



Ohio Revised Code

Section 1716.01 Charitable organization definitions.

Effective: November 22, 1999

Legislation: Senate Bill 2 - 123rd General Assembly

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

(E) "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.

(F) "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.

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

(2) A solicitation is considered as having taken place for purposes of division (K)(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) "Theft offense" has the same meaning as in section 2913.01 of the Revised Code.

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