
A BILL FOR AN ACT

RELATING TO CHARITABLE SOLICITATION.

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

1 SECTION 1. The legislature finds that individuals who
2 donate tangible property using collection bins or receptacles
3 may reasonably believe that the tangible property is donated
4 directly to charitable organizations, and may also reasonably
5 believe they are entitled to a federal income tax credit
6 deduction for the value of the donated property.

7 The legislature further finds that in some cases, the
8 entities operating collection bins or receptacles on behalf of
9 the charity will pay the charity based on the weight of the
10 donated items received, which can be as low as two to five cents
11 per pound, and then resell the donated property at for-profit
12 retail locations. Most donors are not aware of these
13 arrangements between the collection bin operator and associated
14 charitable organizations.

15 The legislature further finds that existing law does not
16 adequately address this charitable solicitation business model.

17 The purpose of this Act is to:



- 1 (1) Establish prompt payment and financial reporting
- 2 requirements for professional solicitors that sell
- 3 donated or collected non-perishable tangible property
- 4 on behalf of charitable organization; and
- 5 (2) Prohibit professional solicitors that sell donated or
- 6 collected non-perishable tangible property from
- 7 failing to visibly display certain signage; comply
- 8 with prompt payment, financial reporting, and contract
- 9 term requirements; or prominently disclose certain
- 10 information on any collection bin, container, or
- 11 receptacle used to receive donated property.

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

14 1. By amending the definition of "contribution" to read:

15 ""Contribution" means the promise or grant of any money or
 16 property of any kind or value, including [~~the~~] non-perishable
 17 tangible property, or a promise to pay[~~r~~] or pledge, except
 18 payments by members of a charitable organization for membership
 19 fees, dues, fines, or assessments, or for services rendered to
 20 individual members, if membership in the charitable organization
 21 confers a bona fide right, privilege, professional standing,



1 honor, or other direct benefit, other than the right to vote,
2 elect officers, or hold offices, and except money or property
3 received from any governmental authority, or a grant or subsidy
4 from any organization exempt from taxation under section
5 501(c)(3) of the Internal Revenue Code."

6 2. By amending the definition of "solicit" and
7 "solicitation" to read:

8 ""Solicit" and "solicitation" mean a request directly or
9 indirectly for money, credit, property, financial assistance, or
10 thing of value on the plea or representation that the money,
11 credit, property, financial assistance, or thing of value, or
12 any portion thereof, will be used for a charitable purpose or to
13 benefit a charitable organization. [~~These terms~~] "Solicit" and
14 "solicitation" shall include the following:

- 15 (1) Any oral or written request;
- 16 (2) The making of any announcement to any organization for
17 the purpose of further dissemination, including
18 announcements to the press, over the radio or
19 television, or by telephone, telegraph, or facsimile,
20 concerning an appeal or campaign by or for any
21 charitable organization or purpose;



- 1 (3) The distribution, circulation, posting, or publishing
2 of any handbill, written advertisement, or other
3 publication that directly or by implication seeks to
4 obtain public support;
- 5 (4) Where the sale or offer or attempted sale, of any
6 advertisement, advertising space, book, card, tag,
7 coupon, device, magazine, membership, merchandise,
8 subscription, flower, ticket, candy, cookies, or other
9 tangible item in connection with which any appeal is
10 made for any charitable organization or purpose; or
11 where the name of any charitable organization is used
12 or referred to in any appeal as an inducement or
13 reason for making any sale; or where in connection
14 with any sale, any statement is made that the whole or
15 any part of the proceeds from any sale will be used
16 for any charitable purpose or to benefit any
17 charitable organization; and
- 18 (5) A request made through the use of receptacles for
19 contributions, including non-perishable tangible
20 property, such as honor boxes, vending machines,
21 wishing wells, contribution boxes, [~~and~~] novelty



1 machines, and collection bins or containers, where a
2 charitable appeal is used or referred to or implied as
3 an inducement or reason to contribute.

4 A solicitation occurs whether or not the person making the
5 solicitation receives any contribution. However, [~~the term~~]
6 solicitation shall not include the submission of a grant or
7 subsidy proposal or application to a governmental authority or
8 any organization exempt from taxation under section 501(c)(3) of
9 the Internal Revenue Code."

10 SECTION 3. Section 467B-2.5, Hawaii Revised Statutes, is
11 amended to read as follows:

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



1 commencement of the solicitation campaign and within ninety days
2 after the end of the solicitation campaign.

3 (b) The attorney general may require the financial report
4 required by subsection (a) to be submitted electronically and
5 may require the use of electronic signatures. This report shall
6 be signed by the professional solicitor, or an authorized
7 officer or agent of the professional solicitor who shall certify
8 that the statements therein are true and correct to the best of
9 the solicitor's, officer's, or agent's knowledge subject to
10 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 shall provide a copy of the financial report to the charitable



1 organization to which the financial report pertains within ten
2 days of its submission of the report to the attorney general.

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

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

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

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

14 (4) The location and account number of each bank or other
15 financial institution account in which the
16 professional solicitor has deposited revenue from the
17 solicitation campaign.

18 (d) Any material change in any information filed with the
19 attorney general pursuant to this section shall be reported in
20 writing by the professional solicitor to the attorney general
21 not more than seven days after the change occurs.



1 (e) Each contribution in the control or custody of the
2 professional solicitor in its entirety and within five days of
3 its receipt, shall be deposited in an account at a bank or other
4 federally insured financial institution, which shall be in the
5 name of the charitable organization. The charitable
6 organization shall maintain and administer the account and shall
7 have sole control of all withdrawals.

8 (f) If the professional solicitor, directly or indirectly,
9 sells donated or collected non-perishable tangible property, the
10 professional solicitor shall deposit the full amount owed to the
11 charitable organization by the professional solicitor in an
12 account at a bank or other federally insured financial
13 institution, which shall be in the name of that charitable
14 organization, within forty-five days after the sale.

15 (g) If the professional solicitor, directly or indirectly,
16 sells donated or collected non-perishable tangible property and
17 compensates a charitable organization based on the weight of
18 donor contributions, the professional solicitor's financial
19 report shall include:

20 (1) The amount paid by the professional solicitor to any
21 charitable organization during the applicable period;



- 1 (2) The gross weight of all contributions by donors to the
- 2 professional solicitor, on behalf of each respective
- 3 charitable organization, during the applicable period;
- 4 and
- 5 (3) The dollar amount of compensation per pound or other
- 6 weight measurement paid by the professional solicitor
- 7 to each charitable organization.
- 8 (h) No professional solicitor, who directly or indirectly
- 9 sells any donated non-perishable tangible property, shall fail
- 10 to:
- 11 (1) Prominently disclose in writing on any collection bin,
- 12 container, or receptacle used by a professional
- 13 solicitor to receive donated non-perishable tangible
- 14 property that:
- 15 (A) The bin, container, or receptacle is operated and
- 16 used by a paid professional solicitor;
- 17 (B) The professional solicitor resells the donated
- 18 property at retail stores and that a charitable
- 19 organization is either paid a percentage of the
- 20 sale proceeds or an amount based on the weight of



- 1 the donated tangible property, whichever is
- 2 applicable;
- 3 (C) Donated non-perishable tangible property is not a
- 4 tax-deductible charitable contribution under the
- 5 Internal Revenue Code of 1986, as amended, if
- 6 applicable;
- 7 (D) The professional solicitor is registered with the
- 8 attorney general; and
- 9 (E) The professional solicitor's registration form
- 10 and contracts with the charity benefited by the
- 11 collection is available for public inspection and
- 12 copying;
- 13 (2) Visibly display a sign on the collection bin,
- 14 container, or receptacle that states, by percentage,
- 15 how much of the donated non-perishable tangible
- 16 property is donated to charitable organizations;
- 17 (3) Provide complete and timely payment of the amount owed
- 18 to a charitable organization within forty-five days
- 19 after the sale of non-perishable tangible property;



1 (4) Provide complete and timely annual financial reports
2 to the charitable organization and the attorney
3 general, as required by section 467B-6.5; and

4 (5) Include in the contract with the charitable
5 organization the terms required by section 467B-12.5."

6 SECTION 4. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect on July 1, 3000;
9 provided that sections 2 and 3 shall take effect on January 1,
10 2027.



Report Title:

Charitable Solicitation; Professional Solicitors; Non-Perishable Tangible Property; Donations; Payment; Financial Reports; Disclosures; Signage

Description:

Beginning 1/1/2027: establishes prompt payment and financial reporting requirements for professional solicitors that sell donated or collected non-perishable tangible property on behalf of charitable organization; and prohibits these professional solicitors from failing to visibly display certain signage; comply with prompt payment, financial reporting, and contract term requirements; or prominently disclose certain information on any collection bin, container, or receptacle used to receive donated property. Effective 7/1/3000. (HD1)

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

