



## Ohio Revised Code

### Section 109.24 Investigating transactions and relationships of trustees of charitable trust.

Effective: March 17, 1987

Legislation: House Bill 412 - 116th General Assembly

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The powers of the attorney general under sections 109.23 to 109.33 of the Revised Code shall be in addition to and not in limitation of his powers held at common law. The attorney general may investigate transactions and relationships of trustees of a charitable trust for the purpose of determining whether the property held for charitable, religious, or educational purposes has been and is being properly administered in accordance with fiduciary principles as established by the courts and statutes of this state. The attorney general is empowered to require the production of any books or papers which are relevant to the inquiry. Each such request shall be in writing, and shall do all of the following:

- (A) Identify the person to whom the request is directed;
- (B) State the specific purpose of the investigation;
- (C) Describe any books and the papers to be produced with such definiteness and certainty as to permit such material to be fairly identified;
- (D) Prescribe a return date which will provide at least ten days' notice within which the books or papers to be produced may be assembled;
- (E) State the place where and the time within which any books or papers are to be produced, provided, however, that copies of such books and papers may be produced in lieu of the originals.

No request shall contain any requirement which would be held to be unreasonable or oppressive or which would be privileged from disclosure if contained in a subpoena duces tecum issued by a court of this state pursuant to the Rules of Civil Procedure. If the production of documents required by the request would be unduly burdensome, the person upon whom the request is served, in lieu of producing such books or papers at the place designated in the request, shall make such books or



papers available for inspection, copying, or reproduction at the place where such books or papers are kept.

Whenever a request fails to meet the requirements enumerated in this section, any person upon whom the request is served may file a complaint to quash such request in the court of common pleas of the county in which the trust, institution, association, or corporation has its principal place of business in this state. The complaint shall contain a brief statement of facts entitling such person to have such requests quashed. No answer to such complaint is required. Upon the filing of the complaint, the court, on motion of the complainant, shall enter an order fixing a date for a hearing on the complaint and requiring that a copy of the complaint and a notice of the filing and of the date for hearing be given to the attorney general or his assistant in the manner in which summons is required to be served or substituted services required to be made in other cases. On the day fixed for the hearing on the complaint, the court shall determine from the complaint and from such evidence as is submitted by either party whether the person upon whom the request was served is entitled to have the request quashed. The proceeding is a special proceeding, and final orders in the proceeding may be vacated, modified, or reversed on appeal pursuant to the Rules of Appellate Procedure and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code.

The attorney general shall institute and prosecute a proper action to enforce the performance of any charitable trust, and to restrain the abuse of it whenever he considers such action advisable or if directed to do so by the governor, the supreme court, the general assembly, or either house of the general assembly. Such action may be brought in his own name, on behalf of the state, or in the name of a beneficiary of the trust, in the court of common pleas of any county in which the trust property or any part of it is situated or invested, or in which the trustee resides; provided that in the case of a charitable trust created by, arising as a result of, or funded by a will, such action may be brought in either the court of common pleas of any such county, or the probate division of it, at the election of the attorney general. No such action shall abate or discontinue by virtue of the discontinuance in office of the attorney general in whose name such actions may be brought. This section is intended to allow the attorney general full discretion concerning the manner in which the action is to be prosecuted, including the authority to settle an action when he considers that advisable.