

Governor Linda Lingle Has Approved a Registration Law for Soliciting Charities in Hawaii

SUMMARY OF KEY PROVISIONS OF ACT 174

New Provisions

Effective January 1, 2009, requires charities soliciting funds in Hawaii to register with the Attorney General unless exempted from the registration requirement.

http://www.capitol.hawaii.gov/session2008/bills/GM816_.pdf

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Requires use of three-page Unified Registration Form ("URS") used by 36 other states.

Here is a link to the URS. http://hawaii.gov/ag/charities/forms/urs_webv310.pdf

[\[forms/urs_webv310.pdf\]](http://hawaii.gov/ag/charities/forms/urs_webv310.pdf)

Requires the submission of an annual financial report

- Provides that the report shall be the charity's IRS Form 990 or 990EZ
- Must be filed eight months following the close of the charity's taxable year or on or before the filing of the organization's 990 or 990EZ with the IRS
- Requires submission of an audited financial statement if the charity has over \$500,000 in gross income, or where the charity prepares and audited financial statement required by a governmental authority or third party.
- Requires the charity to pay an annual fee based on the charities' annual gross income:

Annual Gross Income

Annual Fee

Less than \$25,000

\$10.00

\$25,000 but less than \$50,000; \$25.00

\$50,000 but less than \$100,000 \$50.00

\$100,000 but less than \$250,000 \$100.00

\$250,000 but less than \$500,00 \$150.00

\$500,000 but less than \$1 million \$200.00

\$1 million but less than \$2 million \$300.00

Annual Gross Income Annual Fee

\$2 million but less than \$5 million \$500.00

\$5 million and over \$750.00

When is a charity's initial annual financial report and annual fees due?

The timeline for filing of the annual financial report generally corresponds to the IRS timelines for filing the Form 990 or Form 990-EZ, including any extensions allowed by the IRS.

The following charitable organizations are exempt from the registration requirements:

- o Any duly organized religious corporation, institution, or society;
- o Any parent-teacher association or educational institution, the curricula of which in whole or in part are registered or approved by any state or the United States either directly or by acceptance of accreditation by an accrediting body;
- o Any nonprofit hospital licensed by the State or any similar provision of the laws of any other state;

- o Any governmental unit or instrumentality of any state or the United States;
- o Any person who solicits solely for the benefit of organizations described above; and
- o Any charitable organization that normally receives less than \$25,000 in contributions annually, if the organization does not compensate any person primarily to conduct solicitations.

Amendments to Existing Law

- . Professional solicitor's end of solicitation event/campaign financial reports to report both national gross receipts and Hawaii based gross receipts. *(effective January 1, 2009)*
- . Repeals surety bond requirement for professional fundraising counsels. *(effective July 1, 2008)*
- . Imposes contract requirements on commercial co-venturers
- . Requires commercial co-venturers to file their contracts with the Attorney General and requires certain contract provisions be included in each contract. *(effective July 1, 2008)*
- . Prohibits charities from contracting with un-registered professional solicitors and professional fundraising counsels. *(effective July 1, 2008)*
- . Clarifies what must be contained in the registration form for professional solicitors and professional fundraising counsels. *(effective July 1, 2008)*
- . Provides that the attorney general may apply to the circuit court for the first circuit, State of Hawaii, for relief, and the court may issue a temporary injunction or a permanent injunction to restrain violations of this chapter, appoint a receiver, order restitution or an accounting, or grant other relief as may be appropriate to ensure the due application of charitable funds. *(effective July 1, 2008)*