

As Passed by the Senate

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Am. Sub. H. B. No. 59

**Representatives Womer Benjamin, Mottley, Pringle, Salerno, DePiero, Core,
D.Miller, Jones
Senators Blessing, Latta, Finan, Herington, Ray, Drake, Mumper, Spada,
Gardner, White, Hottinger**

A B I L L

To amend sections 109.32, 1340.01, 1340.02, 1340.03, 1
1340.09, 1340.12, 1716.02, 1716.05, 1716.07, 2
1716.16, 1716.99, 2103.041, 2107.26, 2107.33, 3
2109.07, 2109.09, 2109.10, 2109.67, and 5103.16, 4
to enact new section 2131.01 and section 1340.031, 5
and to repeal section 2131.01 of the Revised Code 6
to revise the Probate Laws, to change the name of 7
the Charitable Foundations Section of the Attorney 8
General's office to the Charitable Law Section, to 9
exempt grandparents from specified adoption 10
requirements, and to eliminate the generally 11
required bond for an administrator or executor of 12
an estate who is the sole beneficiary of the 13
estate. 14

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 109.32, 1340.01, 1340.02, 1340.03, 15
1340.09, 1340.12, 1716.02, 1716.05, 1716.07, 1716.16, 1716.99, 16
2103.041, 2107.26, 2107.33, 2109.07, 2109.09, 2109.10, 2109.67, 17
and 5103.16 be amended and new section 2131.01 and section 18

1340.031 of the Revised Code be enacted to read as follows: 19

Sec. 109.32. All annual filing fees obtained by the attorney 20
general pursuant to section 109.31 of the Revised Code, all 21
receipts obtained from the sale of the charitable ~~foundations~~ law 22
directory, and all registration fees received by the attorney 23
general, bond forfeitures, awards of costs and attorney's fees, 24
and civil penalties assessed under Chapter 1716. of the Revised 25
Code shall be paid into the state treasury to the credit of the 26
charitable ~~foundations~~ law fund. The charitable ~~foundations~~ law 27
fund shall be used insofar as its moneys are available for the 28
expenses of the charitable ~~foundations~~ law section of the office 29
of the attorney general. The expenses of the charitable 30
~~foundations~~ law section in excess of moneys available in the 31
charitable ~~foundations~~ law fund shall be paid out of regular 32
appropriations to the office of the attorney general. 33

Sec. 1340.01. As used in sections 1340.01 to 1340.13 of the 34
Revised Code: 35

(A) "Income beneficiary" means the person to whom income is 36
presently payable or for whom it is accumulated for distribution 37
as income. 38

(B) "Inventory value" means the cost of property purchased by 39
the trustee and the market value of other property at the time it 40
became subject to the trust, but, in the case of property ~~which~~ 41
that passes or has passed to the trust as the result of a 42
decendent's death, the trustee may use any value finally determined 43
for the purposes of an estate or inheritance tax. 44

(C) "~~Remainderman~~ Remainderperson" means the person entitled 45
to principal, including income ~~which~~ that has been accumulated and 46
added to principal. 47

(D) "Trustee" means an inter vivos or testamentary trustee 48
and includes an original trustee and any successor or added 49
trustee. 50

(E) "Qualified beneficiary" means a beneficiary who is 51
entitled or eligible to receive a distribution of income or 52
principal whether presently or at some future time that is 53
predicated upon the happening of an event that is certain. An 54
event that is certain includes, but is not limited to, the 55
termination of an intervening life estate. If a trust is subject 56
to amendment, appointment, or revocation by the grantor, then only 57
the grantor shall be deemed to be a qualified beneficiary. 58

(F) "Legal representative" includes, but is not limited to, a 59
parent as a natural guardian of a minor child under section 60
2111.08 of the Revised Code, an attorney-at-law, a guardian 61
appointed pursuant to court order, including a guardian of the 62
person or a guardian of the estate, or a guardian ad litem. 63

Sec. 1340.02. (A) A trust shall be administered with due 64
regard to the respective interests of income beneficiaries and 65
~~remaindermen~~ remainderpersons. A trust is so administered with 66
respect to the allocation of receipts and expenditures if a 67
receipt is credited or an expenditure is charged to income or 68
principal or partly to each in one of the following manners: 69

(1) In accordance with the terms of the trust instrument, 70
notwithstanding contrary provisions of sections 1340.01 to 1340.13 71
of the Revised Code; 72

(2) In the absence of any contrary terms of the trust 73
instrument, in accordance with sections 1340.01 to 1340.13 of the 74
Revised Code; 75

~~(3) If neither of the preceding rules of administration is 76
applicable,~~ 77

(B) In exercising a discretionary power of administration 78
regarding a matter within the scope of sections 1340.01 to 1340.13 79
of the Revised Code, whether granted by the terms of the trust 80
instrument or by those sections, a trustee shall administer the 81
trust in accordance with what is reasonable and equitable in view 82
of the interests of those entitled to income as well as those 83
entitled to principal, and in view of the manner in which ~~men~~ 84
persons of ordinary prudence, discretion, and judgment would act 85
in the management of their own affairs. 86

~~(B)~~(C) If the trust instrument gives the trustee discretion 87
in crediting a receipt or charging an expenditure to income or 88
principal or partly to each, ~~unless the terms of the trust~~ 89
~~instrument otherwise expressly provide, the trustee shall exercise~~ 90
~~such discretion in accordance with the principles of sections~~ 91
~~1340.01 to 1340.13 of the Revised Code, but in the event of a bona~~ 92
~~fide doubt as to the applicability of sections 1340.01 to 1340.13~~ 93
~~of the Revised Code, any allocation made by the trustee in good~~ 94
~~faith shall be binding on all persons having any interest in the~~ 95
~~trust~~ no inference of imprudence or partiality arises from the 96
fact that the trustee has made an allocation contrary to sections 97
1340.01 to 1340.13 of the Revised Code. 98

(D) A fiduciary may credit a receipt or charge an expenditure 99
to income or principal with respect to a trust, or property 100
passing to a trust, that is eligible for a federal or Ohio estate 101
tax marital deduction or estate tax charitable deduction only to 102
the extent that the credit of the receipt or charge of the 103
expenditure will not cause the reduction or loss of the deduction. 104

(E) As used in this section: 105

(1) "Federal estate tax charitable deduction" means the 106
estate tax charitable deduction allowed by subtitle B, Chapter 11 107
108

of the "Internal Revenue Code of 1986," 26 U.S.C.A. 2055, as 109
amended. 110

(2) "Federal estate tax marital deduction" means the estate 111
tax marital deduction allowed by subtitle B, Chapter 11 of the 112
"Internal Revenue Code of 1986," 26 U.S.C.A. 2056, as amended. 113

(3) "Ohio estate tax charitable deduction" means the estate 114
tax charitable deduction allowed by division (A) of section 115
5731.17 of the Revised Code. 116

(4) "Ohio estate tax marital deduction" means the estate tax 117
marital deduction allowed by division (A) of section 5731.15 of 118
the Revised Code. 119

Sec. 1340.03. (A) Income is the return in money or property 120
derived from the use of principal, including return as follows: 121

(1) Rent of real or personal property, including sums 122
received for cancellation or renewal of a lease; 123

(2) Interest on money lent, including sums received as 124
consideration for the privilege of prepayment of principal except 125
as provided in section 1340.06 of the Revised Code on bond premium 126
and bond discount; 127

(3) Income earned during administration of a decedent's 128
estate as provided in section 2109.67 of the Revised Code; 129

(4) Corporate distributions as provided in section 1340.05 of 130
the Revised Code; 131

(5) Accrued increment on bonds or other obligations issued at 132
a discount as provided in section 1340.06 of the Revised Code; 133

(6) Receipts from business and farming operations as provided 134
in section 1340.07 of the Revised Code; 135

(7) Receipts from disposition of natural resources as 136
provided in sections 1340.08 and 1340.09 of the Revised Code; 137

(8) Receipts from other principal subject to depletion as provided in section 1340.10 of the Revised Code;	138 139
(9) Receipts from disposition of underproductive property as provided in section 1340.11 of the Revised Code.	140 141
(B) Principal is the property that has been set aside by the owner or the person legally empowered so that it is held in trust eventually to be delivered to a remainderman <u>remainderperson</u> while the return or use of the principal is in the meantime taken or received by or held for accumulation for an income beneficiary. Principal includes any of the following:	142 143 144 145 146 147
(1) Consideration received by the trustee on the sale or other transfer of principal or on repayment of a loan or as a refund or replacement or change in the form of principal;	148 149 150
(2) Proceeds of property taken on eminent domain proceedings;	151 152
(3) Proceeds of insurance upon property forming part of the principal, except proceeds of insurance upon a separate interest of an income beneficiary;	153 154 155
(4) Stock dividends, receipts on liquidation of a corporation, and other corporate distributions as provided in section 1340.05 of the Revised Code;	156 157 158
(5) Receipts from the disposition of corporate securities as provided in section 1340.06 of the Revised Code;	159 160
(6) Royalties and other receipts from disposition of natural resources as provided in sections 1340.08 and 1340.09 of the Revised Code;	161 162 163
(7) Receipts from other principal subject to depletion as provided in section 1340.10 of the Revised Code;	164 165
(8) Any profit resulting from any change in the form of principal except as provided in section 1340.11 of the Revised	166 167

Code on underproductive property;	168
(9) Receipts from disposition of underproductive property as provided in section 1340.11 of the Revised Code;	169 170
(10) Any allowances for depreciation established under section 1340.07 and division (A)(2) of section 1340.12 of the Revised Code.	171 172 173
(C) After determining income and principal in accordance with the terms of the trust instrument or of sections 1340.01 to 1340.13 of the Revised Code, the trustee shall charge to income or principal expenses and other charges as provided in section 1340.12 of the Revised Code.	174 175 176 177 178
<u>Sec. 1340.031. (A) Not more than once every six months, a qualified beneficiary or, if a qualified beneficiary is under a legal disability, a legal representative of the qualified beneficiary may request in writing that an inter vivos trustee furnish the qualified beneficiary or legal representative a report of the management of the inter vivos trust as provided in this section. Within thirty days after receiving the written request for a report of the management of the inter vivos trust, the inter vivos trustee shall furnish the qualified beneficiary or legal representative that made the request a report that is current to within five months prior to the date of the request and that shows an inventory of the trust property and the receipts credited and expenditures charged to income or principal with respect to the inter vivos trust for the two years prior to the preparation of the report. If the inter vivos trustee does not comply with the request for a report under this section, the qualified beneficiary or legal representative that made the request may file an appropriate action in a court of competent jurisdiction to compel the inter vivos trustee to furnish the report.</u>	179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197

(B) A current report furnished by an inter vivos trustee 198
under this section or during the usual course of business has 199
binding legal effect regarding matters described or disclosed in 200
the report on the qualified beneficiary who received the report, 201
on the legal representative who received the report on behalf of 202
the qualified beneficiary who is under legal disability, and on 203
the heirs and assigns of the qualified beneficiary who received 204
the report unless, notwithstanding section 2305.22 of the Revised 205
Code, the qualified beneficiary, the legal representative of the 206
qualified beneficiary, or any of the heirs or assigns of the 207
qualified beneficiary institutes an action regarding matters 208
described or disclosed in the report against the inter vivos 209
trustee within two years from the date the report is furnished to 210
the qualified beneficiary or legal representative of the qualified 211
beneficiary. 212

(C) No provision in this section eliminates any other rights 213
or causes of action that a qualified beneficiary of an inter vivos 214
trust, a legal representative of a qualified beneficiary of an 215
inter vivos trust, or any of the heirs or assigns of a qualified 216
beneficiary of an inter vivos trust may have against the inter 217
vivos trustee under any other section of the Revised Code. 218

Sec. 1340.09. If any part of the principal consists of land 219
from which merchantable timber may be removed, the receipts from 220
taking the timber from the land shall be allocated in accordance 221
with division ~~(A)(3)~~(B) of section 1340.02 of the Revised Code. 222

Sec. 1340.12. (A) The following charges shall be made against 223
income: 224

(1) Ordinary expenses incurred in connection with the 225
administration, management, or preservation of the trust property, 226
including regularly recurring taxes assessed against any portion 227

of the principal, water rates, premiums on insurance taken upon 228
the interests of the income beneficiary, ~~remainderman~~ 229
remainderperson, or trustee, interest paid by the trustee, and 230
ordinary repairs; 231

(2) A reasonable allowance for depreciation on property 232
subject to depreciation under generally accepted accounting 233
principles, but no allowance shall be made for depreciation of 234
that portion of any real property used by a beneficiary as a 235
residence or for depreciation of any property held by the trustee 236
on ~~the effective date of this section~~ October 20, 1987, for which 237
the trustee is not then making an allowance for depreciation; 238

(3) Not less than half of court costs, attorney's fees, and 239
other fees on periodic judicial accounting, unless the court 240
directs otherwise; 241

(4) Court costs, attorney's fees, and other fees on other 242
accountings or judicial proceedings if the matter primarily 243
concerns the income interest, unless the court directs otherwise; 244

(5) Not less than half of the trustee's regular compensation, 245
whether based on a percentage of principal or income, and all 246
expenses reasonably incurred for current management of principal 247
and application of income, unless a court otherwise directs; 248
249

(6) Any tax levied upon receipts defined as income under 250
sections 1340.01 to 1340.13 of the Revised Code or the trust 251
instrument and payable by the trustee. 252

(B) If charges against income are of unusual amount, the 253
trustee ~~may~~, by means of reserves or other reasonable means, may 254
charge them over a reasonable period of time and withhold from 255
distribution sufficient sums to regularize distributions. 256

(C) The following charges shall be made against principal: 257

(1) Trustee's compensation not chargeable to income under 258
divisions (A)(4) and (5) of this section, special compensation of 259
trustees, expenses reasonably incurred in connection with 260
principal, court costs and attorney's fees primarily concerning 261
matters of principal, and trustee's compensation computed on 262
principal as an acceptance, distribution, or termination fee; 263

(2) Charges not provided for in division (A) of this section, 264
including the cost of investing and reinvesting principal; the 265
payment on principal of an indebtedness, including a mortgage 266
amortized by periodic payments of principal; expenses for 267
preparation of property for rental or sale; and, unless the court 268
directs otherwise, expenses incurred in maintaining or defending 269
any action to construe the trust ~~or~~, to protect it the trust or 270
the trust property, or to assure the title of any trust property; 271
272

(3) Extraordinary repairs or expenses incurred in making a 273
capital improvement to principal, including special assessments, 274
but a trustee may establish an allowance for depreciation out of 275
income to the extent permitted by division (A)(2) of this section 276
and by section 1340.07 of the Revised Code; 277

(4) Any tax levied upon profit, gain, or other receipts 278
allocated to principal, notwithstanding denomination of the tax as 279
an income tax by the taxing authority; 280

(5) If an estate or inheritance tax is levied ~~in~~ with respect 281
~~of~~ to a trust in which both an income beneficiary and a 282
~~remainderman~~ remainderperson have an interest, any amount 283
apportioned to the trust, including penalties, even though the 284
income beneficiary also has rights in the principal. 285

(D) Regularly recurring charges payable from income shall be 286
apportioned to the same extent and in the same manner that income 287
is apportioned under section 1340.04 of the Revised Code. 288

Sec. 1716.02. (A) Every charitable organization, except those 289
exempted under section 1716.03 of the Revised Code, that intends 290
to solicit contributions in this state by any means or have 291
contributions solicited in this state on its behalf by any other 292
person, charitable organization, commercial co-venturer, or 293
professional solicitor, or that participates in a charitable sales 294
promotion, prior to engaging in any of these activities and 295
annually thereafter, shall file a registration statement with the 296
attorney general upon a form prescribed by ~~him~~ the attorney 297
general. Each chapter, branch, or affiliate of a charitable 298
organization that is required to file a registration statement 299
under this section either shall file a separate registration 300
statement or report the necessary information to its parent 301
charitable organization that then shall file a consolidated 302
registration statement. The annual registration statement shall be 303
refiled on or before the fifteenth day of the fifth calendar month 304
after the close of each fiscal year in which the charitable 305
organization solicited in this state, or by the date of any 306
applicable extension of the federal filing date, whichever is 307
later. No charitable organization that is required to register 308
under this chapter prior to registration, shall solicit 309
contributions in this state by any means, have contributions 310
solicited in this state on its behalf by any other person, 311
charitable organization, commercial co-venturer, or professional 312
solicitor, or participate in a charitable sales promotion. 313

(B) The registration statement shall be signed and sworn to 314
under penalties of perjury by the treasurer or chief fiscal 315
officer of the charitable organization and shall contain the 316
following information: 317

(1) The name of the charitable organization, the purpose for 318
which it is organized, and the name or names under which it 319

intends to solicit contributions;	320
(2) The address and telephone number of the principal place of business of the charitable organization and the address and telephone number of every office, chapter, branch, or affiliate of the charitable organization located in this state or, if the charitable organization does not maintain an office in this state, the name, address, and telephone number of the person that has custody of its financial records;	321 322 323 324 325 326 327
(3) The names and addresses of the officers, directors, trustees, and executive personnel of the charitable organization;	328 329
(4) The annual financial report of the charitable organization for the immediately preceding fiscal year as required under section 1716.04 of the Revised Code;	330 331 332
(5) The last day of the fiscal year for the charitable organization;	333 334
(6) A statement of whether the charitable organization is registered with or otherwise authorized by any other governmental authority in this state or another state to solicit contributions;	335 336 337
(7) A statement of whether the charitable organization has had its registration or authority denied, suspended, revoked, or enjoined by any court or other governmental authority in this state or another state;	338 339 340 341
(8) A statement of whether the charitable organization intends to solicit contributions from the public directly by using its own resources or to have solicitations made on its behalf through the use of another charitable organization, fund-raising counsel, professional solicitors, or commercial co-venturers;	342 343 344 345 346
(9) The names, addresses, and the telephone numbers of any other charitable organization, fund-raising counsel, professional solicitors, and commercial co-venturers who act or will act on	347 348 349

behalf of the charitable organization, together with a statement 350
setting forth the specific terms of the arrangements for salaries, 351
bonuses, commissions, expenses, or other remunerations to be paid 352
the other charitable organization, fund-raising counsel, 353
professional solicitors, and commercial co-venturers. If any of 354
the information required by division (B)(9) of this section is not 355
available at the time of registration, that information shall be 356
submitted to the attorney general at a later date but before any 357
solicitation occurs. 358

(10) The charitable purpose or purposes for which the 359
contributions to be solicited will be used; 360

(11) The names, addresses, and telephone numbers of the 361
persons within the charitable organization that will have final 362
responsibility for the custody of the contributions; 363

(12) The names of the persons within the charitable 364
organization that will be responsible for the final distribution 365
of the contributions; 366

(13) The period of time during which, and the counties in 367
which, the solicitation is planned to be conducted; 368

(14) A schedule of the activities carried on by the 369
charitable organization in the performance of its purposes; 370

(15) Any other information that the attorney general may, by 371
rule, require. 372

(C)(1) With the initial registration only, every charitable 373
organization that is required to register under this chapter also 374
shall file with the attorney general the following: 375

(a) A copy of the current charter, articles of incorporation, 376
agreement of association, instrument of trust, constitution, or 377
other organizational instrument, and a copy of the bylaws of the 378
charitable organization; 379

(b) A statement setting forth the place where and the date 380
when the charitable organization was legally established, the form 381
of its organization, and its tax exempt status, with a copy of its 382
federal tax exemption determination letter. 383

(2)(a) With the next annual registration statement filed 384
after its adoption, the charitable organization shall file with 385
the attorney general a copy of any amendment to its organizational 386
instrument as specified in division (C)(1)(a) of this section and 387
a copy of any amendment to its bylaws. 388

(b) Within thirty days after its receipt, the charitable 389
organization shall file with the attorney general a copy of any 390
federal tax exemption determination letter or any correspondence 391
rescinding its tax exempt status that is received after the 392
initial registration. Not later than thirty days after being 393
notified by the internal revenue service of any challenge to or 394
investigation of its continued entitlement to federal tax 395
exemption, the charitable organization shall notify the attorney 396
general of this fact. 397

(D)(1) Except as otherwise provided in division (D)(2) of 398
this section, every charitable organization that is required to 399
register under this chapter shall pay the following fees with each 400
registration: 401

(a) Fifty dollars, if the contributions received for the last 402
calendar or fiscal year were five thousand dollars or more but 403
less than twenty-five thousand dollars; 404

(b) One hundred dollars, if the contributions received for 405
the last calendar or fiscal year were twenty-five thousand dollars 406
or more but less than fifty thousand dollars; 407

(c) Two hundred dollars, if the contributions received for 408
the last calendar or fiscal year were fifty thousand dollars or 409
more. 410

(2) A charitable organization that is required to register 411
under this chapter and whose contributions received for the last 412
calendar or fiscal year were less than five thousand dollars shall 413
not pay any registration fee. 414

(3) The amount of registration fees that a charitable 415
organization is required to pay under division (D)(1) of this 416
section shall be based on the amount of contributions that it 417
receives from persons in this state. If, for any reporting year, a 418
charitable organization cannot determine from its records the 419
exact amount of contributions it received from persons in this 420
state, it shall compute the amount of the registration fee upon 421
the estimated amount of contributions it received from persons in 422
this state, with the estimated amount to be explained in writing 423
at the time the registration fee is paid. At the request of the 424
attorney general, the charitable organization shall substantiate 425
the estimated amount of contributions it received from persons in 426
this state. 427

(4) All registration fees shall be paid into the state 428
treasury to the credit of the charitable ~~foundations~~ law fund 429
established under section 109.32 of the Revised Code. 430

Sec. 1716.05. (A) No person shall act as a fund-raising 431
counsel unless ~~he~~ the person first has complied with the 432
requirements of this chapter and any rules adopted under this 433
chapter. 434

(B) Any fund-raising counsel that at any time has custody of 435
contributions from a solicitation shall do all of the following: 436

(1) Register with the attorney general. Applications for 437
registration or renewal of registration shall be in writing, under 438
oath, and in the form prescribed by the attorney general, and 439
shall be accompanied by a fee in the amount of two hundred 440

dollars. Any corporation, partnership, association, or other
entity that intends to act as a fund-raising counsel may register
for and pay a single fee of two hundred dollars on behalf of all
its members, officers, employees, and agents. In that case, the
names and addresses of all the officers, employees, and agents of
the fund-raising counsel and all other persons with whom the
fund-raising counsel has contracted to work under its direction
shall be listed in the application. The application shall contain
any other information that the attorney general may require. The
registration or renewal of registration shall be for a period of
one year or part of one year and shall expire on the thirty-first
day of March of each year. All fees prescribed in this division
shall be paid into the state treasury to the credit of the
charitable ~~foundations~~ law fund established under section 109.32
of the Revised Code.

(2) At the time of making an application for registration or
renewal of registration, file with and have approved by the
attorney general a bond in which the fund-raising counsel shall be
the principal obligor, in the sum of twenty-five thousand dollars,
with one or more sureties authorized to do business in this state.
The fund-raising counsel shall maintain the bond in effect as long
as the registration is in effect; however, the liability of the
surety under the bond shall not exceed an all-time aggregate
liability of twenty-five thousand dollars. The bond, which may be
in the form of a rider to a larger blanket liability bond, shall
run to the state and to any person who may have a cause of action
against the principal obligor of the bond for any liability
arising out of a violation by the obligor of any provision of this
chapter or any rule adopted pursuant to this chapter.

(3) Not later than ninety days after a solicitation campaign
has been completed and on the anniversary of the commencement of a
solicitation campaign lasting more than one year, furnish an

accounting of all contributions collected and expenses paid, to 473
the charitable organization with which the fund-raising counsel 474
has contracted. The accounting shall be in writing and shall be 475
retained by the charitable organization for three years. The 476
fund-raising counsel shall file a copy of the accounting with the 477
attorney general not later than seven days after it is furnished 478
to the charitable organization. 479

(4) Not later than two days after receipt of each 480
contribution, deposit the entire amount of the contribution in an 481
account at a bank or other federally insured financial institution 482
which shall be in the name of the charitable organization with 483
which the fund-raising counsel has contracted. Each contribution 484
collected by the fund-raising counsel shall be solely in the name 485
of that charitable organization. The charitable organization shall 486
have sole control of all withdrawals from the account and the 487
fund-raising counsel shall not be given the authority to withdraw 488
any deposited funds from the account. 489

(5) During each solicitation campaign and for not less than 490
three years after its completion, maintain the following records 491
that shall be made available to the attorney general upon ~~his~~ the 492
attorney general's request: 493

(a) A record of each contribution that at any time is in the 494
custody of the fund-raising counsel, including the name and 495
address of each contributor and the date and amount of the 496
contribution, provided that the attorney general shall not 497
disclose that information except to the extent necessary for 498
investigative or law enforcement purposes; 499

(b) The location of each bank or financial institution in 500
which the fund-raising counsel has deposited revenue from the 501
solicitation campaign and the account number of each account in 502
which the deposits were made. 503

(C) Unless otherwise provided in this section, any change in
any information filed with the attorney general pursuant to this
section shall be reported in writing to the attorney general
within seven days after the change occurs.

(D) No person shall serve as a fund-raising counsel, or be a
member, officer, employee, or agent of any fund-raising counsel,
who has been convicted in the last five years of either of the
following:

(1) Any violation of this chapter or any rule adopted under
this chapter, or of any charitable solicitation legislation or
regulation of a political subdivision of this state or charitable
solicitation law of any other jurisdiction that is similar to this
chapter;

(2) A felony in this or another state.

(E) The information provided under this section to the
attorney general by a fund-raising counsel shall be included in
the reports and files required to be compiled and maintained by
the attorney general pursuant to divisions (E) and (F) of section
1716.08 of the Revised Code.

Sec. 1716.07. (A) No professional solicitor shall engage in
any solicitation unless it has complied with the requirements of
this chapter and any rules adopted under this chapter.

(B) Every professional solicitor, before engaging in any
solicitation, shall register with the attorney general.
Applications for registration or renewal of registration shall be
in writing, under oath, and in the form prescribed by the attorney
general, and shall be accompanied by a fee in the amount of two
hundred dollars. Any corporation, partnership, association, or
other entity that intends to act as a professional solicitor may
register for and pay a single fee of two hundred dollars on behalf

of all its members, officers, employees, agents, and solicitors. 534
In that case, the names and addresses of all the officers, 535
employees, and agents of the professional solicitor and all other 536
persons with whom the professional solicitor has contracted to 537
work under its direction, including solicitors, shall be listed in 538
the application or furnished to the attorney general within five 539
days of the date of employment or contractual arrangement. The 540
application shall contain any other information that the attorney 541
general may require. The registration shall be for a period of one 542
year or part of one year and shall expire on the thirty-first day 543
of March of each year. Upon application and payment of the fee 544
specified in this division and filing of the bond prescribed in 545
division (C) of this section, the registration may be renewed for 546
additional one-year periods. All fees prescribed in this division 547
shall be paid into the state treasury to the credit of the 548
charitable ~~foundations~~ law fund established under section 109.32 549
of the Revised Code. 550

(C) At the time of making an application for registration or 551
renewal of registration, the professional solicitor shall file 552
with and have approved by the attorney general a bond in which the 553
professional solicitor shall be the principal obligor, in the sum 554
of twenty-five thousand dollars, with one or more sureties 555
authorized to do business in this state. The professional 556
solicitor shall maintain the bond in effect as long as the 557
registration is in effect; however, the liability of the surety 558
under the bond shall not exceed an all-time aggregate liability of 559
twenty-five thousand dollars. The bond, which may be in the form 560
of a rider to a larger blanket liability bond, shall run to the 561
state and to any person who may have a cause of action against the 562
principal obligor of the bond for any liability arising out of a 563
violation by the obligor of any provision of this chapter or any 564
rule adopted pursuant to this chapter. 565

(D)(1) Prior to the commencement of any solicitation, the professional solicitor shall file all of the following with the attorney general:

(a) A completed document called "Solicitation Notice" upon a form prescribed by the attorney general and containing all of the information specified in division (D)(2) of this section;

(b) A copy of the contract described in division (A) of section 1716.08 of the Revised Code;

(c) A sworn statement by the charitable organization on whose behalf the professional solicitor is acting certifying that the solicitation notice and any accompanying material are true and correct to the best of its knowledge.

(2) The solicitation notice shall include all of the following:

(a) The fund-raising methods to be used;

(b) The projected dates when the solicitation will commence and terminate;

(c) The location and telephone number from where the solicitation will be conducted if it will be conducted by telephone;

(d) The name and residence address of each person responsible for directing and supervising the conduct of the solicitation campaign;

(e) A statement of whether the professional solicitor will at any time have custody of any contributions;

(f) A full and fair description of the charitable program for which the solicitation campaign is being carried out;

(g) The written and signed consent of every charitable organization on whose behalf the professional solicitor will be

soliciting contributions or whose name will be mentioned during 595
the solicitation. 596

(E) Not later than ninety days after a solicitation campaign 597
has been completed and on the anniversary of the commencement of a 598
solicitation campaign lasting more than one year, the professional 599
solicitor shall provide to the charitable organization and file 600
with the attorney general a financial report of the campaign, 601
including the gross revenue received and an itemization of all 602
expenses incurred. The report shall be completed on a form 603
prescribed by the attorney general and signed by an authorized 604
official of the professional solicitor who shall certify under 605
oath that the report is true and correct. 606

(F) Each contribution collected by or in the custody of the 607
professional solicitor shall be solely in the name of the 608
charitable organization on whose behalf the contribution was 609
solicited. Not later than two days after receipt of each 610
contribution, the professional solicitor shall deposit the entire 611
amount of the contribution in an account at a bank or other 612
federally insured financial institution, which shall be in the 613
name of that charitable organization. The charitable organization 614
shall have sole control of all withdrawals from the account and 615
the professional solicitor shall not be given the authority to 616
withdraw any deposited funds from the account. 617

(G)(1) During each solicitation campaign and for not less 618
than three years after its completion, the professional solicitor 619
shall maintain the following records: 620

(a) The name and, if known to the professional solicitor, the 621
address and telephone number of each contributor and the date and 622
amount of the contribution, provided that the attorney general 623
shall not disclose that information except to the extent necessary 624
for investigative or law enforcement purposes; 625

(b) The name and residence address of each employee, agent, 626
and any other person, however designated, who is involved in the 627
solicitation, the amount of compensation paid to each, and the 628
dates on which the payments were made; 629

(c) A record of all contributions that at any time are in the 630
custody of the professional solicitor; 631

(d) A record of all expenses incurred by the professional 632
solicitor for the payment of which the professional solicitor is 633
liable; 634

(e) A record of all expenses incurred by the professional 635
solicitor for the payment of which the charitable organization is 636
liable; 637

(f) The location of each bank or financial institution in 638
which the professional solicitor has deposited revenue from the 639
solicitation campaign and the account number of each account in 640
which the deposits were made; 641

(g) A copy of each pitch sheet or solicitation script used 642
during the solicitation campaign; 643

(h) If a refund of a contribution has been requested, the 644
name and address of each person requesting the refund, and if a 645
refund was made, its amount and the date it was made. 646

(i) Any other record of such information as the attorney 647
general may require. 648

(2) If the professional solicitor sells tickets to any event 649
and represents that the tickets will be donated for use by another 650
person, the professional solicitor also shall maintain for the 651
same period as specified in division (G)(1) of this section the 652
following records: 653

(a) The name and address of each contributor that purchases 654
or donates tickets and the number of tickets purchased or donated 655

by the contributor;

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(b) The name and address of each organization that receives
the donated tickets for the use of others, and the number of
tickets received by the organization.

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(3) Any of the records described in divisions (G)(1) and (2)
of this section shall be made available to the attorney general
upon ~~his~~ the attorney general's request and shall be furnished to
~~him~~ the attorney general within ten days of the request.

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(H) Unless otherwise provided in this section or section
1716.08 of the Revised Code, any change in any information filed
with the attorney general pursuant to this section and section
1716.08 of the Revised Code shall be reported in writing to the
attorney general within seven days after the change occurs.

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(I) No person shall serve as a professional solicitor, or be
a member, officer, employee, or agent of any professional
solicitor, who has been convicted in the last five years of either
of the following:

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(1) Any violation of this chapter or any rule adopted under
this chapter, or of any charitable solicitation legislation or
regulation of a political subdivision of this state or charitable
solicitation law of any other jurisdiction that is similar to this
chapter;

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(2) A felony in this or another state.

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Sec. 1716.16. (A) In addition to other remedies authorized by
law, the attorney general may bring a civil action to enforce this
chapter or any rule adopted under this chapter. The attorney
general is not required to use any procedure prescribed in Chapter
119. of the Revised Code prior to exercising any remedy set forth
in this section.

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(B) Upon a finding that any person has engaged or is engaging

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in any act or practice in violation of this chapter or any rule 686
adopted under this chapter, a court may make any necessary order 687
or enter a judgment including, but not limited to, an injunction, 688
restitution, or an award of reasonable attorney's fees and costs 689
of investigation and litigation, and may award to the state a 690
civil penalty of not more than ten thousand dollars for each 691
violation of this chapter or rule. In seeking injunctive relief, 692
the attorney general shall not be required to establish 693
irreparable harm but only shall establish a violation of a 694
provision of this chapter or a rule adopted under this chapter or 695
that the requested order promotes the public interest. 696

(C) In any case in which the attorney general has authority 697
to institute an action or proceeding under this chapter, ~~he~~ the 698
attorney general may accept an assurance of discontinuance of any 699
method, act, or practice that is in violation of this chapter or 700
any rule adopted under it, from any person alleged to be engaged 701
in or to have engaged in the unlawful method, act, or practice. 702
The assurance may include a stipulation for the voluntary payment 703
by the person of the costs of investigation, or of an amount to be 704
held in escrow pending the outcome of any action or as restitution 705
to any ~~aggrieved~~ AGGRIEVED person or both. The assurance of 706
discontinuance shall be in writing and shall be filed with the 707
court of common pleas of Franklin county. Any evidence of a 708
violation of the assurance of discontinuance shall be prima_facie 709
evidence of a violation of this chapter or any rule adopted under 710
it in any subsequent action or proceeding brought by the attorney 711
general. Any matter that has been closed by the acceptance of an 712
assurance of discontinuance may at any time be reopened by the 713
attorney general for further proceedings in the public interest. 714

(D) In addition to any other sanction imposed by law, any 715
charitable organization, fund-raising counsel, professional 716
solicitor, commercial co-venturer, or any of their agents, or any 717

other person that violates the terms of an assurance of 718
discontinuance, an injunction, or any other order or judgment 719
entered by a court under this section, shall forfeit and pay to 720
the state a civil penalty of not more than ten thousand dollars 721
for each violation that may be recovered in a civil action brought 722
by the attorney general. Each violation shall be a separate 723
offense, except that in the case of a violation through continuing 724
failure to obey, or neglect in obeying, the order, each day of 725
continuance of the failure or neglect shall be considered a 726
separate offense. 727

(E) The civil penalties assessed under division (B) or (D) of 728
this section or division (F) or (G) of section 1716.15 of the 729
Revised Code shall be paid into the state treasury to the credit 730
of the charitable ~~foundations~~ law fund established under section 731
109.32 of the Revised Code. 732

Sec. 1716.99. (A) Whoever violates sections 1716.02 to 733
1716.17 of the Revised Code or any rule adopted pursuant to those 734
sections is guilty of solicitation fraud, a misdemeanor of the 735
first degree. 736

(B) Each occurrence of a solicitation of a contribution from 737
any person in violation of sections 1716.02 to 1716.17 of the 738
Revised Code or any rule adopted under those sections is 739
considered a separate offense of solicitation fraud. 740

(C) Any person who is found guilty of solicitation fraud 741
shall forfeit the bond described in section 1716.05 or 1716.07 of 742
the Revised Code to the state treasury to the credit of the 743
charitable ~~foundations~~ law fund established under section 109.32 744
of the Revised Code and shall be prohibited from registering with 745
the attorney general or from serving as a fund-raising counsel or 746
professional solicitor in this state for a period of five years 747
after ~~his~~ conviction. 748

Sec. 2103.041. In any action involving the ~~judicial~~ judicial 749
sale of real property for the purpose of satisfying the claims of 750
creditors of an owner of an interest in the property, the spouse 751
of the owner may be made a party to the action, and the dower 752
interest of the spouse, whether inchoate or otherwise, may be 753
subjected to the sale without the consent of the spouse. The court 754
shall determine the present value and priority of the dower 755
interest, ~~using the American experience table of mortality as the~~ 756
~~basis for determining the value,~~ in accordance with section 757
2131.01 of the Revised Code and shall award the spouse a sum of 758
money equal to the present value of the dower interest, to be paid 759
out of the proceeds of the sale according to the priority of the 760
interest. To the extent that the owner and ~~his~~ the owner's spouse 761
are both liable for the indebtedness, the dower interest of the 762
spouse is subordinate to the claims of their common creditors. 763

Sec. 2107.26. When an original will is lost, spoliated, or 764
destroyed ~~subsequent to~~ before or after the death of a testator, 765
~~or before the death of such testator if the testator's lack of~~ 766
~~knowledge of such loss, spoliation, or destruction can be proved~~ 767
~~by clear and convincing testimony, or after he became incapable of~~ 768
~~making a will by reason of insanity, and such will cannot be~~ 769
~~produced in the probate court in as complete a manner as the~~ 770
~~originals of last wills and testaments which are actually produced~~ 771
~~therein for probate, the probate court may shall admit such the~~ 772
lost, spoliated, or destroyed will to probate, if ~~such court is~~ 773
~~satisfied the will was executed according to the law in force at~~ 774
~~the time of its execution and not revoked at the death of the~~ 775
~~testator~~ both of the following apply: 776

(A) The proponent of the will establishes by clear and 777
convincing evidence both of the following: 778

(1) The will was executed with the formalities required at the time of execution by the jurisdiction in which it was executed. 779
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(2) The contents of the will. 782

(B) No person opposing the admission of the will to probate establishes by a preponderance of the evidence that the testator had revoked the will. 783
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Sec. 2107.33. (A) A will shall be revoked ~~by~~ in the following manners: 786
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(1) By the testator by tearing, canceling, obliterating, or destroying it with the intention of revoking it, ~~or by;~~ 788
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(2) By some person, at the request of the testator and in the testator's presence, ~~or~~ by tearing, canceling, obliterating, or destroying it with the intention of revoking it; 790
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(3) By some person tearing, canceling, obliterating, or destroying it pursuant to the testator's express written direction, ~~or by;~~ 793
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(4) By some other written will or codicil, executed as prescribed by ~~sections 2107.01 to 2107.62 of the Revised Code, or by this chapter;~~ 796
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(5) By some other writing that is signed, attested, and subscribed in the manner provided by ~~those sections~~ this chapter. 799
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(B) A will that has been declared valid and is in the possession of a probate judge ~~may~~ also may be revoked according to division (C) of section 2107.084 of the Revised Code. 802
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~~(B)~~(C) If a testator removes a will that has been declared valid and is in the possession of a probate judge pursuant to section 2107.084 of the Revised Code from the possession of the 805
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judge, the declaration of validity that was rendered no longer has 808
any effect. 809

~~(C)~~(D) If after executing a will, a testator is divorced, 810
obtains a dissolution of marriage, has ~~his~~ the testator's marriage 811
annulled, or, upon actual separation from ~~his~~ the testator's 812
spouse, enters into a separation agreement pursuant to which the 813
parties intend to fully and finally settle their prospective 814
property rights in the property of the other, whether by expected 815
inheritance or otherwise, any disposition or appointment of 816
property made by the will to the former spouse or to a trust with 817
powers created by or available to the former spouse, any provision 818
in the will conferring a general or special power of appointment 819
on the former spouse, and any nomination in the will of the former 820
spouse as executor, trustee, or guardian, shall be revoked unless 821
the will expressly provides otherwise. 822

~~(D)~~(E) Property prevented from passing to a former spouse or 823
to a trust with powers created by or available to the former 824
spouse because of revocation by this section shall pass as if the 825
former spouse failed to survive the decedent, and other provisions 826
conferring some power or office on the former spouse shall be 827
interpreted as if the spouse failed to survive the decedent. If 828
provisions are revoked solely by this section, they shall be 829
deemed to be revived by the testator's remarriage with the former 830
spouse or upon the termination of a separation agreement executed 831
by them. 832

~~(E)~~(F) A bond, agreement, or covenant made by a testator, for 833
a valuable consideration, to convey property previously devised or 834
bequeathed in a will, does not revoke the devise or bequest. The 835
property passes by the devise or bequest, subject to the remedies 836
on the bond, agreement, or covenant, for a specific performance or 837
otherwise, against the devisees or legatees, that might be had by 838
law against the heirs of the testator, or ~~his~~ the testator's next 839

of kin, if the property had descended to them. 840

~~(F)~~(G) A testator's revocation of a will shall be valid only 841
if the testator, at the time of the revocation, has the same 842
capacity as the law requires for the execution of a will. 843

(H) As used in this section: 844

(1) "Trust with powers created by or available to the former 845
spouse" means a trust that is revocable by the former spouse, with 846
respect to which the former spouse has a power of withdrawal, or 847
with respect to which the former spouse may take a distribution 848
that is not subject to an ascertainable standard but does not mean 849
a trust in which those powers of the former spouse are revoked by 850
section 1339.62 of the Revised Code or similar provisions in the 851
law of another state. 852

(2) "Ascertainable standard" means a standard that is related 853
to a trust beneficiary's health, maintenance, support, or 854
education. 855

Sec. 2109.07. (A) The bond required of an administrator by 856
section 2109.04 of the Revised Code shall not be required in 857
either of the following cases: 858

(1) It shall not be required of a surviving spouse to 859
administer the deceased spouse's estate, if the surviving spouse 860
is entitled to the entire net proceeds of the estate. ~~The~~ 861

(2) It shall not be required of an administrator to 862
administer an estate, if there is no will, if the administrator is 863
the next of kin, and if the administrator is entitled to the 864
entire net proceeds of the estate. 865

(B) The bond otherwise required by section 2109.04 of the 866
Revised Code of an administrator shall be conditioned as follows: 867

~~(A)~~(1) To file with the probate court within the time 868
required by section 2115.02 of the Revised Code an inventory of 869

all tangible and intangible personal property of the deceased that 870
is to be administered and that comes to the administrator's 871
possession or knowledge and an inventory of the deceased's 872
interest in real estate located in this state; 873

~~(B)~~(2) To administer and distribute according to law all 874
tangible and intangible personal property of the deceased, the 875
proceeds of any action for wrongful death or of any settlement, 876
with or without suit, of a wrongful death claim, and the proceeds 877
of all real estate in which the deceased had an interest, that is 878
located in this state, and that is sold, when the property or 879
proceeds have come to the possession of the administrator or to 880
the possession of a person for the administrator; 881

~~(C)~~(3) To render a just and true account of the 882
administrator's administration at the times required by section 883
2109.30 of the Revised Code; 884

~~(D)~~(4) To deliver the letters of administration into court if 885
a will of the deceased is proved and allowed. 886

Sec. 2109.09. ~~The~~ (A) Unless the testator has specified 887
otherwise in the bill, the bond required of an executor by section 888
2109.04 of the Revised Code of an executor shall not be required 889
of the executor to administer an estate in accordance with the 890
will of the testator if the executor is the next of kin and if the 891
executor is entitled to the entire net proceeds of the estate. 892

(B) The bond otherwise required of an executor by section 893
2109.04 of the Revised Code shall be conditioned as follows: 894

~~(A)~~(1) To file with the probate court within the time 895
required by section 2115.02 of the Revised Code an inventory of 896
all the tangible and intangible personal property of the testator 897
that is to be administered and that comes to the executor's 898
possession or knowledge and an inventory of the testator's 899

interest in real estate located in this state; 900

~~(B)~~(2) To administer and distribute according to law and the 901
will of the testator all the testator's tangible and intangible 902
personal property, the proceeds of any action for wrongful death 903
or of any settlement, with or without suit, of a wrongful death 904
claim, and the proceeds of all real estate in which the testator 905
had an interest, that is located in this state, and that is sold, 906
when the property or proceeds have come to the possession of the 907
executor or to the possession of another person for the executor; 908

~~(C)~~(3) To render a just and true account of the executor's 909
administration at the times required by section 2109.30 of the 910
Revised Code. 911

Sec. 2109.10. If an executor or administrator is sole 912
residuary legatee or distributee and if division (A) of section 913
2109.07 or division (A) of section 2109.09 of the Revised Code 914
does not apply, instead of giving the bond prescribed by section 915
2109.04 of the Revised Code, ~~he~~ the executor or administrator may 916
give a bond to the satisfaction of the probate court conditioned 917
as follows: 918

(A) To pay the costs of administration and all the debts and 919
legacies of the decedent to the extent of the assets of the 920
estate; 921

(B) If ~~executor~~ there is a will, to pay over ~~such the~~ 922
testator's estate to the person entitled ~~thereto in case to the~~ 923
testator's estate if the will is set aside; 924

(C) If ~~administrator~~ there is no will offered at the opening 925
of the estate, to pay over ~~such the~~ testator's estate to the 926
person entitled ~~thereto in case to the testator's estate if a will~~ 927
is probated after ~~his~~ the administrator's initial appointment. 928

The giving of such bond shall not discharge the lien on the 929

decedent's real estate for the payment of ~~his~~ the decedent's 930
debts, except that part which has been lawfully sold by the 931
executor or administrator. 932

Sec. 2109.67. (A) Unless the will otherwise provides and 933
subject to division (B) of this section, all expenses incurred in 934
connection with the settlement of a decedent's estate, including 935
debts, funeral expenses, estate taxes, penalties concerning taxes, 936
allowances to a surviving spouse, minor children, or both, 937
including, but not limited to, the allowance for support under 938
section 2106.13 of the Revised Code, fees of attorneys and 939
personal representatives, and court costs shall be charged against 940
the principal of the estate. 941

(B) Unless the will otherwise provides, income from the 942
assets of a decedent's estate after the death of the testator and 943
before distribution, including income from property used to 944
discharge liabilities, shall be determined in accordance with the 945
rules applicable to a trustee under Chapter 1340. of the Revised 946
Code and distributed as follows: 947

(1) To specific legatees and devisees, the income from the 948
property bequeathed or devised to them respectively, less property 949
taxes, ordinary repairs, interest, and other expenses of 950
management and operation of the property, and an appropriate 951
portion of taxes imposed on income, excluding taxes on capital 952
gains, income in respect of a decedent, and other items allocable 953
to principal, which accrue during the period of administration; 954

(2)(~~a~~) (a) To all other legatees, except as provided in division 955
(B)~~(3)~~(2)(~~b~~) of this section, the balance of the income, less the 956
balance of property taxes, ordinary repairs, interest, and other 957
expenses of management and operation of all property from which 958
the estate is entitled to income, and taxes imposed on income, 959
excluding taxes on capital gains, income in respect of a decedent, 960

and other items allocable to principal, which accrue during the 961
period of administration, in proportion to their respective 962
interests in the undistributed assets of the estate, computed at 963
times of distribution on the basis of inventory value; 964

~~(3)~~(b) A legatee, other than the testator's surviving spouse, 965
of a pecuniary legacy not in trust shall not be paid interest on 966
the legacy, and the legatee shall not be entitled to receive any 967
part of the income received by the estate during the period of 968
administration as income on the legacy. A legacy to the testator's 969
surviving spouse of a pecuniary amount shall carry with it a 970
proportionate part of the income of the estate from the testator's 971
death to the date of satisfaction, determined in accordance with 972
division (B)(2)(a) of this section. 973

(C) If a will or trust instrument gives the fiduciary 974
discretion in crediting a receipt or charging an expenditure to 975
income or principal or partly to each, no inference of imprudence 976
or partiality arises from the fact that the fiduciary has made an 977
allocation contrary to this section, section 2109.66, or sections 978
1340.01 to 1340.13 of the Revised Code. 979

(D) A fiduciary may credit a receipt or charge an expenditure 980
to income or principal with respect to a decedent's estate, a 981
trust under a will, or property passing to a trust under a will, 982
that is eligible for a federal or Ohio estate tax marital 983
deduction or estate tax charitable deduction only to the extent 984
that the credit of the receipt or charge of the expenditure will 985
not cause the reduction or loss of the deduction. 986

(E) As used in this section, "federal estate tax charitable 987
deduction," "federal estate tax marital deduction," "Ohio estate 988
tax charitable deduction," and "Ohio estate tax marital deduction" 989
have the same meanings as in section 1340.02 of the Revised Code. 990

Sec. 2131.01. Present values for probate matters shall be the 991

values determined for Ohio estate tax purposes pursuant to 992
division (B) of section 5731.01 of the Revised Code. 993

Sec. 5103.16. (A) Except as otherwise provided in this 994
section, no child shall be placed or accepted for placement under 995
any written or oral agreement or understanding that transfers or 996
surrenders the legal rights, powers, or duties of the legal 997
parent, parents, or guardian of the child into the temporary or 998
permanent custody of any association or institution that is not 999
certified by the department of human services under section 1000
5103.03 of the Revised Code, without the written consent of the 1001
office in the department that oversees the interstate compact on 1002
placement of children established under section 5103.20 of the 1003
Revised Code, or by a commitment of a juvenile court, or by a 1004
commitment of a probate court as provided in this section. A child 1005
may be placed temporarily without written consent or court 1006
commitment with persons related by blood or marriage or in a 1007
legally licensed boarding home. 1008

(B)(1) Associations and institutions certified under section 1009
5103.03 of the Revised Code for the purpose of placing children in 1010
free foster homes or for legal adoption shall keep a record of the 1011
temporary and permanent surrenders of children. This record shall 1012
be available for separate statistics, which shall include a copy 1013
of an official birth record and all information concerning the 1014
social, mental, and medical history of the children that will aid 1015
in an intelligent disposition of the children in case that becomes 1016
necessary because the parents or guardians fail or are unable to 1017
reassume custody. 1018

(2) No child placed on a temporary surrender with an 1019
association or institution shall be placed permanently in a foster 1020
home or for legal adoption. All surrendered children who are 1021
placed permanently in foster homes or for adoption shall have been 1022

permanently surrendered, and a copy of the permanent surrender 1023
shall be a part of the separate record kept by the association or 1024
institution. 1025

(C) Any agreement or understanding to transfer or surrender 1026
the legal rights, powers, or duties of the legal parent or parents 1027
and place a child with a person seeking to adopt the child under 1028
this section shall be construed to contain a promise by the person 1029
seeking to adopt the child to pay the expenses listed in divisions 1030
(C)(1), (2), and (4) of section 3107.10 of the Revised Code and, 1031
if the person seeking to adopt the child refuses to accept 1032
placement of the child, to pay the temporary costs of routine 1033
maintenance and medical care for the child in a hospital, foster 1034
home, or other appropriate place for up to thirty days or until 1035
other custody is established for the child, as provided by law, 1036
whichever is less. 1037

(D) No child shall be placed or received for adoption or with 1038
intent to adopt unless placement is made by a public children 1039
services agency, an institution or association that is certified 1040
by the department of human services under section 5103.03 of the 1041
Revised Code to place children for adoption, or custodians in 1042
another state or foreign country, or unless all of the following 1043
criteria are met: 1044

(1) Prior to the placement and receiving of the child, the 1045
parent or parents of the child personally have applied to, and 1046
appeared before, the probate court of the county in which the 1047
parent or parents reside, or in which the person seeking to adopt 1048
the child resides, for approval of the proposed placement 1049
specified in the application and have signed and filed with the 1050
court a written statement showing that the parent or parents are 1051
aware of their right to contest the decree of adoption subject to 1052
the limitations of section 3107.16 of the Revised Code; 1053

(2) The court ordered an independent home study of the 1054
proposed placement to be conducted as provided in section 3107.031 1055
of the Revised Code, and after completion of the home study, the 1056
court determined that the proposed placement is in the best 1057
interest of the child; 1058

(3) The court has approved of record the proposed placement. 1059

In determining whether a custodian has authority to place 1060
children for adoption under the laws of a foreign country, the 1061
probate court shall determine whether the child has been released 1062
for adoption pursuant to the laws of the country in which the 1063
child resides, and if the release is in a form that satisfies the 1064
requirements of the immigration and naturalization service of the 1065
United States department of justice for purposes of immigration to 1066
this country pursuant to section 101(b)(1)(F) of the "Immigration 1067
and Nationality Act," 75 Stat. 650 (1961), 8 U.S.C. 1101 1068
(b)(1)(F), as amended or reenacted. 1069

If the parent or parents of the child are deceased or have 1070
abandoned the child, as determined under division (A) of section 1071
3107.07 of the Revised Code, the application for approval of the 1072
proposed adoptive placement may be brought by the relative seeking 1073
to adopt the child, or by the department, board, or organization 1074
not otherwise having legal authority to place the orphaned or 1075
abandoned child for adoption, but having legal custody of the 1076
orphaned or abandoned child, in the probate court of the county in 1077
which the child is a resident, or in which the department, board, 1078
or organization is located, or where the person or persons with 1079
whom the child is to be placed reside. Unless the parent, parents, 1080
or guardian of the person of the child personally have appeared 1081
before the court and applied for approval of the placement, notice 1082
of the hearing on the application shall be served on the parent, 1083
parents, or guardian. 1084

The consent to placement, surrender, or adoption executed by a minor parent before a judge of the probate court or an authorized deputy or referee of the court, whether executed within or outside the confines of the court, is as valid as though executed by an adult. A consent given as above before an employee of a children services agency that is licensed as provided by law, is equally effective, if the consent also is accompanied by an affidavit executed by the witnessing employee or employees to the effect that the legal rights of the parents have been fully explained to the parents, prior to the execution of any consent, and that the action was done after the birth of the child.

If the court approves a placement, the prospective adoptive parent with whom the child is placed has care, custody, and control of the child pending further order of the court.

(E) This section does not apply to an adoption by a stepparent, a grandparent, or a guardian.

Section 2. That existing sections 109.32, 1340.01, 1340.02, 1340.03, 1340.09, 1340.12, 1716.02, 1716.05, 1716.07, 1716.16, 1716.99, 2103.041, 2107.26, 2107.33, 2109.07, 2109.09, 2109.10, 2109.67, and 5103.16 and section 2131.01 of the Revised Code are hereby repealed.

Section 3. It is the intent of the General Assembly in amending section 1340.02 of the Revised Code in this act to limit the application of the holding of the Ohio Supreme Court in Sherman v. Sherman

(1966), 5 Ohio St.2d 27.

Section 4. Except as otherwise provided in this section, section 1340.031 of the Revised Code, as enacted by this act, applies to inter vivos trusts that are in existence or are created

on or after the effective date of this act. Division (B) of 1113
section 1340.031 of the Revised Code, as enacted by this act, 1114
applies to reports furnished by an inter vivos trustee as provided 1115
in that section on or after the effective date of this act. 1116

Section 5. Sections 2109.07, 2109.09, and 2109.10 of the 1117
Revised Code, as amended by this act, shall apply regarding all 1118
administrators and executors who are appointed on or after the 1119
effective date of this act. 1120