

H. B. No. 21

As Introduced

\_\_\_\_\_ moved to amend as follows:

Delete lines 8 through 229

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After line 229, insert:

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

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

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

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(b) Any person that is or holds itself out to be established for any benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic, or other eleemosynary purpose or for the benefit of law enforcement personnel, firefighters, or other persons who protect the public safety, or any person who in any manner employs a charitable appeal as the basis of any solicitation or an appeal that suggests that there is a charitable purpose to any solicitation.

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

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

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

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

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

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

(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. 47

(D) (1) "Collection receptacle" means an attended or 48  
unattended container the purpose of which is to collect 49  
donations of any of the following: 50

(a) Clothing; 51

(b) Books; 52

(c) Subject to division (D) (2) of this section, personal 53  
items, household items, or other goods. 54

(2) "Collection receptacle" does not include a container 55  
used to collect monetary donations or donations of food, 56  
consumable household supplies, or personal health products to be 57  
distributed for a charitable purpose. 58

(E) "Commercial co-venturer" means any person who for 59  
profit regularly and primarily is engaged in trade or commerce 60  
other than in connection with soliciting for charitable 61  
organizations or charitable purposes and who conducts a 62  
charitable sales promotion. 63

(F) "Contribution" means the promise, pledge, or grant of 64  
any money or property, financial assistance, or any other thing 65  
of value in response to a solicitation. "Contribution" does not 66  
include any bona fide fees, or any dues or assessments paid by 67  
members, provided that membership is not conferred solely as a 68  
consideration for making a contribution in response to a 69  
solicitation. 70

(G) "Deceptive act or practice" means knowingly 71  
misrepresenting any material fact related to the planning, 72  
conducting, or executing of any solicitation of contributions 73  
for a charitable organization or charitable purpose or to the 74

planning, conducting, or executing of a charitable sales 75  
promotion, when the misrepresentation induces any person to make 76  
a contribution to a charitable organization, for a charitable 77  
purpose, or in response to a charitable sales promotion. 78

(H) "Fund-raising counsel" means any person who, for 79  
compensation, plans, manages, advises, consults, or prepares 80  
material for or with respect to the solicitation in this state 81  
of contributions for any charitable organization or at any time 82  
has custody of contributions from a solicitation, but does not 83  
solicit contributions and does not employ, procure, or otherwise 84  
engage any compensated person to solicit contributions. "Fund- 85  
raising counsel" does not include the following: 86

(1) An attorney, investment counselor, or banker who in 87  
the conduct of the attorney's, investment counselor's, or 88  
banker's profession advises a client; 89

(2) A charitable organization or a bona fide officer, 90  
employee, or volunteer of a charitable organization, when the 91  
charitable organization has full knowledge of the services being 92  
performed on its behalf and either of the following applies: 93

(a) The services performed by the charitable organization, 94  
bona fide officer, employee, or volunteer are performed on 95  
behalf of the charitable organization that employs the bona fide 96  
officer or employee or engages the services of the bona fide 97  
volunteer; 98

(b) The charitable organization on whose behalf the 99  
services are performed shares some element of common control or 100  
an historic or continuing relationship with the charitable 101  
organization that performs the services or employs the bona fide 102  
officer or employee or engages the services of the bona fide 103

volunteer;	104
(3) An employer who is not engaged in the business of	105
soliciting contributions or conducting charitable sales	106
promotions but who incidentally solicits contributions for a	107
charitable organization or purpose without compensation;	108
(4) A compensated employee of an employer who is not	109
engaged in the business of soliciting contributions or	110
conducting charitable sales promotions, when the employee	111
solicits contributions or conducts charitable sales promotions	112
at the direction of the employee's employer.	113
(I) <u>"Health care sharing ministry" means a nonprofit</u>	114
<u>organization that meets all of the following:</u>	115
(1) <u>Limits its participants to those members who share a</u>	116
<u>common set of ethical or religious beliefs;</u>	117
(2) <u>Retains membership for participants who develop a</u>	118
<u>medical condition;</u>	119
(3) <u>Acts as a facilitator among participants who have</u>	120
<u>financial or medical needs to assist in meeting those financial</u>	121
<u>and medical needs in accordance with criteria established by the</u>	122
<u>organization;</u>	123
(4) <u>Provides for the financial or medical needs of a</u>	124
<u>participant through contributions from other participants;</u>	125
(5) <u>Provides amounts that participants may contribute with</u>	126
<u>no assumption of risk or promise to pay by the health care</u>	127
<u>sharing ministry to the participants;</u>	128
(6) <u>Conducts an annual audit which is performed by an</u>	129
<u>independent certified public accounting firm in accordance with</u>	130
<u>generally accepted accounting principles and which is made</u>	131

available to the public by providing a copy upon request or by 132  
posting the audit on the organization's web site; 133

(7) Provides to the participants, on at least an annual 134  
basis, the total dollar amount of qualified financial and 135  
medical needs actually shared in the previous year, or other 136  
relevant time period, if the report is made more frequently than 137  
annually, in accordance with criteria established by the 138  
organization; 139

(8) Provides a written disclaimer on or accompanying all 140  
applications and guideline materials distributed by or on behalf 141  
of the organization that reads, in substance: 142

"Notice: The organization facilitating the sharing of 143  
medical expenses is not an insurance company, and neither its 144  
guidelines nor plan of operation is an insurance policy. Whether 145  
anyone chooses to assist you with your medical bills will be 146  
totally voluntary, because no other participant will be 147  
compelled by law to contribute toward your medical bills. As 148  
such, participation in the organization or a subscription to any 149  
of its documents should never be considered to be insurance. 150  
Regardless of whether you receive any payments for medical 151  
expenses or whether this organization continues to operate, you 152  
are always personally responsible for the payment of your own 153  
medical bills." 154

(J) "Internal Revenue Code" means the "Internal Revenue 155  
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 156

~~(J)~~ (K) "Person" has the same meaning as in section 1.59 of 157  
the Revised Code and includes a group, foundation, or any other 158  
entity however styled. 159

~~(K)~~ (L) "Professional solicitor" means any person who, for 160

compensation, performs on behalf of or for the benefit of a  
charitable organization any service in connection with which  
contributions are or will be solicited in this state by the  
compensated person or by any person it employs, procures, or  
otherwise engages directly or indirectly to solicit  
contributions. "Professional solicitor" does not include the  
following:

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

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

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

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

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

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

~~(L) (1)~~ (M) (1) "Solicit" or "solicitation" means to request  
or a request directly or indirectly for money, property,  
financial assistance, or any other thing of value on the plea or  
representation that such money, property, financial assistance,  
or other thing of value or a portion of it will be used for a  
charitable purpose or will benefit a charitable organization.  
"Solicit" or "solicitation" includes but is not limited to the  
following methods of requesting or securing the promise, pledge,  
or grant of money, property, financial assistance, or any other  
thing of value:

(a) Any oral or written request;

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

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

(d) Selling or offering or attempting to sell any  
advertisement, advertising space, book, card, tag, coupon,  
chance, device, magazine, membership, merchandise, subscription,  
sponsorship, flower, ticket, admission, candy, cookies, or other  
tangible item, or any right of any description in connection



with which an appeal is made for any charitable organization or 219  
charitable purpose, or when the name of any charitable 220  
organization is used or referred to in any such appeal as an 221  
inducement or reason for making the sale, or when in connection 222  
with the sale or offer or attempt to sell, any statement is made 223  
that all or part of the proceeds from the sale will be used for 224  
any charitable purpose or will benefit any charitable 225  
organization; 226

(e) Operating a collection receptacle that purports, 227  
either through language appearing on the collection receptacle 228  
itself or otherwise, to be collecting items for the purpose of 229  
benefiting a charitable purpose or charitable organization. 230  
"Solicit" or "solicitation" does not include removing or 231  
delivering donations placed in a collection receptacle for a 232  
fixed fee if the person doing so does not otherwise directly or 233  
indirectly receive any of the proceeds of the sale of such 234  
donations or derive any other benefit from such activity. 235

(2) A solicitation is considered as having taken place for 236  
purposes of division ~~(L)~~ ~~(1)~~ (M) (1) of this section whether or not 237  
the person making the solicitation receives any contribution. A 238  
solicitation does not occur when a person applies for a grant or 239  
an award to the government or to an organization that is exempt 240  
from federal income taxation under section 501(a) and described 241  
in section 501(c)(3) of the Internal Revenue Code. 242

~~(M)~~ (N) "Solicitation campaign" means a series of 243  
solicitations that are made by the same person for the same 244  
charitable organization and that are similar in content or are 245  
based on a similar pitch or sales approach, which series leads 246  
up to or is represented to lead up to an event or lasts or is 247  
intended to last for a definite period of time. 248

~~(N)~~ (O) "Theft offense" has the same meaning as in section 249  
2913.01 of the Revised Code. 250

~~(O)~~ (P) "Elderly person" and "disabled adult" have the same 251  
meanings as in section 2913.01 of the Revised Code." 252

In line 233, delete "The attorney general has exclusive authority 253  
to" 254

Delete lines 234 and 235 255

In line 236, delete "(C)" 256

The motion was \_\_\_\_\_ agreed to.

#### SYNOPSIS 257

#### **Health care sharing ministry (HCSM) qualifications 258**

#### **R.C. 1716.01 and 1716.22 259**

Requires an organization, in order to qualify as a health 260  
care sharing ministry (HCSM) and be exempt from state insurance 261  
laws, to retain members after they develop a medical condition. 262

Eliminates a provision of the bill that gave the Attorney 263  
General exclusive authority to determine whether an organization 264  
qualifies as an HCSM. 265