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135th General Assembly

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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.

Senators Chavez, Cirino, Craig, Hicks-Hudson, Ingram, Johnson, Reineke, Roegner, Wilson



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 46
sale conducted by a person who represents that the purchase or 47
use of goods or services offered by the person will benefit, in 48
whole or in part, any charitable organization or charitable 49
purpose. The provision of advertising services to a charitable 50
organization, either for compensation or as a donation, does not 51
of itself constitute a charitable sales promotion. 52

~~(D)~~ (D) (1) "Collection receptacle" means an attended or 53
unattended container the purpose of which is to collect 54
donations of any of the following: 55

(a) Clothing; 56

(b) Books; 57

(c) Subject to division (D) (2) of this section, personal 58
items, household items, or other goods. 59

(2) "Collection receptacle" does not include a container 60
used to collect monetary donations or donations of food, 61
consumable household supplies, or personal health products to be 62
distributed for a charitable purpose. 63

(E) "Commercial co-venturer" means any person who for 64
profit regularly and primarily is engaged in trade or commerce 65
other than in connection with soliciting for charitable 66
organizations or charitable purposes and who conducts a 67
charitable sales promotion. 68

~~(E)~~ (F) "Contribution" means the promise, pledge, or grant 69
of any money or property, financial assistance, or any other 70
thing of value in response to a solicitation. "Contribution" 71

does not include any bona fide fees, or any dues or assessments 72
paid by members, provided that membership is not conferred 73
solely as a consideration for making a contribution in response 74
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
campaign, the professional solicitor shall pay to the attorney 283
general a fee of two hundred dollars and file all of the 284
following with the attorney general, and the attorney general 285
may publish, all of the following: 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 campaign 299
will commence and terminate, which period of time shall not 300
exceed four years; 301

(c) The location and telephone number from where the 302
solicitation campaign 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
(e) The name and residence address of each person	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 <u>campaign</u> .	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
<u>the total weight of items collected in each collection</u>	325
<u>receptacle if a collection receptacle was used and the value</u>	326
<u>received for the sale of such items collected,</u> 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 which the professional solicitor has deposited revenue from the solicitation campaign and the account number of each account in which the deposits were made;	364 365 366 367
(g) A copy of each pitch sheet or solicitation script used during the solicitation campaign;	368 369
(h) If a refund of a contribution has been requested, the name and address of each person requesting the refund, and if a refund was made, its amount and the date it was made.	370 371 372
(i) <u>An audio recording of each telephone solicitation the professional solicitor makes;</u>	373 374
(j) <u>Any other record of such information as the attorney general may require.</u>	375 376
(2) If the professional solicitor sells tickets to any event and represents that the tickets will be donated for use by another person, the professional solicitor also shall maintain for the same period as specified in division (G) (1) of this section the following records:	377 378 379 380 381
(a) The name and address of each contributor that purchases or donates tickets and the number of tickets purchased or donated by the contributor;	382 383 384
(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.	385 386 387
(3) Any of the records described in divisions (G) (1) and (2) of this section shall be made available to the attorney general upon the attorney general's request and shall be	388 389 390

furnished to the attorney general within ten days of the request. 391
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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. 393
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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 of a disqualifying offense determined in accordance with section 9.79 of the Revised Code. 398
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(J) If a professional solicitor fails to comply in a timely or complete manner with any of the requirements under this section, the professional solicitor is liable for and, in addition to any fee required in this section, shall pay two hundred dollars for each late filing. Each registration, renewal of registration, bond, solicitation notice, contract, sworn statement, or financial report shall be considered a separate filing for the purposes of this section. Any fees required by this section are in addition to, and not in place of, penalties prescribed in this chapter. 402
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Sec. 1716.08. (A) Every contract entered into by any professional solicitor with any charitable organization shall be in writing, shall clearly state the respective obligations of the professional solicitor and the charitable organization, and shall contain ~~the percentage of the gross revenue from the solicitation campaign that the charitable organization will receive. That percentage shall be either~~ a clear statement of the benefit the charitable organization will receive, which may be stated as a fixed percentage of the gross revenue or a 412
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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 511
Code. 512

(F) The attorney general shall maintain a file for each 513
registered professional solicitor and each fund-raising counsel 514
that at any time has custody of contributions from a 515
solicitation. In that file, the attorney general shall place all 516
information received by the attorney general from those 517
registered professional solicitors or those fund-raising counsel 518
and any letters received from citizens and charitable 519
organizations regarding the work of the professional fund raiser 520
or fund-raising counsel. The files are public records open to 521
public inspection under section 149.43 of the Revised Code. 522

Sec. 1716.14. (A) The following acts and practices are 523
hereby prohibited and declared unlawful as applied to the 524
planning, conducting, or executing of any solicitation of 525
contributions for a charitable organization or charitable 526
purpose or to the planning, conducting, or executing of a 527
charitable sales promotion: 528

(1) Committing any deceptive act or practice; 529

(2) Misleading any person as to any material fact 530
concerning the solicitation of contributions for a charitable 531
organization or charitable purpose or concerning a charitable 532
sales promotion; 533

(3) Using any representation that implies that the 534
contribution is for or on behalf of a charitable organization, 535
or using any emblem, device, or printed matter belonging to or 536

associated with a charitable organization, without first having 537
been authorized in writing to do so by the charitable 538
organization; 539

(4) Using a name, symbol, or statement that is so closely 540
related or similar to that used by another charitable 541
organization, public official, or public agency in such a manner 542
that the use of the name, symbol, or statement tends to confuse 543
or mislead a person being solicited for contributions, except 544
that the name, symbol, or statement may be used if written 545
permission is obtained from the other charitable organization, 546
public official, or public agency and filed with the attorney 547
general prior to any solicitation for a charitable purpose or 548
prior to engaging in any charitable sales promotion; 549

(5) Misleading any person in any manner in the belief, or 550
making or using any representation to any person that implies, 551
that the organization on whose behalf a solicitation or 552
charitable sales promotion is being conducted is a charitable 553
organization or that the proceeds of the solicitation or 554
charitable sales promotion will be used for a charitable purpose 555
if either of those is not the fact; 556

(6) Misleading any person in any manner in the belief, or 557
making or using any representation to any person that implies, 558
that any other person sponsors, endorses, or approves of the 559
solicitation or charitable sales promotion when that other 560
person has not given its consent in writing to that 561
representation or to the use of its name for any of those 562
purposes; 563

(7) Using or exploiting the fact of registration in such a 564
manner as to lead any person to believe that the registration in 565
any manner constitutes an endorsement or approval by the state; 566

(8) Representing directly or by implication that a 567
charitable organization will receive a fixed or estimated 568
percentage of the gross revenue from a solicitation campaign 569
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