

ACT 108

S.B. NO. 1048

A Bill for an Act Relating to Solicitation of Funds from the Public.

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

SECTION 1. The legislature finds that Act 205, Session Laws of Hawaii 2024 (Act 205), was intended to regulate charitable fundraising platforms to ensure proper and transparent fundraising activities in the State.

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

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

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

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

"§467B- Platform charities. (a) Every platform charity not exempted by section 467B-11.5 shall register with the department as a platform charity before conducting activities regulated by this chapter in accordance with section 467B-2.1. A platform charity shall be subject to the annual financial report and annual filing fee requirements of section 467B-6.5. 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.

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

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

(d) With respect to purported charitable purposes, a platform charity that performs, permits, or otherwise enables solicitation activities shall, before a person can complete a donation or select or change a recipient charitable organization, provide conspicuous disclosures that reduce the likelihood of deception, confusion, or misunderstanding, including:

- (1) A statement that donations are made to the charitable fundraising platform, platform charity, recipient charitable organization, or person engaging in peer-to-peer charitable fundraising, whichever is applicable;
- (2) A statement that a recipient charitable organization may not receive donations or grants, with an explanation identifying the most pertinent reasons that a recipient charitable organization may not receive the funds; provided that the explanation of the most pertinent reasons that a recipient charitable organization may not receive the funds may be provided through a conspicuous hyperlink, so long as the disclosure is conspicuous when the hyperlink is selected; provided further that this paragraph shall not apply when there are no circumstances under which a recipient charitable organization may not receive the funds;
- (3) The maximum length of time it will take to send the donation or a grant of the recommended donation to a recipient charitable organization with an explanation of the time needed, unless the donation is sent contemporaneously to a recipient charitable organization after the donation is made; provided that the explanation as to the maximum length of time may be provided through a conspicuous hyperlink, so long as the disclosure is conspicuous when the hyperlink is selected;
- (4) The fees or any other amounts that will be deducted from or added to the donation or a grant of the recommended donation and that are charged or retained by the charitable fundraising platform, platform charity, or any other partnering vendor, other than any applicable digital payment processing fees; and
- (5) A statement as to the tax deductibility of the donation.

(e) Each 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 platform charity or may be provided to a 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.

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

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

through solicitation on the charitable fundraising platform and shall hold the donations in a separate account or accounts from other funds belonging to the platform charity. The platform charity shall promptly ensure that donations and grants of recommended donations are sent to the recipient charitable organizations with an accounting of any fees assessed for processing the funds, and in accordance with any rules adopted by the department pursuant to chapter 91.

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

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

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

1. By amending the definition of “commercial co-venturer” to read:

““Commercial co-venturer” means a person who, for profit, is regularly and primarily engaged in trade or commerce other than in connection with soliciting for charitable organizations or charitable purposes, and who conducts charitable sales promotions. A person who meets the definitions of “commercial co-venturer” and “charitable fundraising platform” shall be considered a commercial co-venturer when the acts of solicitation through an internet website, service, or other platform to persons in this State are for six or fewer recipient charitable organizations per calendar year, and the commercial co-venturer complies with section 467B-5.5.”

2. By amending the definition of “owner” to read:

““Owner” means any person who has a direct or indirect interest in any professional fundraising counsel[.] or professional solicitor, ~~charitable fundraising platform, or platform charity~~.”

3. By amending the definition of “platform charity” to read:

““Platform charity” means a charitable organization that facilitates acts of solicitation on a charitable fundraising platform, which includes either of the following and any similar activity:

- (1) ~~[Solicits]~~ Soliciting donations through a charitable fundraising platform for itself from donors who use the charitable fundraising platform with the implied or express representation that the platform charity may grant donations to recipient charitable organizations;
- or
- (2) ~~[Grants]~~ Granting funds to recipient charitable organizations based on purchases made or other activity performed by persons who use a charitable fundraising platform.

“Platform charity” does not include a sponsoring organization of donor advised funds that solicits donors to open donor advised fund accounts or similar accounts, receives recommendations from donors on charitable organizations that may receive grants of funds previously contributed to the sponsoring organization for a donor’s donor advised fund account, and the sponsoring organization does not list or reference by name one or more recipient charitable organizations for solicitation purposes on its platform for persons who do not have advisory privileges with respect to the granting of funds in a donor advised fund of the sponsoring organization. A person who meets the definitions of “platform charity” and “charitable fundraising platform” shall be deemed a charitable fundraising platform.”

SECTION 4. Section 467B-1.5, Hawaii Revised Statutes, is amended to read as follows:

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

- (1) Identify themselves by their true surname and first name, and the name of their employer or the contractor as the case may be, that is compensating the individual making the solicitation;
- (2) Identify the name of the professional solicitor[;] or charitable fundraising platform[; or platform charity] registered with the department that has contracted with the charitable organization to provide the solicitation services and, if the individual is employed by a subcontractor, the name of the registered subcontractor;
- (3) Disclose that the person making the oral or written request for a donation is being paid to make [such] the solicitation and the name of the charitable organization on whose behalf the person making the request is soliciting; and
- (4) Disclose, orally and in writing, the fact that a copy of the professional solicitor's[;] or charitable fundraising platform's[; or platform charity's] registration data and financial reports are available from the department.

(b) A professional solicitor[; charitable fundraising platform, or platform charity] who makes an oral solicitation by telephone, door-to-door, or otherwise, [prior to] before collecting or attempting to collect any contribution, shall provide a written confirmation of the expected contribution and clearly disclose that the contribution is not tax-deductible, if applicable, or, if the professional solicitor[; charitable fundraising platform, or platform charity] maintains that the contribution is tax-deductible in whole or in part, the portion of the contribution that the professional solicitor[; charitable fundraising platform, or platform charity] maintains is tax-deductible. The written confirmation shall also conspicuously disclose the name and current address of the registered professional solicitor[; charitable fundraising platform, or platform charity].”

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

“[§467B-2.3] Charitable fundraising platforms[; platform charities].

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

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

(c) Each charitable fundraising platform and platform charity shall file periodic reports with the department on a form provided by the department. Re-

~~ports shall be filed pursuant to section 467B-12.] The registration statement shall contain the information set forth in subsection (b). The registration under this section shall be accompanied by a fee in the amount of \$250, or in the amount and with any additional sums as may be prescribed by the attorney general. Renewal registration statements shall be filed with the department on or before July 1 of each calendar year by each charitable fundraising platform. The renewal statement shall contain the information set forth in subsection (b). A renewal fee of \$250, or in any amount and with any additional sums as may be prescribed by the attorney general, shall accompany the renewal statement. If a renewal registration required under this subsection is not filed, unless it is shown that the failure is due to reasonable cause, a fine of \$20 shall be imposed for each day during which the violation continues; provided that the total amount imposed under this subsection shall not exceed \$1,000.~~

~~(b)~~ Each registration and renewal registration 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.

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

~~(e)] (c)~~ A charitable fundraising platform ~~[or platform charity]~~ shall only solicit, permit, or otherwise enable solicitations, or receive, control, or distribute funds from donations for purported charitable purposes for recipient charitable organizations or other charitable organizations in good standing. To determine good standing of a recipient charitable organization or other charitable organization, a charitable fundraising platform ~~[or platform charity]~~ may rely on ~~[electronic lists periodically published by the Internal Revenue Service, department of taxation, or department.]~~ the department's registry.

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

- ~~(1)~~ A statement that donations are made to the charitable fundraising platform, platform charity, recipient charitable organization, or person engaging in peer-to-peer charitable fundraising, whichever is applicable;
- ~~(2)~~ A statement that a recipient charitable organization may not receive donations or grants ~~[or recommended donations]~~, with an explanation identifying the most pertinent reasons ~~[under which]~~ that a recipient charitable organization may not receive the funds; provided that the explanation ~~[as to the maximum length of time]~~ of the most pertinent reasons that a recipient charitable organization may not receive the funds may be provided through a conspicuous hyperlink, so long as the disclosure is conspicuous when the hyperlink is select-

ed; provided further that this paragraph shall not apply when there are no circumstances under which a recipient charitable organization may not receive the funds;

- (3) The maximum length of time it will take to send the donation or a grant of the recommended donation to a recipient charitable organization with an explanation of the time needed, unless the donation is sent contemporaneously to a recipient charitable organization after the donation is made; provided that the explanation as to the maximum length of time may be provided through a conspicuous hyperlink, so long as the disclosure is conspicuous when the hyperlink is selected;
- (4) The fees or any other amounts that will be deducted from or added to the donation or a grant of the recommended donation and that are charged or retained by the charitable fundraising platform, ~~[platform charity,]~~ or any other partnering vendor, other than any applicable digital payment processing fees; and
- (5) A statement as to the tax deductibility of the donation.

~~[(g)]~~ (e) 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)]~~ (f) 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.]~~ manner provided by section 170(f)(8) of the Internal Revenue Code of 1986, as amended.

~~[(i)]~~ (g) The charitable fundraising platform ~~[or platform charity]~~ shall not divert or otherwise misuse any donations made for purported charitable purposes that the charitable fundraising platform ~~[or platform charity]~~ receives through solicitation on the charitable fundraising platform, and shall hold the donations in a separate account or accounts from other funds belonging to the charitable fundraising platform ~~[or platform charity]~~. The charitable fundraising platform ~~[or platform charity]~~ shall promptly ensure that donations and grants of recommended donations are sent to the recipient charitable organizations with an accounting of any fees assessed for processing the funds, and in accordance with any rules adopted by the department pursuant to chapter 91. A platform charity shall be ~~[vicariously]~~ liable for ~~[a charitable fundraising platform's]~~ its misuse of funds~~[-, and vice versa]~~. A charitable fundraising platform shall maintain and operate a process for complaints about any fundraising activity regulated by this chapter and shall investigate and make findings on complaints, and, at the request of the department, shall report its findings to the department along with its actions for resolution, including any full refunds of contributions.

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

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

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

SECTION 6. Section 467B-2.5, Hawaii Revised Statutes, is amended to read as follows:

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

(b) The attorney general may require the financial report required by subsection (a) to be submitted electronically and may require the use of electronic signatures. This report shall be signed by the professional solicitor, ~~[charitable fundraising platform, platform charity,]~~ or ~~[by]~~ an authorized officer or agent of the professional solicitor~~[, charitable fundraising platform, or platform charity]~~ who shall certify that the statements therein are true and correct to the best of the solicitor’s, officer’s, or agent’s knowledge subject to penalties imposed by section 710-1063. If a financial report required under this section is not filed in a timely manner, taking into account any extension of time for filing, unless it is shown that the failure is due to reasonable cause, an initial late filing fee of \$100 shall be imposed, and an additional late filing fee of \$20 per day shall be imposed, for each day during which the violation continues; provided that the total fee amount imposed under this subsection shall not exceed \$1,000. The attorney general may waive all or part of the late filing fee imposed by this subsection if there is a reasonable cause for the failure to timely file. The professional solicitor~~[, charitable fundraising platform, or platform charity]~~ shall provide a copy of the financial report to the charitable organization to which the financial report pertains within ten days of its submission of the report to the attorney general.

(c) A professional solicitor~~[, charitable fundraising platform, or platform charity]~~ shall maintain during each solicitation campaign and for not less than three years after 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;
- (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.

(d) Any material change in any information filed with the attorney general pursuant to this section shall be reported in writing by the professional solicitor~~[-charitable fundraising platform, or platform charity]~~ to the attorney general not more than seven days after the change occurs.

(e) Each contribution in the control or custody of the professional solicitor~~[-charitable fundraising platform, or platform charity]~~ in its entirety and within five days of its receipt, shall be deposited in an account at a bank or other federally insured financial institution, which shall be in the name of the charitable organization. The charitable organization shall maintain and administer the account and shall have sole control of all withdrawals."

SECTION 7. 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 professional solicitor, charitable fundraising platform, or platform charity, shall solicit in the name of or on behalf of any charitable organization unless~~[:]~~ the charitable fundraising platform or platform charity has obtained written consent pursuant to section 467B-2.3(e) or:

- (1) The professional solicitor~~[-charitable fundraising platform, or platform charity]~~ has obtained the written authorization of two officers of the organization, which authorization shall bear the signature of the professional solicitor~~[-charitable fundraising platform, or platform charity]~~ and the officers of the charitable organization and shall expressly state on its face the period for which it is valid, which shall not exceed one year from the date of issuance, and has filed a copy of the written authorization with the attorney general ~~[prior to]~~ before the solicitation; and
- (2) The professional solicitor~~[-charitable fundraising platform, or platform charity]~~ and any person who, for compensation, acts as an agent, employee, independent contractor, or otherwise on behalf of the professional solicitor, ~~[charitable fundraising platform, or platform charity]~~ carries a copy of the authorization while conducting solicitations, and exhibits it on request to persons solicited or police officers or agents of the department."

SECTION 8. Section 467B-12, Hawaii Revised Statutes, is amended to read as follows:

"§467B-12 Filing requirements for professional fundraising counsel~~[:]~~ and professional solicitors~~[-charitable fundraising platforms, and platform charities]~~.

(a) Every professional fundraising counsel~~[:]~~ or professional solicitor, ~~[charitable fundraising platform, or platform charity, prior to]~~ before any solicitation, shall register with the department. The registration statement shall contain the information set forth in subsection (e). The registration statement shall be accompanied by a fee in the amount of \$250, or in the amount and with any additional sums as may be prescribed by the attorney general. Renewal registration statements shall be filed with the department on or before July 1 of each calendar year by each professional fundraising counsel~~[:]~~ or professional solicitor~~[-charitable fundraising platform, or platform charity]~~. The renewal statement shall contain the information set forth in subsection (e). A renewal fee of \$250, or in any amount and with any additional sums as may be prescribed by the attorney general, shall accompany the renewal statement. If a renewal registration

required under this section is not filed, unless it is shown that the failure is due to reasonable cause, a fine of \$20 shall be imposed for each day during which the violation continues; provided that the total amount imposed under this subsection shall not exceed \$1,000.

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

(c) The attorney general shall examine each registration statement and supporting document filed by a professional fundraising counsel[~~;~~] or professional solicitor [~~, charitable fundraising platform, or platform charity,~~] and shall determine whether the registration requirements are satisfied. If the attorney general determines that the registration requirements are not satisfied, the attorney general shall notify the professional fundraising counsel[~~;~~] or professional solicitor [~~, charitable fundraising platform, or platform charity,~~] in writing within fifteen business days of its receipt of the registration statement; otherwise the registration statement [~~is~~] shall be deemed to be approved. Within seven business days after receipt of a notification that the registration requirements are not satisfied, the professional fundraising counsel[~~;~~] or professional solicitor [~~, charitable fundraising platform, or platform charity,~~] may request a hearing.

(d) The attorney general may require that registration and renewal registration, surety bonds, and contracts be filed with the department electronically and may require the use of electronic signatures.

(e) Each registration and renewal registration shall contain:

- (1) The names and addresses of all owners, officers, and directors of a professional fundraising counsel [~~or charitable fundraising platform,~~] and the names and addresses of all owners, officers, and directors of a professional solicitor [~~or platform charity,~~];
- (2) A statement concerning the corporate form of the registrant, whether corporation, limited liability corporation, partnership, or individual;
- (3) A statement whether the registrant has an office in Hawaii and the name and phone number of the person in charge of the office;
- (4) The names and addresses of any individuals supervising any solicitation activity;
- (5) A statement whether the [~~the~~]registrant[~~]~~ has entered into a consent agreement with, or been disciplined by or subject to administrative action by, another governmental agency;
- (6) A statement whether any officer, director, or any person with a controlling interest in the registrant has ever been convicted of a felony or a misdemeanor involving dishonesty in the solicitation for a charitable purpose;
- (7) The date that the registrant began soliciting Hawaii residents on behalf of a charitable organization or providing professional fundraising counsel services; and
- (8) Whether any owners, directors, or officers are related to:
 - (A) Any other officers, directors, owners, or employees of the registrant;

- (B) Any officer, director, trustee, or employee of a charitable organization under contract with the registrant; and
- (C) Any vendor or supplier providing goods or services to a charitable organization under contract with the registrant.”

SECTION 9. Section 467B-12.5, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

“(a) There shall be a written contract between a charitable organization and a professional fundraising counsel[;] or professional solicitor[; ~~charitable fundraising platform, or platform charity~~] that shall be filed by the professional fundraising counsel[;] or professional solicitor[; ~~charitable fundraising platform, or platform charity~~] with the attorney general 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~~]. 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[;] or 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 the sale of goods, services, or tickets to a fundraising event, the percentage of the purchase price that will be remitted to the charitable organization, if any. The stated percentage shall exclude any amount that the charitable organization is to pay as fundraising costs;
- (5) Information concerning the compensation of the professional solicitor and professional fundraising counsel as follows:
 - (A) If the compensation of the professional fundraising counsel[;] or professional solicitor[; ~~charitable fundraising platform, or platform charity~~] is contingent upon the number of contributions or the amount of revenue received, a statement shall be included specifying the percentage of the gross revenue that is the basis for that compensation. The stated percentage shall include any amount that the professional fundraising counsel[;] or professional solicitor[; ~~charitable fundraising platform, or platform charity~~] is to be reimbursed for fundraising costs;
 - (B) If the compensation of the professional solicitor[; ~~charitable fundraising platform, or platform charity~~] is not contingent upon the number of contributions or amount of revenue received from the solicitation campaign, the compensation shall be expressed as a reasonable estimate of the percentage of the gross revenue, and the contract shall clearly disclose the assumptions upon which the estimate is based. The stated assumptions shall be based upon all of the relevant facts

- known to the professional solicitor regarding the solicitation to be conducted by the professional solicitor; or
- (C) If the compensation of the professional fundraising counsel[~~;~~ ~~charitable fundraising platform, or platform charity~~] is not contingent on the number of contributions or amount of revenue received from the solicitation campaign, the compensation shall be stated in a dollar amount;
- (6) The effective and termination dates of the contract or, if the contract does not have a set termination date, a clause allowing either party a reasonable period to terminate the contract or notify the other party if either party chooses not to renew. The contract shall also contain the date services will commence with respect to solicitation in this State of contributions for a charitable organization;
- (7) In the case of a professional fundraising counsel, ~~[charitable fundraising platform, or platform charity,]~~ a statement that the professional fundraising counsel will not at any time have custody or control of contributions, as applicable;
- (8) A statement that the charitable organization exercises control and approval over the content and volume of any solicitation; and
- (9) Any other information required by the rules of the attorney general.
- (b) No professional fundraising counsel[~~;~~ ~~or professional solicitor;~~ ~~charitable fundraising platform, or platform charity~~] shall contract with a charitable organization unless the professional fundraising counsel[~~;~~ ~~or professional solicitor;~~ ~~charitable fundraising platform, or platform charity~~] is registered with the department. A contract with an unregistered professional fundraising counsel[~~;~~ ~~or professional solicitor;~~ ~~charitable fundraising platform, or platform charity~~] shall be voidable at the option of the charitable organization.
- (c) Whenever a charitable organization contracts with a professional fundraising counsel[~~;~~ ~~or professional solicitor;~~ ~~charitable fundraising platform, or platform charity,~~] the charitable organization shall have the right to cancel the contract without cost, penalty, or liability, for a period of ten days following the date on which that contract is executed. Any provision in the contract that is intended to waive this right of cancellation shall be void and unenforceable.”

SECTION 10. Act 205, Session Laws of Hawaii 2024, is amended by amending section 16 to read as follows:

“SECTION 16. This Act shall take effect on ~~[January]~~ July 1, 2026.”

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

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 13. This Act shall take effect on July 1, 2026; provided that section 10 shall take effect on July 1, 2025.

(Approved May 29, 2025.)

Note

1. Edited pursuant to HRS §23G-16.5.