

A Bill for an Act Relating to Solicitation of Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Hawaii's people, with their aloha spirit, have a high sense of social responsibility, of caring for others and for the well-being of our family life and community. Hawaii's people generously contribute their services and moneys to charities to help the less fortunate and needy, to conduct research, and for other civic purposes to improve the lives of our people. Unfortunately, there are those who take advantage of the people's generosity for their own personal gain. Therefore, it is imperative that information regarding the charitable organizations and fund-raisers be readily accessible so the people can make an informed decision about donating to a charitable organization. The purpose of this Act is to require charitable organizations, professional fund-raising counsel, and professional solicitors to report information to the State, to require the State to publish an annual listing of information relating to charitable organizations, professional fund-raising counsel, and professional solicitors, and to strengthen enforcement remedies for violations of the charitable solicitation laws.

SECTION 2. Chapter 467B, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

**“§467B- Publication.** The director shall publish annually, in a newspaper of general circulation in the State, a list of all registered charitable organizations, professional fund-raising counsel, and professional solicitors.

**§467B- Financial statements.** Whenever the director has reasonable grounds to believe that any charitable organization, professional fund-raising counsel, or professional solicitor has engaged in any act or practice constituting a violation of any provision of this chapter or any rule or order issued or promulgated hereunder, the director may require the charitable organization, professional fund-raising counsel, or professional solicitor to submit to the department a financial statement certified by an independent public accountant.

**§467B- Violation as unfair practice.** Any person who engages in an act or practice which violates any provision of this chapter or rules adopted pursuant thereto shall have engaged in an unfair or deceptive act or practice in the conduct of a trade or commerce, in violation of section 480-2, and shall be subject to the penalties and remedies provided for such a violation.”

SECTION 3. Section 467B-1, Hawaii Revised Statutes, is amended by:

1. Amending the definition of “professional fund-raising counsel” to read as follows:

“Professional fund-raising counsel” means any person who, for a flat fixed fee, plans, conducts, manages, carries on, advises, or acts as a consultant, whether directly or indirectly, in connection with soliciting contributions for[,] or on behalf of any charitable organization, but who actually solicits no contributions as a part of the person's services. It does not include a bona fide volunteer, salaried officer, or employee of a charitable organization maintaining a permanent establishment within the State.”

2. Amending the definition of “professional solicitor” to read as follows:

“ “Professional solicitor” means any person who, for a financial or other consideration, solicits contributions for[,] or on behalf of a charitable organization, whether [such] the solicitation is performed personally or through the person’s agents, servants, or employees, or through agents, servants, or employees specially employed by[,] or for a charitable organization, who are engaged in the solicitation of contributions under the direction of [such] the person, or a person who plans, conducts, manages, carries on, advises, or acts as a consultant to a charitable organization in connection with the solicitation of contributions but does not qualify as a “professional fund-raising counsel” within the meaning of this chapter. It does not include a bona fide volunteer, salaried officer, or employee of a charitable organization maintaining a permanent establishment within the State and also an attorney, investment counselor, or banker who advises a person to make a contribution to a charitable organization as part of the person’s employment.”

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

**“§467B-5 Records to be kept by charitable organizations, professional fund-raising counsel, and professional solicitors.** Every charitable organization, professional fund-raising counsel, and professional solicitor subject to this chapter shall, in accordance with the rules [and regulations prescribed] adopted by the director, keep true and accurate [fiscal] records as to its activities in the State in [the] a form [as] that will accurately provide the information required by this chapter. Upon demand, the records shall be made available to the director for inspection. [Such] The records shall be retained for a period of three years after the end of the period of registration to which they relate.”

SECTION 5. Section 467B-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) If any registered charitable organization, professional fund-raising counsel, or professional solicitor fails to file any registration application or statement, report, or other information required to be filed under this chapter or demanded by the director, or otherwise violates this chapter, the director shall notify the delinquent charitable organization, professional fund-raising counsel, or professional solicitor by mailing a notice by registered or certified mail, with return receipt requested, to its last known address. If the required registration application or statement, annual report, or other information is not filed, or the demanded information is not provided, or if the existing violation is not discontinued within two weeks after the formal notification or receipt of the notice, the director may cancel, suspend, or refuse to accept the registration or other required information of the delinquent charitable organization, professional fund-raising counsel, or professional solicitor.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect July 1, 1990.

(Approved June 15, 1990.)

#### Note

1. Edited pursuant to HRS §23G-16.5.