into the~~  
17 ~~solicitation of funds for charitable purposes special fund.]~~  
18 The registration statement shall contain the information set  
19 forth in subsection (b). The registration under this section  
20 shall be accompanied by a fee in the amount of \$250, or in the  
21 amount and with any additional sums as may be prescribed by the



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

13 ~~[(b) A platform charity shall be subject to the~~  
14 ~~department's supervision. The platform charity shall register~~  
15 ~~with the department as a platform charity before conducting~~  
16 ~~activities regulated by this section.~~

17 ~~(c) Each charitable fundraising platform and platform~~  
18 ~~charity shall file periodic reports with the department on a~~  
19 ~~form provided by the department. Reports shall be filed~~  
20 ~~pursuant to section 467B-12.]~~



1        (b) Each registration and renewal registration report  
2 shall:

3        (1) Enable the department to ascertain whether charitable  
4 funds have been properly solicited, received, held,  
5 controlled, or distributed;

6        (2) Provide information on the number of donations made,  
7 amount raised, length of time for distributing  
8 donations or grants of recommended donations, fees  
9 charged by or through a charitable fundraising  
10 platform or platform charity, and names of recipient  
11 charitable organizations or other charitable  
12 organizations that were sent or have not yet been sent  
13 donations or grants of recommended donations; and  
14        (3) Protect from disclosure any personally identifiable  
15 information of donors or other users of the charitable  
16 fundraising platform.

17        ~~[(d) No platform charity shall facilitate acts of~~  
18 ~~solicitation on a charitable fundraising platform unless the~~  
19 ~~platform charity is in good standing.~~

20        ~~-(e)]~~ (c) A charitable fundraising platform ~~[or platform~~  
21 ~~charity]~~ shall only solicit, permit, or otherwise enable



1 solicitations, or receive, control, or distribute funds from  
2 donations for purported charitable purposes for recipient  
3 charitable organizations or other charitable organizations in  
4 good standing. To determine good standing of a recipient  
5 charitable organization or other charitable organization, a  
6 charitable fundraising platform [~~or platform charity~~] may rely  
7 on [~~electronic lists periodically published by the Internal~~  
8 ~~Revenue Service, department of taxation, or department.~~] the  
9 department's registry.

10       [~~(f)~~] (d) With respect to purported charitable purposes, a  
11 charitable fundraising platform [~~or platform charity~~] that  
12 performs, permits, or otherwise enables solicitation activities  
13 shall, before a person can complete a donation or select or  
14 change a recipient charitable organization, provide conspicuous  
15 disclosures that reduce the likelihood of deception, confusion,  
16 or misunderstanding, including:

17       (1) A statement that donations are made to the charitable  
18 fundraising platform, platform charity, recipient  
19 charitable organization, or person engaging in peer-  
20 to-peer charitable fundraising, whichever is  
21 applicable;



- 1           (2) A statement that a recipient charitable organization  
2           may not receive donations or grants or recommended  
3           donations, with an explanation identifying the most  
4           pertinent reasons [~~under which~~] that a recipient  
5           charitable organization may not receive the funds;  
6           provided that the explanation [~~as to the maximum~~  
7           ~~length of time~~] of the most pertinent reasons that a  
8           recipient charitable organization may not receive the  
9           funds may be provided through a conspicuous hyperlink,  
10          so long as the disclosure is conspicuous when the  
11          hyperlink is selected; provided further that this  
12          paragraph shall not apply when there are no  
13          circumstances under which a recipient charitable  
14          organization may not receive the funds;
- 15          (3) The maximum length of time it will take to send the  
16          donation or a grant of the recommended donation to a  
17          recipient charitable organization with an explanation  
18          of the time needed, unless the donation is sent  
19          contemporaneously to a recipient charitable  
20          organization after the donation is made; provided that  
21          the explanation as to the maximum length of time may



1 be provided through a conspicuous hyperlink, so long  
2 as the disclosure is conspicuous when the hyperlink is  
3 selected;

4 (4) The fees or any other amounts that will be deducted  
5 from or added to the donation or a grant of the  
6 recommended donation and that are charged or retained  
7 by the charitable fundraising platform, platform  
8 charity, or any other partnering vendor, other than  
9 any applicable digital payment processing fees; and

10 (5) A statement as to the tax deductibility of the  
11 donation.

12 [~~(g)~~] (e) Each charitable fundraising platform [~~or~~  
13 ~~platform-charity~~] that solicits, permits, or otherwise enables  
14 solicitations shall obtain the written consent of a recipient  
15 charitable organization before using the recipient charitable  
16 organization's name in a solicitation for a purported charitable  
17 purpose. Written consent shall be provided directly to the  
18 charitable fundraising platform [~~or platform-charity~~], or may be  
19 provided to a charitable fundraising platform [~~or platform~~  
20 ~~charity~~] by one authorized officer, director, trustee, or other  
21 duly authorized representative of the recipient charitable



1 organization and may apply to multiple affiliated charitable  
2 fundraising platforms expressly identified in the agreement  
3 providing consent.

4 ~~[(h)]~~ (f) After a donor contributes donations and with  
5 respect to purported charitable purposes, the charitable  
6 fundraising platform ~~[or platform charity]~~ shall promptly  
7 provide a tax donation receipt to the donor in a ~~[format~~  
8 ~~determined by the department.]~~ manner provided by section  
9 170(f)(8) of the Internal Revenue Code of 1986, as amended.

10 ~~[(i)]~~ (g) The charitable fundraising platform ~~[or platform~~  
11 ~~charity]~~ shall not divert or otherwise misuse any donations made  
12 for purported charitable purposes that the charitable  
13 fundraising platform ~~[or platform charity]~~ receives through  
14 solicitation on the charitable fundraising platform, and shall  
15 hold the donations in a separate account or accounts from other  
16 funds belonging to the charitable fundraising platform ~~[or~~  
17 ~~platform charity]~~. The charitable fundraising platform ~~[or~~  
18 ~~platform charity]~~ shall promptly ensure that donations and  
19 grants of recommended donations are sent to the recipient  
20 charitable organizations with an accounting of any fees assessed  
21 for processing the funds, and in accordance with any rules



1 adopted by the department pursuant to chapter 91. A platform  
2 charity shall be vicariously liable for a charitable fundraising  
3 platform's misuse of funds, and vice versa.

4 ~~[(+j)]~~ (h) If a charitable fundraising platform ~~[or~~  
5 ~~platform-charity]~~ enters into any contract with a vendor to  
6 solicit, receive, control, process, distribute, and otherwise  
7 account for donations on the charitable fundraising platform,  
8 the contract shall be available for inspection by the  
9 department.

10 (i) The attorney general may require that registration and  
11 renewal registration and contracts be filed with the department  
12 electronically and may require the use of electronic signatures.

13 ~~[(+k)]~~ (j) As used in this section, "good standing" means  
14 that a platform charity, recipient charitable organization, or  
15 other charitable ~~[organization's tax-exempt status has not been~~  
16 ~~revoked by the Internal Revenue Service or]~~ organization is not  
17 prohibited from soliciting or operating in the ~~[state]~~ State by  
18 the department."

19 SECTION 5. Section 467B-2.5, Hawaii Revised Statutes, is  
20 amended to read as follows:



1       "§467B-2.5 Professional solicitor~~[7]~~ and charitable  
2 fundraising platform~~[7, and platform charity]~~ financial reports;  
3 contribution account. (a) A professional solicitor~~[7]~~ or  
4 charitable fundraising platform~~[7, or platform charity]~~ shall file  
5 with the attorney general a financial report for any charitable  
6 solicitation campaign, including gross revenue from Hawaii donors  
7 and national gross revenue and an itemization of all expenses  
8 incurred on a form prescribed by the attorney general no more  
9 than ninety days after the end of the solicitation campaign and,  
10 for solicitation campaigns lasting more than one year, within  
11 ninety days after each anniversary of the commencement of the  
12 solicitation campaign and within ninety days after the end of  
13 the solicitation campaign.

14       (b) The attorney general may require the financial report  
15 required by subsection (a) to be submitted electronically  
16 and may require the use of electronic signatures. This report  
17 shall be signed by the professional solicitor, charitable  
18 fundraising platform, ~~[platform charity]~~ or ~~[by]~~ an authorized  
19 officer or agent of the professional solicitor~~[7]~~ or charitable  
20 fundraising platform, ~~[or platform charity]~~ who shall certify  
21 that the statements therein are true and correct to the best of



1 the solicitor's, charitable fundraising platform's, officer's,  
2 or agent's knowledge subject to penalties imposed by section  
3 710-1063. If a financial report required under this section is  
4 not filed in a timely manner, taking into account any extension  
5 of time for filing, unless it is shown that the failure is due  
6 to reasonable cause, an initial late filing fee of \$100 shall be  
7 imposed, and an additional late filing fee of \$20 per day shall  
8 be imposed, for each day during which the violation continues;  
9 provided that the total fee amount imposed under this subsection  
10 shall not exceed \$1,000. The attorney general may waive all or  
11 part of the late filing fee imposed by this subsection if there  
12 is a reasonable cause for the failure to timely file. The  
13 professional solicitor[~~7~~] or charitable fundraising platform[~~7~~  
14 ~~or platform charity~~] shall provide a copy of the financial report  
15 to the charitable organization to which the financial report  
16 pertains within ten days of its submission of the report to the  
17 attorney general.

18 (c) A professional solicitor[~~7~~] or charitable fundraising  
19 platform[~~7~~, ~~or platform charity~~] shall maintain during each  
20 solicitation campaign and for [~~not~~] no less than three years after  
21 the completion of that campaign the following records, which



1 shall be available for inspection upon demand by the attorney  
2 general:

3 (1) The date and amount of each contribution received and the  
4 name and address of each contributor;

5 (2) The name and residence of each employee, agent, or other  
6 person involved in the solicitation;

7 (3) Records of all revenue received and expenses incurred in  
8 the course of the solicitation campaign; and

9 (4) The location and account number of each bank or other  
10 financial institution account in which the professional  
11 solicitor[~~7~~] or charitable fundraising platform[~~7-or~~  
12 ~~platform-charity~~] has deposited revenue from the  
13 solicitation campaign.

14 (d) Any material change in any information filed with the  
15 attorney general pursuant to this section shall be reported in  
16 writing by the professional solicitor[~~7~~] or charitable  
17 fundraising platform[~~7-or platform-charity~~] to the attorney  
18 general [~~not~~] no more than seven days after the change occurs.

19 (e) Each contribution in the control or custody of the  
20 professional solicitor[~~7~~] or charitable fundraising platform[~~7~~  
21 ~~or platform-charity~~] in its entirety and within five days of its



1 receipt, shall be deposited in an account at a bank or other  
2 federally insured financial institution, which shall be in the  
3 name of the charitable organization. The charitable  
4 organization shall maintain and administer the account and shall  
5 have sole control of all withdrawals."

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

8 **"§467B-12 Filing requirements for professional fundraising**  
9 **counsel[~~7~~] and professional solicitors[~~7~~, ~~charitable fundraising~~**  
10 **~~platforms, and platform charities~~].** (a) Every professional  
11 fundraising counsel[~~7~~] or professional solicitor, [~~charitable~~  
12 ~~fundraising platform, or platform charity, prior to~~] before any  
13 solicitation, shall register with the department. The  
14 registration statement shall contain the information set forth  
15 in subsection (e). The registration statement shall be  
16 accompanied by a fee in the amount of \$250, or in the amount and  
17 with any additional sums as may be prescribed by the attorney  
18 general. Renewal registration statements shall be filed with  
19 the department on or before July 1 of each calendar year by each  
20 professional fundraising counsel[~~7~~] or professional solicitor[~~7~~  
21 ~~charitable fundraising platform, or platform charity~~]. The



1 renewal statement shall contain the information set forth in  
2 subsection (e). A renewal fee of \$250, or in any amount and  
3 with any additional sums as may be prescribed by the attorney  
4 general, shall accompany the renewal statement. If a renewal  
5 registration required under this section is not filed, unless it  
6 is shown that the failure is due to reasonable cause, a fine of  
7 \$20 shall be imposed for each day during which the violation  
8 continues; provided that the total amount imposed under this  
9 subsection shall not exceed \$1,000.

10 (b) Each professional solicitor, [~~charitable fundraising~~  
11 ~~platform, or platform charity,~~] at the time of each filing,  
12 shall file with and have approved by the attorney general a bond  
13 in which the applicant is the principal obligor in the penal sum  
14 of \$25,000 issued with good and sufficient surety or sureties  
15 approved by the attorney general, and which shall remain in  
16 effect for one year. The bond shall inure to the benefit of the  
17 State, conditioned that the applicant, its officers, directors,  
18 employees, agents, servants, and independent contractors shall  
19 not violate this chapter. A partnership or corporation that is  
20 a professional solicitor[, ~~charitable fundraising platform, or~~



1 ~~platform-charity~~] may file a consolidated bond on behalf of all  
2 its members, officers, and employees.

3 (c) The attorney general shall examine each registration  
4 statement and supporting document filed by a professional  
5 fundraising counsel[~~7~~] or professional solicitor[~~7~~, ~~charitable~~  
6 ~~fundraising platform, or platform-charity~~] and shall determine  
7 whether the registration requirements are satisfied. If the  
8 attorney general determines that the registration requirements  
9 are not satisfied, the attorney general shall notify the  
10 professional fundraising counsel[~~7~~] or professional solicitor[~~7~~  
11 ~~charitable fundraising platform, or platform-charity~~] in writing  
12 within fifteen business days of its receipt of the registration  
13 statement; otherwise the registration statement [~~is~~] shall be  
14 deemed to be approved. Within seven business days after receipt  
15 of a notification that the registration requirements are not  
16 satisfied, the professional fundraising counsel[~~7~~] or  
17 professional solicitor[~~7~~, ~~charitable fundraising platform, or~~  
18 ~~platform-charity~~] may request a hearing.

19 (d) The attorney general may require that registration and  
20 renewal registration, surety bonds, and contracts be filed with



1 the department electronically and may require the use of  
2 electronic signatures.

3 (e) Each registration and renewal registration shall  
4 contain:

5 (1) The names and addresses of all owners, officers, and  
6 directors of a professional fundraising counsel [~~or~~  
7 ~~charitable fundraising platform~~], and the names and  
8 addresses of all owners, officers, and directors of a  
9 professional solicitor [~~or platform charity~~];

10 (2) A statement concerning the corporate form of the  
11 registrant, whether corporation, limited liability  
12 corporation, partnership, or individual;

13 (3) A statement whether the registrant has an office in  
14 Hawaii and the name and phone number of the person in  
15 charge of the office;

16 (4) The names and addresses of any individuals supervising  
17 any solicitation activity;

18 (5) A statement whether the [~~+~~]registrant[~~+~~] has entered  
19 into a consent agreement with, or been disciplined by  
20 or subject to administrative action by, another  
21 governmental agency;



- 1           (6) A statement whether any officer, director, or any  
2           person with a controlling interest in the registrant  
3           has ever been convicted of a felony or a misdemeanor  
4           involving dishonesty in the solicitation for a  
5           charitable purpose;
- 6           (7) The date that the registrant began soliciting Hawaii  
7           residents on behalf of a charitable organization or  
8           providing professional fundraising counsel services;  
9           and
- 10          (8) Whether any owners, directors, or officers are related  
11          to:
- 12           (A) Any other officers, directors, owners, or  
13           employees of the registrant;
- 14           (B) Any officer, director, trustee, or employee of a  
15           charitable organization under contract with the  
16           registrant; and
- 17           (C) Any vendor or supplier providing goods or  
18           services to a charitable organization under  
19           contract with the registrant."



1       SECTION 7. Section 467B-12.5, Hawaii Revised Statutes, is  
2 amended by amending subsections (a), (b), and (c) to read as  
3 follows:

4       "(a) There shall be a written contract between a  
5 charitable organization and a professional fundraising  
6 counsel[~~7~~] or professional solicitor[~~7, charitable fundraising~~  
7 ~~platform, or platform charity~~] that shall be filed by the  
8 professional fundraising counsel[~~7~~] or professional solicitor[~~7~~  
9 ~~charitable fundraising platform, or platform charity~~] with the  
10 attorney general at least ten business days [~~prior to~~] before  
11 the performance by the professional fundraising counsel[~~7~~] or  
12 professional solicitor[~~7, charitable fundraising platform, or~~  
13 ~~platform charity~~] of any service. No solicitation or service  
14 pursuant to the contract shall begin before the contract is  
15 filed with the attorney general. The contract shall be signed  
16 by two authorized officials of the charitable organization, one  
17 of whom shall be a member of the organization's governing body,  
18 and the authorized contracting officer for the professional  
19 fundraising counsel[~~7~~] or professional solicitor[~~7, charitable~~  
20 ~~fundraising platform, or platform charity~~]. The contract shall  
21 contain all of the following provisions:



- 1           (1) The legal name and address of the charitable  
2           organization;
- 3           (2) A statement of the charitable purpose for which the  
4           solicitation campaign is being conducted;
- 5           (3) A statement of the respective obligations of the  
6           professional fundraising counsel[~~7~~] or professional  
7           solicitor[~~7, charitable fundraising platform, or~~  
8           ~~platform charity~~] and the charitable organization;
- 9           (4) A statement of the guaranteed minimum percentage of  
10          the gross receipts from contributions that will be  
11          remitted to or retained by the charitable  
12          organization, if any, or, if the solicitation involves  
13          the sale of goods, services, or tickets to a  
14          fundraising event, the percentage of the purchase  
15          price that will be remitted to the charitable  
16          organization, if any. The stated percentage shall  
17          exclude any amount that the charitable organization is  
18          to pay as fundraising costs;
- 19          (5) Information concerning the compensation of the  
20          professional solicitor and professional fundraising  
21          counsel as follows:



1 (A) If the compensation of the professional  
2 fundraising counsel[~~7~~] or professional  
3 solicitor[~~, charitable fundraising platform, or~~  
4 ~~platform charity~~] is contingent upon the number  
5 of contributions or the amount of revenue  
6 received, a statement shall be included  
7 specifying the percentage of the gross revenue  
8 that is the basis for that compensation. The  
9 stated percentage shall include any amount that  
10 the professional fundraising counsel[~~7~~] or  
11 professional solicitor[~~, charitable fundraising~~  
12 ~~platform, or platform charity~~] is to be  
13 reimbursed for fundraising costs;

14 (B) If the compensation of the professional  
15 solicitor[~~, charitable fundraising platform, or~~  
16 ~~platform charity~~] is not contingent upon the  
17 number of contributions or amount of revenue  
18 received from the solicitation campaign, the  
19 compensation shall be expressed as a reasonable  
20 estimate of the percentage of the gross revenue,  
21 and the contract shall clearly disclose the



1 assumptions upon which the estimate is based.

2 The stated assumptions shall be based upon all of  
3 the relevant facts known to the professional  
4 solicitor regarding the solicitation to be  
5 conducted by the professional solicitor; or

6 (C) If the compensation of the professional  
7 fundraising counsel[, ~~charitable fundraising~~  
8 ~~platform, or platform charity~~] is not contingent  
9 on the number of contributions or amount of  
10 revenue received from the solicitation campaign,  
11 the compensation shall be stated in a dollar  
12 amount;

13 (6) The effective and termination dates of the contract  
14 or, if the contract does not have a set termination  
15 date, a clause allowing either party a reasonable  
16 period to terminate the contract or notify the other  
17 party if either party chooses not to renew. The  
18 contract shall also contain the date services will  
19 commence with respect to solicitation in this State of  
20 contributions for a charitable organization;



- 1           (7) In the case of a professional fundraising counsel,  
2           ~~[charitable fundraising platform, or platform~~  
3           ~~charity,~~] a statement that the professional  
4           fundraising counsel will not at any time have custody  
5           or control of contributions, as applicable;
- 6           (8) A statement that the charitable organization exercises  
7           control and approval over the content and volume of  
8           any solicitation; and
- 9           (9) Any other information required by the rules of the  
10          attorney general.

11          (b) No professional fundraising counsel~~[,]~~ or professional  
12 solicitor~~[, charitable fundraising platform, or platform~~  
13 ~~charity]~~ shall contract with a charitable organization unless  
14 the professional fundraising counsel~~[,]~~ or professional  
15 solicitor~~[, charitable fundraising platform, or platform~~  
16 ~~charity]~~ is registered with the department. A contract with an  
17 unregistered professional fundraising counsel~~[,]~~ or professional  
18 solicitor~~[, charitable fundraising platform, or platform~~  
19 ~~charity]~~ shall be voidable at the option of the charitable  
20 organization.



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

9 SECTION 8. This Act does not affect rights and duties that  
10 matured, penalties that were incurred, and proceedings that were  
11 begun before its effective date.

12 SECTION 9. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 10. This Act shall take effect on January 1, 3000.



**Report Title:**

Solicitations; Fundraising; Platforms; Registration

**Description:**

Revises registration, fee, reporting, and enforcement requirements for charitable fundraising platforms and platform charities that solicit funds from the public. Removes duplication of registration, fee, and reporting requirements for charitable fundraising platforms and platform charities. Effective 1/1/3000. (HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

