

AN ACT

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

Be it enacted by the General Assembly of the State of Ohio:

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

Sec. 1716.01. As used in this chapter:

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

(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;

(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.

(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.

~~(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.

~~(F)~~(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.

~~(G)~~(G) "Deceptive act or practice" means knowingly misrepresenting any material fact related 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, when the misrepresentation induces any person to make a contribution to a charitable organization, for a charitable purpose, or in response to a charitable sales promotion.

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

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

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

~~(J)~~(K) "Professional solicitor" means any person who, for 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.

~~(K)~~(L)(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 charitable purpose, or when the name of any charitable organization is used or referred to in any such appeal as an inducement or reason for making the sale, or when in connection with the sale or offer or attempt to sell, any statement is made that all or part of the proceeds from the sale will be used for any charitable purpose or will benefit any charitable organization;

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

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

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

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

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

Sec. 1716.06. The operator of a collection receptacle shall display all of the following information on the collection receptacle in letters that are at least three inches in height and not less

than one-half inch in width, are on a permanent sign or label placed on every side of the collection receptacle, and are in a color that contrasts with the color of the collection receptacle:

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

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

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

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

(B) Every professional solicitor, before engaging in any solicitation, shall register with the attorney general. Applications for registration or renewal of registration shall be in writing, under oath, and in the form prescribed by the attorney general, and shall be accompanied by a fee in the amount of two hundred dollars. Any corporation, partnership, association, or other entity that intends to act as a professional solicitor may register for and pay a single fee of two hundred dollars on behalf of all its members, officers, employees, agents, and solicitors. In that case, the names and addresses of all the officers, employees, and agents of the professional solicitor and all other persons with whom the professional solicitor has contracted to work under its direction, including solicitors, shall be listed in the application or furnished to the attorney general within five days of the date of employment or contractual arrangement. The application shall contain any other information that the attorney general may require. The registration shall be for a period of one year or part of one year and shall expire on the thirty-first day of March of each year. Upon application and payment of the fee specified in this division and filing of the bond prescribed in division (C) of this section, the registration may be renewed for additional one-year periods. All fees prescribed in this division shall be paid into the state treasury to the credit of the charitable law fund established under section 109.32 of the Revised Code.

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

(D)(1) Prior to the commencement of any solicitation campaign, the professional solicitor

shall ~~pay to the attorney general a fee of two hundred dollars and file all of the following~~ with the attorney general, and the attorney general may publish, all of the following:

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

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

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

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

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

(b) The projected dates when the solicitation campaign will commence and terminate, which period of time shall not exceed four years;

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

(d) The location of each collection receptacle used in connection with the solicitation campaign;

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

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

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

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

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

(F) Each contribution collected by or in the custody of the professional solicitor shall be solely in the name of the charitable organization on whose behalf the contribution was solicited. Not later than two days after receipt of each contribution, the professional solicitor shall deposit the entire amount of the contribution in an account at a bank or other federally insured financial institution, which shall be in the name of that charitable organization. The charitable organization

shall have sole control of all withdrawals from the account and the professional solicitor shall not be given the authority to withdraw any deposited funds from the account.

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

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

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

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

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

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

(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;

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

(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.

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

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

(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:

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

(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.

(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 furnished to the attorney general within ten days of the request.

(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.

(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.

(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.

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 reasonable estimate of the percentage of the gross revenue, subject to and in accordance with divisions (A)(1), (2), and (3) of this section or as any other amount such as dollars per pound of goods collected.

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

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

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

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

(3) The stated percentages prescribed in divisions (A)(1) and (2) of this section shall exclude any amount that the charitable organization, pursuant to the contract entered into with the professional solicitor, will pay as expenses of the solicitation campaign, including the costs of

merchandise or services sold or events staged.

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

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

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

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

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

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

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

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

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

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

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

(E) The attorney general shall prepare an annual report setting forth the activities of all professional solicitors and all fund-raising counsel that at any time have custody of contributions from a solicitation who are required to comply with the provisions of this chapter and any rules adopted under the provisions of this chapter. The report is a public record open to public inspection under section 149.43 of the Revised Code.

(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.

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:

- (1) Committing any deceptive act or practice;
- (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;
- (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;
- (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 the attorney general pursuant to section 1716.08 of the Revised Code, or that a charitable organization will receive an actual or estimated dollar amount or percentage per

unit of goods or services purchased or used in a charitable sales promotion, that is greater than that agreed to by the commercial co-venturer and the charitable organization pursuant to section 1716.09 of the Revised Code;

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

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

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

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

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

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

Sec. 1716.15. (A) In order to carry out ~~his~~ official responsibilities under this chapter, upon reasonable cause to believe that any person has violated or is violating any provision of this chapter or any rule adopted under it, or has filed any document as required under this chapter that contains false or misleading information, the attorney general may conduct an investigation to determine whether there has been a violation or filing of false or misleading information. In the conduct of the investigation, the attorney general may do the following:

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

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

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

(B) The attorney general shall give notice of the time, date, place, and cause of the examination or the taking of testimony not less than ten days prior to its date. Service of the notice

may be made by any of the following means:

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

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

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

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

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

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

(3) A description with reasonable specificity of the class or classes of documentary material that is required to be produced, if any, and the return date within which the documentary material is to be produced, which date shall be not less than ten days after the mailing of the notice.

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

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

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

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

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

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

costs of investigation and litigation and reasonable attorney's fees.

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

SECTION 2. That existing sections 1716.01, 1716.07, 1716.08, 1716.14, and 1716.15 of the Revised Code are hereby repealed.

Am. H. B. No. 184

135th G.A.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. H. B. No. 184

135th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____