

ACT 217

S.B. NO. 2368

A Bill for an Act Relating to the Protection of Charitable Assets.

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

SECTION 1. The attorney general's role in providing oversight of Hawaii's charitable organizations is recognized under common law and through various provisions of the Hawaii Revised Statutes, including provisions in chapters 323D, 414D, 431, 467B, 517E, and, 554, Hawaii Revised Statutes. The purpose of this Act is to codify section 3 of the Model Protection of Charitable Assets Act to grant the attorney general oversight over charitable assets regardless of the form in which they are held.

SECTION 2. Chapter 28, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§28- Protection of charitable assets; attorney general’s authority. (a) The attorney general shall represent the public interest in the protection of charitable assets and may:

- (1) Enforce the application of a charitable asset in accordance with:
 - (A) The law and terms governing the use, management, investment, distribution, and expenditure of the charitable asset; and
 - (B) The charitable purpose of the person holding the asset;
 - (2) Act to prevent or remedy:
 - (A) The misapplication, diversion, or waste of a charitable asset; or
 - (B) A breach of fiduciary or other legal duty in the governance, management, or administration of a charitable asset; or
 - (3) Commence or intervene in an action to:
 - (A) Prevent, remedy, or obtain damages for:
 - (i) The misapplication, diversion, or waste of a charitable asset; or
 - (ii) A breach of fiduciary or other legal duty in the governance, management, or administration of a charitable asset; or
 - (B) Determine that an asset is a charitable asset.
- (b) If the attorney general has reason to believe an investigation is necessary to determine whether action is advisable under this section, the attorney general may conduct an investigation, including exercising administrative subpoena power under sections 28-2.5 and 467B-9.3.
- (c) This section shall not limit the powers and duties of the attorney general under the laws of this State.
- (d) As used in this section, “charitable asset” means property that is given, received, or held for a charitable purpose. The term does not include property acquired or held for a for-profit purpose.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved July 7, 2014.)

Note

1. Edited pursuant to HRS §23G-16.5.