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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Odioso and Abrams

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SUMMARY

- Requires a crowdfunding platform to include provisions in its terms of service prohibiting crowdfunding organizers from using crowdfunding donations for promoting or supporting acts of violence, an unlawful purpose, or for any purpose other than the one specified in the solicitation or campaign for those funds.
- Requires a crowdfunding platform to include provisions in its terms of service to provide for the return of excess funds received through crowdfunding.
- Require crowdfunding platforms to terminate a crowdfunding campaign if the crowdfunding organizer violated the terms of service.
- Establishes requirements for remitting excess funds or funds collected for a terminated crowdfunding campaign back to the donors.
- Requires remitted crowdfunded donations to be deposited into the Unclaimed Funds Trust Fund when the funds cannot be delivered to a known donor.
- Requires remitted anonymously donated crowdfunded donations to be deposited into the Crime Victims Recovery Fund.
- Requires crowdfunding platforms to maintain records of the collection and use of all funds collected by crowdfunding organizers through their platform for at least three years.
- Requires every crowdfunding platform to file an annual report with the Attorney General regarding certain information about crowdfunding campaigns conducted on their platforms during the prior year.
- Permits the Attorney General to conduct an investigation of a crowdfunding platform if the Attorney General has reason to believe that the crowdfunding platform has failed or is failing to comply with the terms of service provisions of the bill.

- Specifies the requirements regarding persons who are subpoenaed to produce relevant matter in the course of the Attorney General’s investigation of a crowdfunding platform.
- Allows the Attorney General to bring a civil action if it appears that a crowdfunding platform violated the terms of service requirements of the bill.
- Permits the collection of administrative and civil penalties if a crowdfunding platform violates the terms of service requirements of the bill, to be paid into the Charitable Law Fund.

DETAILED ANALYSIS

Crowdfunding

The bill establishes requirements and limitations on crowdfunding practices. Under the bill, “crowdfunding” means the practice of obtaining funding by soliciting and receiving donated funds or virtual currency from individuals, organizations, or companies for a noncommercial purpose that is described in the solicitation. Crowdfunding does not include any of the following practices:

- Soliciting funds in exchange for a stake, share, or partial ownership in any company, organization, real or personal property, or other financial asset;
- Soliciting funds in exchange for participation in any transaction conducted under Ohio’s loan laws, investment security laws, or secured transactions laws;
- Soliciting funds to develop a product or service, or in exchange for future delivery of, or access to, that product or service.

A “crowdfunding platform” means any publicly available website, software application, online service, or money transmitter through which a crowdfunding organizer solicits and receives donated funds through crowdfunding. A “crowdfunding organizer” is any person who conducts a solicitation for crowdfunding.¹

Terms of service requirements

The bill requires every crowdfunding platform to include both of the following in its terms of service.

Prohibited activities and purposes

The terms shall include a prohibition against crowdfunding organizers using funds raised through crowdfunding for any of the following:

- Any purpose other than the purpose specific when soliciting or campaigning to obtain the funds;
- Promoting or supporting acts of violence;

¹ R.C. 1349.07.

- An unlawful purpose.²

Treatment of excess funds

The bill requires the terms of service to include a requirement that a crowdfunding organizer do both of the following if it possesses excess donated funds or virtual currency after the stated purpose of a crowdfunding campaign has been realized or achieved:

- Sell or convert any virtual currency to United States dollars;
- Remit all excess funds to the donors for the crowdfunding campaign in amounts proportional to the donors' respective donations. For example, a donor that donated 3% of the total amount of crowdfunded donations would be entitled to 3% of the remaining excess funds.³

Campaign termination

If a crowdfunding organizer violates the terms of service requirements described above, the bill requires the crowdfunding platform to terminate that campaign. In that case, the bill requires the crowdfunding organizer to proportionally remit all collected funds from the crowdfunding campaign to the donors in the same way described above for excess funds.⁴

Unclaimed funds

If the crowdfunding organizer cannot deliver remitted funds to a donor under the provisions for the treatment of excess funds or for terminated campaigns, the bill requires the funds to be managed as follows:

- If the donor's name and personal information are known, the bill requires the funds to be paid to the Director of Commerce, to be deposited as unclaimed funds into the Unclaimed Funds Trust Fund. In this case, the donor can identify those funds and reclaim them at a future date.
- If the donation was made anonymously, the crowdfunding organizer must pay the funds to the Attorney General, who shall deposit those funds into the Crime Victims Recovery Fund.⁵

Enforcement

The bill permits the Attorney General to conduct an investigation if the Attorney General, based on complaints or the Attorney General's own inquiries, has reasonable cause to believe that a crowdfunding platform has violated the terms of service requirements of the bill. In any investigation conducted pursuant to this provision, the Attorney General may administer oaths, subpoena witnesses, adduce evidence, and subpoena the production of any book, document,

² R.C. 1349.071(A).

³ R.C. 1349.071(B).

⁴ R.C. 1349.072.

⁵ R.C. 1349.073.

record, or other relevant matter. If the Attorney General subpoenas the production of any relevant matter that is located outside this state, the Attorney General may designate a representative, including an official of the state in which that relevant matter is located, to inspect the relevant matter on the Attorney General's behalf. The Attorney General may carry out similar requests received from officials of other states.

Any person who is subpoenaed to produce relevant matter must make it available at a convenient location within Ohio or the state of the representative designated above. Any person who is subpoenaed as a witness or to produce relevant matter may file in the Franklin County Court of Common Pleas, the Ohio county in which the person resides, or the Ohio county in which the person's principal place of business is located, a petition to extend for good cause shown the date on which the subpoena is to be returned or to modify or quash for good cause shown that subpoena. The person may file the petition at any time prior to the date specified for the return of the subpoena or within 20 days after the service of the subpoena, whichever is earlier.

Any person who is subpoenaed as a witness or to produce relevant matter must comply with the terms of the subpoena unless the court orders otherwise prior to the date specified for the return of the subpoena or, if applicable, that date as extended. If a person fails without lawful excuse to obey a subpoena, the Attorney General may apply to the Court of Common Pleas for an order that does one or more of the following:

- Compels the requested discovery;
- Adjudges the person in contempt of court;
- Grants injunctive relief to restrain the person from failing to comply with the terms of service and undeliverable remittance provisions;
- Grants other relief that may be required until the person obeys the subpoena.⁶

Penalties

The bill requires the Attorney General to impose on a crowdfunding platform an administrative penalty of \$10,000 for each time the platform violates the terms of service requirements. Additionally, the bill permits the Attorney General to bring a civil action in the Court of Common Pleas for appropriate relief, which may include a temporary restraining order, preliminary injunction, or permanent injunction for violations of the terms of service requirements. If a crowdfunding platform violates the terms of service requirements more than once in a two-year period, the Attorney General may also seek a civil penalty of \$10,000 per violation in addition to the administrative penalties described above.

⁶ R.C. 1349.075. Divisions (C) to (F) of R.C. 1349.075 of the bill appears to have an erroneous cross reference to Division (B) of R.C. 1349.076. The correct reference should be to R.C. 1349.075. A technical amendment may be needed to correct this error.

Any penalty collected by the Attorney General under the bill shall be paid into the state treasury to the credit of the Charitable Law Fund.⁷

Recordkeeping and reporting

The bill requires a crowdfunding platform to keep complete and accurate records of all facts and circumstances surrounding the fundraising and disposition of funds and virtual currencies associated with a crowdfunding campaign for at least three years. The bill, however, does not include provisions regarding how crowdfunding platforms are to audit or acquire information regarding the disposition or use of crowdfunded donations.⁸

Additionally, the bill requires a crowdfunding platform to submit a report to the Consumer Protection Section of the Office of the Attorney General on or before January 31, each year (beginning in the second calendar year after the bill's effective date). This report must contain all of the following information with respect to the prior calendar year:

- The number of crowdfunding campaigns that were initiated through the platform;
- The total dollar amount received for all crowdfunding campaigns;
- The total dollar amount withdrawn for use by all crowdfunding campaigns;
- The number of crowdfunding campaigns terminated by the crowdfunding platform for noncompliance with the crowdfunding platform's terms of service;
- The reason for which each crowdfunding campaign was terminated by the crowdfunding platform;
- The total dollar amount refunded to donors for terminated crowdfunding campaigns;
- The total dollar amount from terminated crowdfunding campaigns deposited into the Unclaimed Funds Trust Fund;
- The total dollar amount deposited into the Crime Victims Recovery Fund from terminated crowdfunding campaigns;
- The percentage of funds collected through the crowdfunding platform that were paid to the intended recipient or utilized for the intended purpose.⁹

⁷ R.C. 1349.076.

⁸ R.C. 1349.074.

⁹ R.C. 1349.08.

HISTORY

Action	Date
Introduced	10-07-25
