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Public Works for a Better Government

January 28, 2014

Honorable Joshua McKoon
Georgia Code Revision Commission
The General Assembly
319-A Coverdell Legislative Office Building
Atlanta, Georgia 30334

Dear Senator McKoon:

On January 14, 2014, I testified before the House Judiciary Committee on the subject of **Edicts of Government**. One of the subjects that received extensive discussion was the question of the Official Code of Georgia Annotated, and I wanted to make sure you received a copy of my testimony on the topic. I have also made **video of the hearing** available on the Internet Archive.

During the hearing, Congressman Doug Collins and Congressman Hank Johnson both discussed the question of the Official Code of Georgia Annotated. Congressman Collins, in particular, had some very perceptive comments and cut right to the heart of the matter. If I may paraphrase his concerns, he raised 3 points in objection to our action in making these particular edicts of government available:

1. He said that there is already a free web site available with the code.
2. He stated that the annotations are not "the law."
3. He stated that he did not believe it should be the decision of Public.Resource.Org to publish or not publish these materials.

Before I address those 3 issues, I would like to reiterate my prior offer to come to Georgia to discuss these matters with you. Our efforts to make laws available to citizens is strictly nonpartisan and noncommercial, and I believe we share a common goal of sincerely trying to help citizens understand the laws under which we live.

Congressman Collins began his question period by stating that the State of Georgia already makes the code available on a free web site. However, we are unable to access that code and copy it to make it available along with the codes of other states. This is because the terms of use strictly prohibit any copying of the information and the architecture of the site makes any bulk access technically impossible. The **terms of use** are quite specific, stating "Neither the O.C.G.A. nor any portions thereof shall be reproduced in any form."

While making the code available to citizens on a vendor web site is certainly a good start and should be commended, the reason that there is no copyright in the law is precisely so that innovation can happen, innovation that leads to new and better ways to access the law. This is the point that Congressman Johnson dealt with at length in

his comments. We discussed the dramatic improvement in the Chicago and District of Columbia codes that happened when volunteers were able to access bulk data for those jurisdictions, and we discussed ongoing efforts to make municipal codes more broadly available in the State of Georgia.

The second issue raised by Congressman Collins is the point you have raised as well, that annotations are not the law. As you know, both the State of Georgia and your vendor are very clear that “the latest print version of the O.C.G.A. is the authoritative version” and the **vendor site is very clear** that the “**Official Code of Georgia Annotated (OCGA)** provides users with the official Georgia statutes, fully annotated and including guidance from the Georgia Code Commission.” (Emphasis in the Original.) It is our position that because the Official Code of Georgia Annotated is produced under the direct supervision and authorship of the Georgia Code Revision Commission, and because it is clearly marked as the only official code, it is the definitive and authoritative statement of Georgia law and is an edict of government.

The third issue raised by Congressman Collins really goes to the heart of the matter. Simply put, who are we to be deciding what to publish or what not to publish? I heartily agree with Congressman Collins. But, as you will see in my testimony, our work to make the law available to citizens runs into a wall of copyright assertions. Some of those assertions are clearly wrong, such as the position of the State of Idaho that we require a license to publish their statutes. In other cases, such as our long-standing effort to publish building and public safety codes, including the building and public safety codes of Georgia, there are copyright assertions but we have been publishing these materials for many years, have substantial court authority for our work and (most importantly) have received no objections from the state or the code publishers.

Because there are a range of copyright assertions, some of which are clearly not valid, our noncommercial efforts to make the laws available involves a series of judgments. I believe our judgments are clearly within the scope of long-standing Supreme Court precedent and public policy. But, I also understand that others may disagree. That is precisely why I testified before the House Judiciary Committee that amending the copyright act to define what are edicts of government is necessary. That is also why I hope you and I will be able to discuss the matter. At the end of the day, it is elected officials such as yourself and the U.S. Congress who need to take the steps necessary to clear up the clouds of uncertainty that have led to the present dispute.

Respectfully yours,



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cc: Hon. Doug Collins
Hon. Hank Johnson