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Am. H. B. No. 184

Representatives Bird, Brennan

Cosponsors: Representatives Johnson, Brewer, Carruthers, Click, Dell'Aquila, Denson, Dobos, Forhan, John, Mathews, Miller, A., Mohamed, Patton, Roemer, Russo, Schmidt, Somani, Thomas, C., Upchurch, Weinstein, Willis, Young, T.

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**A BILL**

To amend sections 1716.01, 1716.07, 1716.08, 1  
1716.14, and 1716.15 and to enact section 2  
1716.06 of the Revised Code regarding charitable 3  
solicitations. 4

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

**Section 1.** That sections 1716.01, 1716.07, 1716.08, 5  
1716.14, and 1716.15 be amended and section 1716.06 of the 6  
Revised Code be enacted to read as follows: 7

**Sec. 1716.01.** As used in this chapter: 8

(A) (1) "Charitable organization" means either of the 9  
following: 10

(a) Any person that is determined by the internal revenue 11  
service to be a tax exempt organization pursuant to section 12  
501(c) (3) of the Internal Revenue Code; 13

(b) Any person that is or holds itself out to be 14  
established for any benevolent, philanthropic, patriotic, 15  
educational, humane, scientific, public health, environmental 16

conservation, civic, or other eleemosynary purpose or for the 17  
benefit of law enforcement personnel, firefighters, or other 18  
persons who protect the public safety, or any person who in any 19  
manner employs a charitable appeal as the basis of any 20  
solicitation or an appeal that suggests that there is a 21  
charitable purpose to any solicitation. 22

(2) "Charitable organization" is not limited to only those 23  
organizations to which contributions are tax deductible under 24  
section 170 of the Internal Revenue Code. 25

"Charitable organization" does not include an employer who 26  
is not engaged in the business of soliciting contributions or 27  
conducting charitable sales promotions but who incidentally 28  
solicits contributions for a charitable organization or purpose; 29  
or a compensated employee of an employer not engaged in the 30  
business of soliciting contributions or conducting charitable 31  
sales promotions, when the employee solicits contributions or 32  
conducts charitable sales promotions at the direction of the 33  
employee's employer. 34

(B) (1) "Charitable purpose" means either of the following: 35

(a) Any purpose described in section 501(c)(3) of the 36  
Internal Revenue Code; 37

(b) Any benevolent, philanthropic, patriotic, educational, 38  
humane, scientific, public health, environmental conservation, 39  
civic, or other eleemosynary objective or any objective that 40  
benefits law enforcement personnel, firefighters, or other 41  
persons who protect the public safety. 42

(2) "Charitable purpose" is not limited to only those 43  
purposes for which contributions are tax deductible under 44  
section 170 of the Internal Revenue Code. 45

(C) "Charitable sales promotion" means any advertising or sale conducted by a person who represents that the purchase or use of goods or services offered by the person will benefit, in whole or in part, any charitable organization or charitable purpose. The provision of advertising services to a charitable organization, either for compensation or as a donation, does not of itself constitute a charitable sales promotion.

~~(D)~~ (D) (1) "Collection receptacle" means an attended or unattended container the purpose of which is to collect donations of any of the following:

(a) Clothing;

(b) Books;

(c) Subject to division (D) (2) of this section, personal items, household items, or other goods.

(2) "Collection receptacle" does not include a container used to collect monetary donations or donations of food, consumable household supplies, or personal health products to be distributed for a charitable purpose.

(E) "Commercial co-venturer" means any person who for profit regularly and primarily is engaged in trade or commerce other than in connection with soliciting for charitable organizations or charitable purposes and who conducts a charitable sales promotion.

~~(E)~~ (F) "Contribution" means the promise, pledge, or grant of any money or property, financial assistance, or any other thing of value in response to a solicitation. "Contribution" does not include any bona fide fees, or any dues or assessments paid by members, provided that membership is not conferred solely as a consideration for making a contribution in response

to a solicitation. 75

~~(F)~~ (G) "Deceptive act or practice" means knowingly 76  
misrepresenting any material fact related to the planning, 77  
conducting, or executing of any solicitation of contributions 78  
for a charitable organization or charitable purpose or to the 79  
planning, conducting, or executing of a charitable sales 80  
promotion, when the misrepresentation induces any person to make 81  
a contribution to a charitable organization, for a charitable 82  
purpose, or in response to a charitable sales promotion. 83

~~(G)~~ (H) "Fund-raising counsel" means any person who, for 84  
compensation, plans, manages, advises, consults, or prepares 85  
material for or with respect to the solicitation in this state 86  
of contributions for any charitable organization or at any time 87  
has custody of contributions from a solicitation, but does not 88  
solicit contributions and does not employ, procure, or otherwise 89  
engage any compensated person to solicit contributions. "Fund- 90  
raising counsel" does not include the following: 91

(1) An attorney, investment counselor, or banker who in 92  
the conduct of the attorney's, investment counselor's, or 93  
banker's profession advises a client; 94

(2) A charitable organization or a bona fide officer, 95  
employee, or volunteer of a charitable organization, when the 96  
charitable organization has full knowledge of the services being 97  
performed on its behalf and either of the following applies: 98

(a) The services performed by the charitable organization, 99  
bona fide officer, employee, or volunteer are performed on 100  
behalf of the charitable organization that employs the bona fide 101  
officer or employee or engages the services of the bona fide 102  
volunteer; 103

(b) The charitable organization on whose behalf the 104  
services are performed shares some element of common control or 105  
an historic or continuing relationship with the charitable 106  
organization that performs the services or employs the bona fide 107  
officer or employee or engages the services of the bona fide 108  
volunteer; 109

(3) An employer who is not engaged in the business of 110  
soliciting contributions or conducting charitable sales 111  
promotions but who incidentally solicits contributions for a 112  
charitable organization or purpose without compensation; 113

(4) A compensated employee of an employer who is not 114  
engaged in the business of soliciting contributions or 115  
conducting charitable sales promotions, when the employee 116  
solicits contributions or conducts charitable sales promotions 117  
at the direction of the employee's employer. 118

~~(H)~~ (I) "Internal Revenue Code" means the "Internal 119  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as 120  
amended. 121

~~(I)~~ (J) "Person" has the same meaning as in section 1.59 122  
of the Revised Code and includes a group, foundation, or any 123  
other entity however styled. 124

~~(J)~~ (K) "Professional solicitor" means any person who, for 125  
compensation, performs on behalf of or for the benefit of a 126  
charitable organization any service in connection with which 127  
contributions are or will be solicited in this state by the 128  
compensated person or by any person it employs, procures, or 129  
otherwise engages directly or indirectly to solicit 130  
contributions. "Professional solicitor" does not include the 131  
following: 132

(1) An attorney, investment counselor, or banker who in 133  
the conduct of the attorney's, investment counselor's, or 134  
banker's profession advises a client; 135

(2) A charitable organization or a bona fide officer, 136  
employee, or volunteer of a charitable organization, when the 137  
charitable organization has full knowledge of the services being 138  
performed on its behalf and either of the following applies: 139

(a) The services performed by the charitable organization, 140  
bona fide officer, employee, or volunteer are performed on 141  
behalf of the charitable organization that employs the bona fide 142  
officer or employee or engages the services of the bona fide 143  
volunteer; 144

(b) The charitable organization on whose behalf the 145  
services are performed shares some element of common control or 146  
an historic or continuing relationship with the charitable 147  
organization that performs the services or employs the bona fide 148  
officer or employee or engages the services of the bona fide 149  
volunteer; 150

(3) An employer who is not engaged in the business of 151  
soliciting contributions or conducting charitable sales 152  
promotions but who incidentally solicits contributions for a 153  
charitable organization or purpose without compensation; 154

(4) A compensated employee of an employer who is not 155  
engaged in the business of soliciting contributions or 156  
conducting charitable sales promotions, when the employee 157  
solicits contributions or conducts charitable sales promotions 158  
at the direction of the employee's employer. 159

~~(K) (1)~~ (L) (1) "Solicit" or "solicitation" means to request 160  
or a request directly or indirectly for money, property, 161

financial assistance, or any other thing of value on the plea or 162  
representation that such money, property, financial assistance, 163  
or other thing of value or a portion of it will be used for a 164  
charitable purpose or will benefit a charitable organization. 165  
"Solicit" or "solicitation" includes but is not limited to the 166  
following methods of requesting or securing the promise, pledge, 167  
or grant of money, property, financial assistance, or any other 168  
thing of value: 169

(a) Any oral or written request; 170

(b) Making any announcement to the press, on radio or 171  
television, by telephone or telegraph, or by any other 172  
communication device concerning an appeal or solicitation 173  
campaign by or for any charitable organization or for any 174  
charitable purpose; 175

(c) Distributing, circulating, posting, or publishing any 176  
handbill, written advertisement, or other publication that 177  
directly or by implication seeks to obtain any contribution; 178

(d) Selling or offering or attempting to sell any 179  
advertisement, advertising space, book, card, tag, coupon, 180  
chance, device, magazine, membership, merchandise, subscription, 181  
sponsorship, flower, ticket, admission, candy, cookies, or other 182  
tangible item, or any right of any description in connection 183  
with which an appeal is made for any charitable organization or 184  
charitable purpose, or when the name of any charitable 185  
organization is used or referred to in any such appeal as an 186  
inducement or reason for making the sale, or when in connection 187  
with the sale or offer or attempt to sell, any statement is made 188  
that all or part of the proceeds from the sale will be used for 189  
any charitable purpose or will benefit any charitable 190  
organization; 191

(e) Operating a collection receptacle that purports, 192  
either through language appearing on the collection receptacle 193  
itself or otherwise, to be collecting items for the purpose of 194  
benefiting a charitable purpose or charitable organization. 195  
"Solicit" or "solicitation" does not include removing or 196  
delivering donations placed in a collection receptacle for a 197  
fixed fee if the person doing so does not otherwise directly or 198  
indirectly receive any of the proceeds of the sale of such 199  
donations or derive any other benefit from such activity. 200

(2) A solicitation is considered as having taken place for 201  
purposes of division ~~(K)(1)~~ (L)(1) of this section whether or 202  
not the person making the solicitation receives any 203  
contribution. A solicitation does not occur when a person 204  
applies for a grant or an award to the government or to an 205  
organization that is exempt from federal income taxation under 206  
section 501(a) and described in section 501(c)(3) of the 207  
Internal Revenue Code. 208

~~(L)~~ (M) "Solicitation campaign" means a series of 209  
solicitations that are made by the same person for the same 210  
charitable organization and that are similar in content or are 211  
based on a similar pitch or sales approach, which series leads 212  
up to or is represented to lead up to an event or lasts or is 213  
intended to last for a definite period of time. 214

(N) "Theft offense" has the same meaning as in section 215  
2913.01 of the Revised Code. 216

~~(M)~~ (O) "Elderly person" and "disabled adult" have the 217  
same meanings as in section 2913.01 of the Revised Code. 218

**Sec. 1716.06.** The operator of a collection receptacle 219  
shall display all of the following information on the collection 220



receptacle in letters that are at least three inches in height 221  
and not less than one-half inch in width, are on a permanent 222  
sign or label placed on every side of the collection receptacle, 223  
and are in a color that contrasts with the color of the 224  
collection receptacle: 225

(A) The name, address, and telephone number of the 226  
charitable organization that will receive goods collected in the 227  
collection receptacle; 228

(B) If the collection receptacle is operated by a 229  
professional solicitor, the name, address, and telephone number 230  
of the professional solicitor; 231

(C) If the collection receptacle is operated by a 232  
professional solicitor, a statement that the contract disclosing 233  
the financial arrangements between the professional solicitor 234  
and the charitable organization is on file with and available 235  
from the attorney general. 236

**Sec. 1716.07.** (A) No professional solicitor shall engage 237  
in any solicitation unless it has complied with the requirements 238  
of this chapter and any rules adopted under this chapter. 239

(B) Every professional solicitor, before engaging in any 240  
solicitation, shall register with the attorney general. 241  
Applications for registration or renewal of registration shall 242  
be in writing, under oath, and in the form prescribed by the 243  
attorney general, and shall be accompanied by a fee in the 244  
amount of two hundred dollars. Any corporation, partnership, 245  
association, or other entity that intends to act as a 246  
professional solicitor may register for and pay a single fee of 247  
two hundred dollars on behalf of all its members, officers, 248  
employees, agents, and solicitors. In that case, the names and 249

addresses of all the officers, employees, and agents of the 250  
professional solicitor and all other persons with whom the 251  
professional solicitor has contracted to work under its 252  
direction, including solicitors, shall be listed in the 253  
application or furnished to the attorney general within five 254  
days of the date of employment or contractual arrangement. The 255  
application shall contain any other information that the 256  
attorney general may require. The registration shall be for a 257  
period of one year or part of one year and shall expire on the 258  
thirty-first day of March of each year. Upon application and 259  
payment of the fee specified in this division and filing of the 260  
bond prescribed in division (C) of this section, the 261  
registration may be renewed for additional one-year periods. All 262  
fees prescribed in this division shall be paid into the state 263  
treasury to the credit of the charitable law fund established 264  
under section 109.32 of the Revised Code. 265

(C) At the time of making an application for registration 266  
or renewal of registration, the professional solicitor shall 267  
file with and have approved by the attorney general a bond in 268  
which the professional solicitor shall be the principal obligor, 269  
in the sum of twenty-five thousand dollars, with one or more 270  
sureties authorized to do business in this state. The 271  
professional solicitor shall maintain the bond in effect as long 272  
as the registration is in effect; however, the liability of the 273  
surety under the bond shall not exceed an all-time aggregate 274  
liability of twenty-five thousand dollars. The bond, which may 275  
be in the form of a rider to a larger blanket liability bond, 276  
shall run to the state and to any person who may have a cause of 277  
action against the principal obligor of the bond for any 278  
liability arising out of a violation by the obligor of any 279  
provision of this chapter or any rule adopted pursuant to this 280

chapter.	281
(D) (1) Prior to the commencement of any solicitation	282
<u>campaign</u> , the professional solicitor shall <u>pay to the attorney</u>	283
<u>general a fee of two hundred dollars and file all of the</u>	284
<u>following</u> with the attorney general, <u>and the attorney general</u>	285
<u>may publish, all of the following:</u>	286
(a) A completed document called "Solicitation Notice" upon	287
a form prescribed by the attorney general and containing all of	288
the information specified in division (D) (2) of this section;	289
(b) A copy of the contract described in division (A) of	290
section 1716.08 of the Revised Code;	291
(c) A sworn statement by the charitable organization on	292
whose behalf the professional solicitor is acting certifying	293
that the solicitation notice and any accompanying material are	294
true and correct to the best of its knowledge.	295
(2) The solicitation notice shall include all of the	296
following:	297
(a) The fund-raising methods to be used;	298
(b) The projected dates when the solicitation <u>campaign</u>	299
will commence and terminate, <u>which period of time shall not</u>	300
<u>exceed four years;</u>	301
(c) The location and telephone number from where the	302
solicitation <u>campaign</u> will be conducted if it will be conducted	303
by telephone;	304
(d) <u>The location of each collection receptacle used in</u>	305
<u>connection with the solicitation campaign;</u>	306
<u>(e) The name and residence address of each person</u>	307

responsible for directing and supervising the conduct of the 308  
solicitation campaign; 309

~~(e)~~ (f) A statement of whether the professional solicitor 310  
will at any time have custody of any contributions; 311

~~(f)~~ (g) A full and fair description of the charitable 312  
program for which the solicitation campaign is being carried 313  
out; 314

~~(g)~~ (h) The written and signed consent of every charitable 315  
organization on whose behalf the professional solicitor will be 316  
soliciting contributions or whose name will be mentioned during 317  
the solicitation campaign. 318

(E) Not later than ninety days after a solicitation 319  
campaign has been completed and on the anniversary of the 320  
commencement of a solicitation campaign lasting more than one 321  
year, the professional solicitor shall provide to the charitable 322  
organization and file with the attorney general a financial 323  
report of the campaign, including the gross revenue received,  324  
the total weight of items collected in each collection 325  
receptacle if a collection receptacle was used and the value 326  
received for the sale of such items collected, and an 327  
itemization of all expenses incurred. The report shall be 328  
completed on a form prescribed by the attorney general and 329  
signed by an authorized official of the professional solicitor 330  
who shall certify under oath that the report is true and 331  
correct. 332

(F) Each contribution collected by or in the custody of 333  
the professional solicitor shall be solely in the name of the 334  
charitable organization on whose behalf the contribution was 335  
solicited. Not later than two days after receipt of each 336

contribution, the professional solicitor shall deposit the 337  
entire amount of the contribution in an account at a bank or 338  
other federally insured financial institution, which shall be in 339  
the name of that charitable organization. The charitable 340  
organization shall have sole control of all withdrawals from the 341  
account and the professional solicitor shall not be given the 342  
authority to withdraw any deposited funds from the account. 343

(G) (1) During each solicitation campaign and for not less 344  
than three years after its completion, the professional 345  
solicitor shall maintain the following records: 346

(a) The name and, if known to the professional solicitor, 347  
the address and telephone number of each contributor and the 348  
date and amount of the contribution, provided that the attorney 349  
general shall not disclose that information except to the extent 350  
necessary for investigative or law enforcement purposes; 351

(b) The name and residence address of each employee, 352  
agent, and any other person, however designated, who is involved 353  
in the solicitation campaign, the amount of compensation paid to 354  
each, and the dates on which the payments were made; 355

(c) A record of all contributions that at any time are in 356  
the custody of the professional solicitor; 357

(d) A record of all expenses incurred by the professional 358  
solicitor for the payment of which the professional solicitor is 359  
liable; 360

(e) A record of all expenses incurred by the professional 361  
solicitor for the payment of which the charitable organization 362  
is liable; 363

(f) The location of each bank or financial institution in 364  
which the professional solicitor has deposited revenue from the 365

solicitation campaign and the account number of each account in 366  
which the deposits were made; 367

(g) A copy of each pitch sheet or solicitation script used 368  
during the solicitation campaign; 369

(h) If a refund of a contribution has been requested, the 370  
name and address of each person requesting the refund, and if a 371  
refund was made, its amount and the date it was made. 372

(i) An audio recording of each telephone solicitation the 373  
professional solicitor makes; 374

(j) Any other record of such information as the attorney 375  
general may require. 376

(2) If the professional solicitor sells tickets to any 377  
event and represents that the tickets will be donated for use by 378  
another person, the professional solicitor also shall maintain 379  
for the same period as specified in division (G)(1) of this 380  
section the following records: 381

(a) The name and address of each contributor that 382  
purchases or donates tickets and the number of tickets purchased 383  
or donated by the contributor; 384

(b) The name and address of each organization that 385  
receives the donated tickets for the use of others, and the 386  
number of tickets received by the organization. 387

(3) Any of the records described in divisions (G)(1) and 388  
(2) of this section shall be made available to the attorney 389  
general upon the attorney general's request and shall be 390  
furnished to the attorney general within ten days of the 391  
request. 392

(H) Unless otherwise provided in this section or section 393

1716.08 of the Revised Code, any change in any information filed 394  
with the attorney general pursuant to this section and section 395  
1716.08 of the Revised Code shall be reported in writing to the 396  
attorney general within seven days after the change occurs. 397

(I) No person shall serve as a professional solicitor, or 398  
be a member, officer, employee, or agent of any professional 399  
solicitor, who has been convicted of a disqualifying offense 400  
determined in accordance with section 9.79 of the Revised Code. 401

(J) If a professional solicitor fails to comply in a 402  
timely or complete manner with any of the requirements under 403  
this section, the professional solicitor is liable for and, in 404  
addition to any fee required in this section, shall pay two 405  
hundred dollars for each late filing. Each registration, renewal 406  
of registration, bond, solicitation notice, contract, sworn 407  
statement, or financial report shall be considered a separate 408  
filing for the purposes of this section. Any fees required by 409  
this section are in addition to, and not in place of, penalties 410  
prescribed in this chapter. 411

**Sec. 1716.08.** (A) Every contract entered into by any 412  
professional solicitor with any charitable organization shall be 413  
in writing, shall clearly state the respective obligations of 414  
the professional solicitor and the charitable organization, and 415  
shall contain ~~the percentage of the gross revenue from the~~ 416  
~~solicitation campaign that the charitable organization will~~ 417  
~~receive. That percentage shall be either~~ a clear statement of 418  
the benefit the charitable organization will receive, which may 419  
be stated as a fixed percentage of the gross revenue or a 420  
reasonable estimate of the percentage of the gross revenue, 421  
subject to and in accordance with divisions (A) (1), (2), and (3) 422  
of this section or as any other amount such as dollars per pound 423

of goods collected. 424

(1) If the compensation of the professional solicitor is 425  
contingent upon the number of contributions ~~or~~, the amount of 426  
revenue received from the solicitation campaign, or the number 427  
and value of goods received from the solicitation campaign, the 428  
~~stated percentage of the gross revenue~~ benefit that the 429  
charitable organization will receive shall be a fixed percentage 430  
of the gross revenue or a fixed percentage of the amount or 431  
value of goods collected. 432

(2) If the compensation of the professional solicitor is 433  
not contingent upon the number of contributions or the amount of 434  
revenue received from the solicitation campaign, the stated 435  
percentage of the gross revenue that the charitable organization 436  
will receive shall be a reasonable estimate of the percentage of 437  
the gross revenue or a reasonable estimate of the percentage of 438  
the amount or value of goods collected, and the contract shall 439  
include the following: 440

(a) The assumptions upon which the estimate is based, 441  
which assumptions shall be based upon all of the relevant facts 442  
known to the professional solicitor regarding the solicitation 443  
to be conducted and the past performance of the solicitation 444  
campaigns conducted by the professional solicitor; 445

(b) A provision that the charitable organization is 446  
guaranteed a percentage ~~of the gross revenue~~ that is not less 447  
than ninety per cent of the amount of the reasonable estimate of 448  
that percentage. 449

(3) The stated percentages prescribed in divisions (A) (1) 450  
and (2) of this section shall exclude any amount that the 451  
charitable organization, pursuant to the contract entered into 452



with the professional solicitor, will pay as expenses of the 453  
solicitation campaign, including the costs of merchandise or 454  
services sold or events staged. 455

(B) A professional solicitor shall comply with, and shall 456  
be responsible for complying or causing compliance with each of 457  
the following requirements: 458

(1) Prior to verbally requesting a contribution, or 459  
contemporaneously with and accompanying a written request for a 460  
contribution, the following shall be clearly and conspicuously 461  
disclosed at the point of solicitation: 462

(a) The name of the professional solicitor as it is on 463  
file with the attorney general and a statement that the 464  
solicitation is being conducted by the person as a professional 465  
solicitor; 466

(b) The name and address of each charitable organization 467  
on behalf of which all or any part of the contribution collected 468  
will be used. If the charitable organization has not received 469  
from the internal revenue service a determination letter that is 470  
currently in effect, stating that the organization is exempt 471  
from federal income taxation under section 501(a) and described 472  
in section 501(c)(3) of the Internal Revenue Code, the 473  
particular charitable purpose or purposes to be advanced with 474  
the funds raised shall be disclosed. 475

(2) If requested by the person being solicited, the 476  
professional solicitor shall inform that person of the fixed 477  
percentage of the gross revenue or the reasonable estimate of 478  
the percentage of the gross revenue, as prescribed in division 479  
(A) of this section, that the charitable organization will 480  
receive as a benefit from the solicitation campaign. 481

(C) A professional solicitor shall not represent that any 482  
part of the contributions received will be given or donated to 483  
any other charitable organization unless that charitable 484  
organization has given its written and signed consent pursuant 485  
to division ~~(D) (2) (g)~~ (D) (2) (h) of section 1716.07 of the 486  
Revised Code. 487

(D) (1) A professional solicitor shall not represent that 488  
tickets to any event will be donated for use by another person, 489  
unless the following requirements are complied with: 490

(a) The professional solicitor shall have the written 491  
commitments from persons stating that they will accept donated 492  
tickets and specifying the number of tickets they are willing to 493  
accept. 494

(b) The written commitments are filed with the attorney 495  
general prior to any solicitation. 496

(2) The contributions solicited for donated tickets shall 497  
not be more than the amount representing the number of ticket 498  
commitments received from persons and filed with the attorney 499  
general pursuant to division (D) (1) of this section. 500

(3) Not later than seven calendar days prior to the date 501  
of the event, the professional solicitor shall give all donated 502  
tickets to each person that made the written commitment to 503  
accept them. 504

(E) The attorney general shall prepare an annual report 505  
setting forth the activities of all professional solicitors and 506  
all fund-raising counsel that at any time have custody of 507  
contributions from a solicitation who are required to comply 508  
with the provisions of this chapter and any rules adopted under 509  
the provisions of this chapter. The report is a public record 510

open to public inspection under section 149.43 of the Revised Code. 511  
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(F) The attorney general shall maintain a file for each registered professional solicitor and each fund-raising counsel that at any time has custody of contributions from a solicitation. In that file, the attorney general shall place all information received by the attorney general from those registered professional solicitors or those fund-raising counsel and any letters received from citizens and charitable organizations regarding the work of the professional fund raiser or fund-raising counsel. The files are public records open to public inspection under section 149.43 of the Revised Code. 513  
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**Sec. 1716.14.** (A) The following acts and practices are hereby prohibited and declared unlawful as applied to the planning, conducting, or executing of any solicitation of contributions for a charitable organization or charitable purpose or to the planning, conducting, or executing of a charitable sales promotion: 523  
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(1) Committing any deceptive act or practice; 529

(2) Misleading any person as to any material fact concerning the solicitation of contributions for a charitable organization or charitable purpose or concerning a charitable sales promotion; 530  
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(3) Using any representation that implies that the contribution is for or on behalf of a charitable organization, or using any emblem, device, or printed matter belonging to or associated with a charitable organization, without first having been authorized in writing to do so by the charitable organization; 534  
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(4) Using a name, symbol, or statement that is so closely related or similar to that used by another charitable organization, public official, or public agency in such a manner that the use of the name, symbol, or statement tends to confuse or mislead a person being solicited for contributions, except that the name, symbol, or statement may be used if written permission is obtained from the other charitable organization, public official, or public agency and filed with the attorney general prior to any solicitation for a charitable purpose or prior to engaging in any charitable sales promotion;

(5) Misleading any person in any manner in the belief, or making or using any representation to any person that implies, that the organization on whose behalf a solicitation or charitable sales promotion is being conducted is a charitable organization or that the proceeds of the solicitation or charitable sales promotion will be used for a charitable purpose if either of those is not the fact;

(6) Misleading any person in any manner in the belief, or making or using any representation to any person that implies, that any other person sponsors, endorses, or approves of the solicitation or charitable sales promotion when that other person has not given its consent in writing to that representation or to the use of its name for any of those purposes;

(7) Using or exploiting the fact of registration in such a manner as to lead any person to believe that the registration in any manner constitutes an endorsement or approval by the state;

(8) Representing directly or by implication that a charitable organization will receive a fixed or estimated percentage of the gross revenue from a solicitation campaign

that is greater than that set forth in the contract filed with 570  
the attorney general pursuant to section 1716.08 of the Revised 571  
Code, or that a charitable organization will receive an actual 572  
or estimated dollar amount or percentage per unit of goods or 573  
services purchased or used in a charitable sales promotion, that 574  
is greater than that agreed to by the commercial co-venturer and 575  
the charitable organization pursuant to section 1716.09 of the 576  
Revised Code; 577

(9) Filing false or misleading information in any document 578  
required to be filed with the attorney general under this 579  
chapter; 580

(10) Filing false or misleading information in response to 581  
a request from the attorney general under section 1716.15 of the 582  
Revised Code; 583

(11) Failing to provide complete and timely payment to a 584  
charitable organization of the proceeds from a solicitation 585  
campaign or a charitable sales promotion; 586

(12) Initiating an outbound telephone call that delivers a 587  
prerecorded message in violation of 16 C.F.R. 310.4(b) (1) (v); 588

(13) Operating in violation of, or failing to comply with, 589  
any of the requirements of this chapter or any rule adopted 590  
under this chapter. 591

(B) The act of soliciting contributions for any charitable 592  
organization or charitable purpose or engaging in a charitable 593  
sales promotion without complying with the requirements of this 594  
chapter or any rule adopted pursuant to this chapter, is a 595  
nuisance. 596

**Sec. 1716.15.** (A) In order to carry out his official 597  
responsibilities under this chapter, upon reasonable cause to 598

believe that any person has violated or is violating any 599  
provision of this chapter or any rule adopted under it, or has 600  
filed any document as required under this chapter that contains 601  
false or misleading information, the attorney general may 602  
conduct an investigation to determine whether there has been a 603  
violation or filing of false or misleading information. In the 604  
conduct of the investigation, the attorney general may do the 605  
following: 606

(1) Examine or cause to be examined any person or any 607  
documentary material that is relevant to the alleged violation 608  
or false or misleading information, including a professional 609  
solicitor's pitch sheets, solicitation scripts, and recordings 610  
described in division (G) (1) of section 1716.07 of the Revised 611  
Code; 612

(2) Require the attendance during the examination of any 613  
person or require the production of any documentary material and 614  
the attendance of any person who has knowledge of the material, 615  
and take their testimony under oath. The testimony and 616  
examination shall take place in the county in which the person 617  
resides or has a place of business, or in Franklin county if the 618  
person consents to it, is a nonresident of this state, or has no 619  
place of business in this state. 620

(3) Require any professional solicitor, fund-raising 621  
counsel that at any time has custody of contributions from a 622  
solicitation, or charitable organization to produce an audited 623  
financial report prepared in accordance with generally accepted 624  
accounting principles pursuant to section 1716.04 of the Revised 625  
Code and that has been examined by an independent certified 626  
public accountant for the purpose of expressing an opinion on 627  
the report. 628

(B) The attorney general shall give notice of the time, 629  
date, place, and cause of the examination or the taking of 630  
testimony not less than ten days prior to its date. Service of 631  
the notice may be made by any of the following means: 632

(1) Personal delivery of a duly executed copy of the 633  
notice to the person to be served or to a partner, officer, or 634  
agent authorized by appointment or by law to receive service of 635  
process on behalf of that person; 636

(2) Delivery by leaving a duly executed copy of the notice 637  
at the principal place of business in this state of the person 638  
to be served; 639

(3) Certified mail, return receipt requested, of a duly 640  
executed copy of the notice to the person to be served at ~~his~~ 641  
the person's principal place of business in this state or, if 642  
the person has no principal place of business in this state, to 643  
the last address of that person known to the attorney general. 644

(C) The notice specified in division (B) of this section 645  
shall contain all of the following: 646

(1) The time, date, and place of the examination or the 647  
taking of testimony and, if known, the name and address of each 648  
person to be examined or to testify, or if that is not known, a 649  
general description sufficient to identify the person or the 650  
particular class or group to which ~~he~~ the person belongs; 651

(2) The section of the Revised Code, if any, or the 652  
chapter of the Administrative Code containing the rule adopted 653  
by the attorney general, if any, that is allegedly violated and 654  
the general subject matter of the investigation; 655

(3) A description with reasonable specificity of the class 656  
or classes of documentary material that is required to be 657

produced, if any, and the return date within which the 658  
documentary material is to be produced, which date shall be not 659  
less than ten days after the mailing of the notice. 660

(D) Every person upon whom the attorney general made 661  
service of the notice pursuant to this section shall comply with 662  
the terms of the notice unless otherwise provided by order of 663  
any court in this state. 664

(E) No person shall do any of the following: 665

(1) Fail to appear at any investigation under this section 666  
if ~~he~~ the person is required to do so; 667

(2) With the purpose to avoid, evade, or prevent 668  
compliance in whole or in part with any investigation under this 669  
section, remove, conceal, withhold, destroy, mutilate, alter, or 670  
by any means falsify any documentary material in the possession, 671  
custody, or control of any person who is subject to the notice 672  
prescribed in division (B) of this section; 673

(3) With the purpose to avoid, evade, or prevent 674  
compliance in whole or in part with any investigation under this 675  
section, knowingly conceal any information. 676

(F) The attorney general may file a petition in the court 677  
of common pleas of the county in which the person who is subject 678  
to the notice resides or has its principal place of business or 679  
in the court of common pleas of Franklin county if that person 680  
is not a resident of this state or has no principal place of 681  
business in this state, asking the court to issue an order for 682  
the enforcement of this section. The court may assess a civil 683  
penalty of not more than ten thousand dollars for each violation 684  
against any person who violates division (E) of this section, 685  
and may award the attorney general the costs of investigation 686



and litigation and reasonable attorney's fees. 687

(G) Any disobedience of any final order issued by the 688  
court under this section may be punished as for contempt of 689  
court or by imposing an additional civil penalty of not more 690  
than ten thousand dollars. 691

**Section 2.** That existing sections 1716.01, 1716.07, 692  
1716.08, 1716.14, and 1716.15 of the Revised Code are hereby 693  
repealed. 694