



Ohio Revised Code

Section 1716.16 Civil actions to enforce chapter.

Effective: October 29, 1999

Legislation: House Bill 59 - 123rd General Assembly

(A) In addition to other remedies authorized by law, the attorney general may bring a civil action to enforce this chapter or any rule adopted under this chapter. The attorney general is not required to use any procedure prescribed in Chapter 119. of the Revised Code prior to exercising any remedy set forth in this section.

(B) Upon a finding that any person has engaged or is engaging in any act or practice in violation of this chapter or any rule adopted under this chapter, a court may make any necessary order or enter a judgment including, but not limited to, an injunction, restitution, or an award of reasonable attorney's fees and costs of investigation and litigation, and may award to the state a civil penalty of not more than ten thousand dollars for each violation of this chapter or rule. In seeking injunctive relief, the attorney general shall not be required to establish irreparable harm but only shall establish a violation of a provision of this chapter or a rule adopted under this chapter or that the requested order promotes the public interest.

(C) In any case in which the attorney general has authority to institute an action or proceeding under this chapter, the attorney general may accept an assurance of discontinuance of any method, act, or practice that is in violation of this chapter or any rule adopted under it, from any person alleged to be engaged in or to have engaged in the unlawful method, act, or practice. The assurance may include a stipulation for the voluntary payment by the person of the costs of investigation, or of an amount to be held in escrow pending the outcome of any action or as restitution to any aggrieved person or both. The assurance of discontinuance shall be in writing and shall be filed with the court of common pleas of Franklin county. Any evidence of a violation of the assurance of discontinuance shall be prima-facie evidence of a violation of this chapter or any rule adopted under it in any subsequent action or proceeding brought by the attorney general. Any matter that has been closed by the acceptance of an assurance of discontinuance may at any time be reopened by the attorney general for further proceedings in the public interest.

(D) In addition to any other sanction imposed by law, any charitable organization, fund-raising



counsel, professional solicitor, commercial co-venturer, or any of their agents, or any other person that violates the terms of an assurance of discontinuance, an injunction, or any other order or judgment entered by a court under this section, shall forfeit and pay to the state a civil penalty of not more than ten thousand dollars for each violation that may be recovered in a civil action brought by the attorney general. Each violation shall be a separate offense, except that in the case of a violation through continuing failure to obey, or neglect in obeying, the order, each day of continuance of the failure or neglect shall be considered a separate offense.

(E) The civil penalties assessed under division (B) or (D) of this section or division (F) or (G) of section 1716.15 of the Revised Code shall be paid into the state treasury to the credit of the charitable law fund established under section 109.32 of the Revised Code.