

JAN 17 2025

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. The legislature finds that Act 205, Session
2 Laws of Hawaii 2024 (Act 205), was intended to regulate
3 charitable fundraising platforms to ensure proper and
4 transparent fundraising activities in the State.

5 The legislature further finds that Act 205's well-intended
6 language creates undue burdens on charitable fundraising
7 platforms and, more importantly, potentially hampers and
8 inhibits the ability of charitable organizations to respond and
9 fundraise, especially in times of emergency and need.

10 The legislature additionally finds that it would be prudent
11 to amend Act 205 before its scheduled effective date of
12 January 1, 2026, in a manner that would still achieve the
13 important purposes of public protection, donor security, and
14 transparency, but not overburden charitable fundraising
15 platforms, charitable organizations, and the department of the
16 attorney general, who oversees these activities.



1 Accordingly, the purpose of this Act is to amend the
2 language in Act 205 to clarify existing standards and safeguards
3 in online crowdfunding.

4 SECTION 2. Section 467B-2.3, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "~~[+]§467B-2.3[+]~~ **Charitable fundraising platforms;**

7 **platform charities.** (a) Each charitable fundraising platform
8 shall be subject to the department's supervision for activities
9 regulated by this section. Before soliciting, permitting, or
10 otherwise enabling any solicitations for purported charitable
11 purposes, a charitable fundraising platform shall register with
12 the department on a form or in a manner as provided by the
13 department. Registrations under this section shall be subject
14 to an annual report and an annual renewal fee imposed by the
15 department. Fee revenues from this section shall be deposited
16 into the solicitation of funds for charitable purposes special
17 fund.

18 (b) A platform charity shall be subject to the
19 department's supervision. The platform charity shall register
20 with the department as a platform charity before conducting



activities regulated by this section[?] and shall only solicit donations through a registered charitable fundraising platform.

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

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

(2) Provide information on the number of donations made, amount raised, length of time for distributing donations or grants of recommended donations, fees charged by or through a charitable fundraising platform or platform charity, and names of recipient charitable organizations or other charitable organizations that were sent or have not yet been sent donations or grants of recommended donations; and

(3) Protect from disclosure any personally identifiable information of donors or other users of the charitable fundraising platform.



1 (d) No platform charity shall facilitate acts of
2 solicitation on a charitable fundraising platform unless the
3 platform charity is in good standing. If the department
4 notifies a charitable organization that it is prohibited from
5 soliciting or operating in the State, the department shall
6 indicate whether the basis for the prohibition is due to a
7 ministerial deficiency.

8 (e) A charitable fundraising platform or platform charity
9 shall only solicit, permit, or otherwise enable solicitations,
10 or receive, control, or distribute funds from donations for
11 purported charitable purposes for recipient charitable
12 organizations or other charitable organizations in good
13 standing. To determine good standing of a recipient charitable
14 organization or other charitable organization, a charitable
15 fundraising platform or platform charity may rely on electronic
16 lists periodically published by the Internal Revenue Service,
17 department of taxation, or department[-]; provided that:

18 (1) If a recipient charitable organization is deemed not
19 to be in good standing by the department due to a
20 minor administrative or ministerial deficiency, and
21 not due to its tax exempt status being revoked by the



1 Internal Revenue Service, the charitable fundraising
2 platform or platform charity may continue to solicit,
3 permit, or otherwise enable solicitations, or receive,
4 control, or distribute funds from donations for
5 purported charitable purposes for the recipient
6 charitable organization;

7 (2) Recipient charitable organizations or other charitable
8 organizations deemed not to be in good standing by the
9 department due to a ministerial deficiency, and not
10 due to its tax exempt status being revoked by the
11 Internal Revenue Service, shall take steps to achieve
12 good standing or compliance to establish good standing
13 in a manner as required by the department; and

14 (3) Recipient charities that continue to receive funds
15 from donations for purported charitable purposes after
16 being deemed to not be in good standing by the
17 department, and fail to take steps to achieve good
18 standing within a reasonable period, may be subject to
19 penalties or fines as set forth in this chapter.

20 (f) With respect to purported charitable purposes, a
21 charitable fundraising platform or platform charity that



1 performs, permits, or otherwise enables solicitation activities
2 shall, before a person can complete a donation or select or
3 change a recipient charitable organization, provide conspicuous
4 disclosures that reduce the likelihood of deception, confusion,
5 or misunderstanding, including:

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

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



1 a recipient charitable organization may not receive
2 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.



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

(h) After a donor contributes donations and with respect to purported charitable purposes, the charitable fundraising platform or platform charity shall promptly provide a tax donation receipt to the donor in a format determined by the department.

(i) The charitable fundraising platform or platform charity shall not divert or otherwise misuse any donations made for purported charitable purposes that the charitable



1 fundraising platform or platform charity receives through
2 solicitation on the charitable fundraising platform, and shall
3 hold the donations in a separate account or accounts from other
4 funds belonging to the charitable fundraising platform or
5 platform charity. The charitable fundraising platform or
6 platform charity shall promptly ensure that donations and grants
7 of recommended donations are sent to the recipient charitable
8 organizations with an accounting of any fees assessed for
9 processing the funds, and in accordance with any rules adopted
10 by the department pursuant to chapter 91. A platform charity
11 shall be [vicariously] liable for [~~a charitable fundraising~~
12 ~~platform's~~] its misuse of funds[, ~~and vice versa~~]. A charitable
13 fundraising platform shall maintain and operate a process for
14 complaints about any fundraising activity regulated by this
15 chapter and shall investigate and make findings on complaints,
16 and, at the request of the department, shall report its findings
17 to the department along with its actions for resolution,
18 including any full refunds of contributions.

19 (j) If a charitable fundraising platform or platform
20 charity enters into any contract with a vendor to solicit,
21 receive, control, process, distribute, and otherwise account for



1 donations on the charitable fundraising platform, the contract
2 shall be available for inspection by the department.

3 (k) Nothing in this chapter shall prohibit the department
4 from entering into an agreement with any charitable fundraising
5 platform to be relieved of any requirements under this chapter
6 when the charitable fundraising platform properly demonstrates
7 to the department that its standard operations and procedures
8 achieves the same or similar purposes of transparency,
9 reporting, monitoring, and accountability.

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

15 SECTION 3. Section 467B-2.5, Hawaii Revised Statutes, is
16 amended by amending subsection (c) to read as follows:

17 "(c) A professional solicitor, charitable fundraising
18 platform, or platform charity shall maintain during each
19 solicitation campaign and for not less than three years after
20 the completion of that campaign the following records, which



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

(1) The date and amount of each contribution received and
the name and address of each contributor; provided
that an electronic mail address and internet protocol
address shall be sufficient for any contribution
received over the Internet;

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

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

(4) The location and account number of each bank or other
financial institution account in which the
professional solicitor, charitable fundraising
platform, or platform charity has deposited revenue
from the solicitation campaign."

SECTION 4. Section 467B-9, Hawaii Revised Statutes, is
amended by amending subsection (d) to read as follows:

"(d) No professional solicitor, charitable fundraising
platform, or platform charity, and no agent, employee,
independent contractor, or other person acting on behalf of the



1 professional solicitor, charitable fundraising platform, or
2 platform charity, shall solicit in the name of or on behalf of
3 any charitable organization unless[+] the charitable fundraising
4 platform or platform charity has obtained written consent
5 pursuant to section 468B-2.3(a) or:

6 (1) The professional solicitor[~~, charitable fundraising~~
7 ~~platform, or platform charity~~] has obtained the
8 written authorization of two officers of the
9 organization, which authorization shall bear the
10 signature of the professional solicitor[~~, charitable~~
11 ~~fundraising platform, or platform charity~~] and the
12 officers of the charitable organization and shall
13 expressly state on its face the period for which it is
14 valid, which shall not exceed one year from the date
15 of issuance, and has filed a copy of the written
16 authorization with the attorney general prior to the
17 solicitation; and

18 (2) The professional solicitor[~~, charitable fundraising~~
19 ~~platform, or platform charity~~] and any person who, for
20 compensation, acts as an agent, employee, independent
21 contractor, or otherwise on behalf of the professional



1 solicitor, [~~charitable fundraising platform, or~~
2 ~~platform charity,~~] carries a copy of the authorization
3 while conducting solicitations, and exhibits it on
4 request to persons solicited or police officers or
5 agents of the department."

6 SECTION 5. Section 467B-12, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

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



SECTION 6. Section 467B-12.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There shall be a written contract between a charitable organization and a professional fundraising counsel, professional solicitor, charitable fundraising platform, or platform charity that shall be filed by the professional fundraising counsel, professional solicitor, charitable fundraising platform, or platform charity with the attorney general. In the case of a professional fundraising counsel or professional solicitor, a written contract shall be filed at least ten business days ~~[prior to]~~ before the performance by the professional fundraising counsel~~[,]~~ or professional solicitor~~[,]~~ ~~charitable fundraising platform, or platform charity~~ of any service. No solicitation or service pursuant to the contract shall begin before the contract is filed with the attorney general. The contract shall be signed by two authorized officials of the charitable organization, one of whom shall be a member of the organization's governing body, and the authorized contracting officer for the professional fundraising counsel~~[,]~~ or professional solicitor~~[, charitable fundraising platform, or platform charity]~~. In the case of a charitable fundraising



platform or platform charity, a written contract shall be filed
with the attorney general before any fundraising activity;
provided that when a recipient charitable organization has a
contractual relationship with the charitable fundraising
platform to facilitate the transfer of funds using a third-party
disbursement intermediary, a written contract between a platform
charity and a recipient charitable organization shall not be
required to be filed unless ordered by the department. The
contract shall contain all of the following provisions:

- (1) The legal name and address of the charitable organization;
- (2) A statement of the charitable purpose for which the solicitation campaign is being conducted;
- (3) A statement of the respective obligations of the professional fundraising counsel, professional solicitor, charitable fundraising platform, or platform charity, and the charitable organization;
- (4) A statement of the guaranteed minimum percentage of the gross receipts from contributions that will be remitted to or retained by the charitable organization, if any, or, if the solicitation involves



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

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

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



1 charity is to be reimbursed for fundraising
2 costs;

3 (B) If the compensation of the professional
4 solicitor, charitable fundraising platform, or
5 platform charity is not contingent upon the
6 number of contributions or amount of revenue
7 received from the solicitation campaign, the
8 compensation shall be expressed as a reasonable
9 estimate of the percentage of the gross revenue,
10 and the contract shall clearly disclose the
11 assumptions upon which the estimate is based.
12 The stated assumptions shall be based upon all of
13 the relevant facts known to the professional
14 solicitor regarding the solicitation to be
15 conducted by the professional solicitor; or

16 (C) If the compensation of the professional
17 fundraising counsel, charitable fundraising
18 platform, or platform charity is not contingent
19 on the number of contributions or amount of
20 revenue received from the solicitation campaign,



1 the compensation shall be stated in a dollar
2 amount;

3 (6) The effective and termination dates of the contract
4 or, if the contract does not have a set termination
5 date, a clause allowing either party a reasonable
6 period to terminate the contract or notify the other
7 party if either party chooses not to renew. The
8 contract shall also contain the date services will
9 commence with respect to solicitation in this State of
10 contributions for a charitable organization;

11 (7) In the case of a professional fundraising counsel,
12 charitable fundraising platform, or platform charity,
13 a statement that the professional fundraising counsel
14 will not at any time have custody or control of
15 contributions, as applicable;

16 (8) A statement that the charitable organization exercises
17 control and approval over the content and volume of
18 any solicitation; and

19 (9) Any other information required by the rules of the
20 attorney general."



1 SECTION 7. Act 205, Session Laws of Hawaii 2024, is
2 amended by amending section 16 to read as follows:

3 "SECTION 16. This Act shall take effect on [~~January 1,~~
4 June 30, 2026."

5 SECTION 8. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 9. This Act shall take effect on July 1, 2026.

8
INTRODUCED BY: _____



S.B. NO. 1048

Report Title:

Department of the Attorney General; Solicitations of Funds from the Public; Donations; Charitable Funding Platforms; Platform Charities; Registration

Description:

Amends Act 205, Session Laws of Hawaii 2024, to clarify standards and safeguards in online crowdfunding. Takes effect 7/1/2026.

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