



DEPARTMENT OF THE ATTORNEY GENERAL

News Release

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Stronger Charitable Fundraising Law Takes Effect

(HONOLULU) The Attorney General will take over the regulation of charitable solicitors and fundraisers under a law passed in 2004 (Act 93) that will take effect on July 1, 2005. Under previous law, the Department of Commerce and Consumer Affairs had this responsibility. Because the Attorney General is already responsible for overseeing the activities of charities, the new law complements the Attorney General's other charitable responsibilities.

"The new law provides stronger consumer protection for both charities and donors in many significant ways," said Attorney General Mark Bennett. "We intend to enforce the law vigorously against unregistered and un-bonded professional solicitors, to ensure that Hawaii donors are protected from false and deceptive fundraising practices."

Any person who, for a fee, solicits the public on behalf of a charitable organization (except for employees of a charity who are not paid on a commission basis) must register with the Attorney General and file a bond. Features of the new law include:

1. Increase in bond and annual fee. The bonding requirement has increased to \$25,000, and the annual registration fee has increased to \$250. The bond will protect both charitable organizations and donors.
2. Filing of contracts with Attorney General. Section 467B-12.5, Hawaii Revised Statutes requires solicitors and fundraising counsel to file every contract with a charitable organization that provides for the solicitation of Hawaii residents, donors, or consumers. These contracts must be filed with the Attorney General at least ten business days before commencing services. Previous law only required the filing of contracts that provided

for percentage-based compensation. Thus, it may be necessary for solicitors and fundraising counsel to supplement prior filings.

3. Required contractual provisions. Section 467B-12.5, Hawaii Revised Statutes now requires that every contract between a charity and a professional solicitor or fundraising counsel must contain clear disclosure of material information specified in the law. Charities may, without penalty, cancel contracts that fail to comply with the new requirements.
4. Deposit of funds within five days in account under the charity's name and control. Each contribution in the control or custody of the professional solicitor, in its entirety and within five days of receipt, must be deposited in an account in the name of the charitable organization at a bank or other federally insured financial institution. The charitable organization must maintain and administer the account and have sole control of all withdrawals.
5. End of campaign financial report. Within ninety days after a solicitation campaign or event has been completed, and on the anniversary of the commencement of a solicitation campaign lasting more than one year, professional solicitors must file with the Attorney General a financial report for the campaign, including gross revenue and an itemization of all expenses incurred. This report must be signed and sworn to by the authorized contracting agent for the professional solicitor and two authorized officials of the charitable organization. The Attorney General will compile this information and make it available to charities and donors to inform the public regarding how much of their donations are received by the charity when professional fundraisers are involved.
6. Penalties. The new law imposes criminal penalties for knowing violations of Hawaii's registration law, and for knowingly providing false information in statements or reports filed with the Attorney General. The State's existing consumer protection laws also continue to prohibit such acts and practices, and the new law gives the Attorney General authority to suspend or revoke registrations for such violations.

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