

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**S. B. No. 113**

**Senators LaRose, Beagle  
Cosponsors: Senators Oelslager, Tavares, Cafaro**

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**A BILL**

To amend sections 3745.13 and 4745.01 and to enact  
sections 3744.01, 3744.02, 3744.03, 3744.04,  
3744.06, 3744.09, 3744.12, 3744.13, 3744.15,  
3744.16, 3744.17, 3744.18, 3744.20, and 5302.31  
of the Revised Code to provide for the  
remediation of real property on which an illegal  
methamphetamine manufacturing laboratory has  
been discovered.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3745.13 and 4745.01 be amended  
and sections 3744.01, 3744.02, 3744.03, 3744.04, 3744.06,  
3744.09, 3744.12, 3744.13, 3744.15, 3744.16, 3744.17, 3744.18,  
3744.20, and 5302.31 of the Revised Code be enacted to read as  
follows:

**Sec. 3744.01.** As used in this chapter:

(A) "Board of health" means the board of health of a city  
or general health district or the authority having the duties of  
a board of health under section 3709.05 of the Revised Code.

(B) "Illegal methamphetamine manufacturing laboratory" has

the meaning defined in section 3745.13 of the Revised Code. 19

(C) "Methamphetamine remediation" means a measure or set 20  
of measures designed to eliminate methamphetamine contamination. 21

"Methamphetamine remediation" does not include activities 22  
performed by a law enforcement agency that discovers an illegal 23  
methamphetamine manufacturing laboratory. 24

(D) "Structure" means a walled and roofed building or a 25  
mobile home or manufactured home, regardless of whether the 26  
building, mobile home, or manufactured home is used as a 27  
residence. 28

(E) "Unit" means a room or group of rooms in a hotel, 29  
motel, apartment building, nursing home, or other structure that 30  
is used as a residence. 31

(F) "Written notice," when used in connection with a 32  
notice required by this chapter, includes an electronic notice. 33

**Sec. 3744.02.** (A) Not later than nine months after the 34  
effective date of this section, the director of health shall 35  
adopt rules governing methamphetamine remediation. The rules 36  
shall include all of the following: 37

(1) Process-based standards and procedures for 38  
methamphetamine remediation, including removal and disposal of 39  
contaminated material; 40

(2) Standards and procedures for protecting the health and 41  
safety of workers engaged in methamphetamine remediation; 42

(3) Record-keeping and reporting requirements for 43  
methamphetamine remediation contractors certified under this 44  
chapter; 45

(4) Professional liability insurance requirements for 46

<u>methamphetamine remediation contractors certified under this</u>	47
<u>chapter;</u>	48
<u>(5) Record-keeping and reporting requirements for boards</u>	49
<u>of health with reference to methamphetamine remediation;</u>	50
<u>(6) Standards and procedures to be used by a board of</u>	51
<u>health to determine whether a methamphetamine remediation</u>	52
<u>project has been completed in accordance with rules adopted</u>	53
<u>under this section;</u>	54
<u>(7) Fees a board of health may charge if it elects to</u>	55
<u>conduct inspections;</u>	56
<u>(8) Information that must be provided by a law enforcement</u>	57
<u>agency in a notice regarding the discovery of what appears to be</u>	58
<u>an illegal methamphetamine manufacturing laboratory, and a form</u>	59
<u>that may be used to provide the notice; and</u>	60
<u>(9) Any other rules the director considers appropriate to</u>	61
<u>implement this chapter.</u>	62
<u>(B) Not later than one year after the effective date of</u>	63
<u>this section, the director shall adopt rules governing</u>	64
<u>certification of methamphetamine remediation contractors. The</u>	65
<u>rules shall include all of the following:</u>	66
<u>(1) Training and qualifications an applicant must have to</u>	67
<u>be eligible for certification as a methamphetamine remediation</u>	68
<u>contractor;</u>	69
<u>(2) Application forms and procedures;</u>	70
<u>(3) Renewal procedures, including any continuing education</u>	71
<u>requirements;</u>	72
<u>(4) Initial certification fees and renewal fees; and</u>	73

(5) Standards and procedures for suspension and revocation of certificates and reinstatement of certificates that have been revoked. 74  
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(C) When adopting rules under this section, the director shall give consideration to process-based recommendations regarding methamphetamine remediation issued by the United States environmental protection agency, including voluntary guidelines for methamphetamine laboratory cleanup and any other recommendations or guidelines the director considers appropriate. 77  
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(D) Rules adopted under this section shall be adopted under Chapter 119. of the Revised Code. 84  
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**Sec. 3744.03.** A person seeking a methamphetamine remediation contractor certificate shall apply to the director of health. The person shall apply in the form and manner prescribed by the director in the rules. 86  
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**Sec. 3744.04.** (A) The director of health shall issue a methamphetamine remediation contractor certificate to an applicant who submits a complete application and meets both of the following requirements: 90  
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(1) Has the training and qualifications required by the rules; and 94  
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(2) Pays the certification fee established in the rules. 96

(B) A certificate issued under this section expires two years after the date of its issuance. The director shall renew a certificate under the standard renewal procedure and procedures established in the rules if the applicant continues to meet training and qualification requirements for certification and pays the renewal fee established in the rules. 97  
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(C) An individual licensed, certified, or otherwise approved under the law of another state to perform functions substantially similar to those of a methamphetamine remediation contractor may apply to the director for certification. The director shall issue a certificate to an individual under this division on a determination that the standards for licensure, certification, or approval in that other state are substantially equivalent to those established by this chapter and the rules. 103  
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Sec. 3744.06. After providing an opportunity for an adjudication under Chapter 119. of the Revised Code, the director of health may refuse to issue or renew or may suspend or revoke a certificate issued under this chapter for one or more of the following reasons: 111  
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(A) Violation of any provision of this chapter or the rules adopted under it; 116  
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(B) Failure to pay the fee for issuance or renewal of a certificate; 118  
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(C) Any material misrepresentation in an application for a certificate or renewal of a certificate; or 120  
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(D) Failure to meet the requirements established in the rules. 122  
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Sec. 3744.09. The director of health shall maintain a list of methamphetamine remediation contractors certified under this chapter. The information contained in the list is a public record and is open to inspection and copying. 124  
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Sec. 3744.12. A law enforcement agency that discovers what appears to be an illegal methamphetamine manufacturing laboratory on real property shall give written notice to all of the following of the location of the real property, including 128  
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the location within the structure and the unit number if the 132  
laboratory is in a unit: 133

(A) The owner of record or the owner's statutory agent; 134

(B) The board of health of the city or general health 135  
district in which the property is located; and 136

(C) The public children services agency serving the county 137  
in which the property is located, if it appears to the law 138  
enforcement agency that children are living on the property. 139

The notice shall contain all information specified by the 140  
director of health in the rules and may be provided on the form 141  
included in the rules. 142

**Sec. 3744.13.** Not later than thirty days after receiving 143  
notice under section 3744.12 of the Revised Code of discovery of 144  
what appears to be an illegal methamphetamine manufacturing 145  
laboratory on real property, a board of health shall do all of 146  
the following: 147

(A) Determine whether a structure or unit on the real 148  
property is an illegal methamphetamine manufacturing laboratory, 149  
and if so, declare the property, structure, or unit to be a 150  
public health hazard that may not be occupied until the board 151  
receives certification by affidavit from a methamphetamine 152  
remediation contractor certified under this chapter that a 153  
remediation project has been completed under standards and 154  
procedures established by the rules; 155

(B) If the board declares a public health hazard, deliver 156  
written notice to the owner of record or the owner's statutory 157  
agent specifying all of the following: 158

(1) That the property or a structure or unit on the 159

property has been declared a public health hazard that may not 160  
be occupied until the board receives certification by affidavit 161  
from a methamphetamine remediation contractor certified by the 162  
Ohio department of health that a remediation project has been 163  
completed under standards and procedures established by the 164  
rules; 165

(2) The procedure for challenging the declaration; 166

(3) The standards and procedures for methamphetamine 167  
remediation as set forth in the rules adopted; 168

(4) That the public health hazard declaration will not be 169  
lifted until the board receives certification by affidavit from 170  
a methamphetamine remediation contractor certified by the Ohio 171  
department of health that a methamphetamine remediation project 172  
has been completed in accordance with standards and procedures 173  
established by the rules; and 174

(5) Directions for accessing the director of health's list 175  
of methamphetamine remediation contractors certified under this 176  
chapter. 177

(C) Afford the owner the opportunity for an adjudication 178  
under Chapter 119. of the Revised Code in which the owner may 179  
present evidence to challenge the public health hazard 180  
declaration; and 181

(D) Maintain in the board's records a notice identifying 182  
the real property with a complete and accurate description of 183  
the property, stating the name of the owner of record of the 184  
property, and stating that the property or a structure or unit 185  
is a public health hazard that may not be occupied until the 186  
board determines that a methamphetamine remediation project has 187  
been completed in accordance with standards and procedures 188

established by the rules. 189

**Sec. 3744.15.** The owner of real property that is declared 190  
a public health hazard under section 3744.13 of the Revised Code 191  
shall cause remediation of contamination of the property, 192  
structure, or unit by a certified methamphetamine remediation 193  
contractor and shall pay the costs of the remediation. 194

If the owner of the real property did not create, operate, 195  
or consent to the operation of the illegal methamphetamine 196  
manufacturing laboratory that resulted in a public health hazard 197  
declaration, the owner has a cause of action to recover damages 198  
against any person who created or operated the illegal 199  
methamphetamine manufacturing laboratory or occupied the 200  
structure or unit on the real property and consented to the 201  
creation or operation of the illegal methamphetamine 202  
manufacturing laboratory for all monetary losses incurred 203  
because of contamination of the property, structure, or unit and 204  
the declaration, including reasonable attorney's fees. 205

**Sec. 3744.16.** A methamphetamine remediation contractor 206  
certified under this chapter shall conduct methamphetamine 207  
remediation projects under standards and procedures established 208  
in the rules. In conducting a methamphetamine remediation 209  
project, the contractor shall comply with worker protection 210  
standards and procedures established by the rules. 211

A board of health may conduct inspections of 212  
methamphetamine remediation projects as necessary to monitor 213  
compliance with the rules, and may charge fees authorized by the 214  
rules. Inspections may be scheduled or random. 215

**Sec. 3744.17.** On completion of a methamphetamine 216  
remediation project, a certified methamphetamine remediation 217

contractor shall certify in an affidavit to the board of health 218  
that issued a public health hazard declaration under section 219  
3744.13 of the Revised Code that the project has been completed 220  
under the rules. 221

**Sec. 3744.18.** (A) Not later than sixty days after 222  
receiving certification by affidavit from a certified 223  
methamphetamine remediation contractor under section 3744.17 of 224  
the Revised Code, a board of health shall do one of the 225  
following: 226

(1) Accept the certification as a final determination that 227  
a methamphetamine remediation project has been completed under 228  
the rules; or 229

(2) Conduct an independent investigation to determine 230  
whether the methamphetamine remediation project has been 231  
completed under the rules. 232

(B) A board of health, not later than thirty days after 233  
making a determination under division (A) (1) or (2) of this 234  
section that a methamphetamine remediation project has been 235  
completed under the rules shall certify that the property, 236  
structure, or unit is no longer a public health hazard and may 237  
be occupied, and shall deliver a written notice of the 238  
certification to the owner of record or the owner's statutory 239  
agent. The board shall maintain a copy of the certification in 240  
its records. 241

If the board's determination under division (A) (2) of this 242  
section is that a methamphetamine remediation project has not 243  
been completed under the rules, the board shall notify the owner 244  
or the owner's statutory agent of the reasons for the 245  
determination not later than thirty days after making the 246

determination. Thereafter, if the property owner submits to the 247  
board a new certification by affidavit from a certified 248  
methamphetamine remediation contractor, the board shall again 249  
proceed under division (A) of this section. 250

**Sec. 3744.20.** This chapter does not limit the authority of 251  
the state or any political subdivision of the state to declare 252  
real property on which an illegal methamphetamine manufacturing 253  
laboratory is located a nuisance requiring abatement, and to 254  
order abatement of the nuisance. 255

**Sec. 3745.13.** (A) When emergency action is required to 256  
protect the public health or safety or the environment, any 257  
person responsible for causing or allowing an unauthorized 258  
spill, release, or discharge of material into or upon the 259  
environment or responsible for the operation of an illegal 260  
methamphetamine manufacturing laboratory that has caused 261  
contamination of the environment is liable to the municipal 262  
corporation, county, township, countywide emergency management 263  
agency established under section 5502.26 of the Revised Code, 264  
regional authority for emergency management established under 265  
section 5502.27 of the Revised Code, or emergency management 266  
program established by a political subdivision under section 267  
5502.271 of the Revised Code, having territorial jurisdiction, 268  
or responsibility for emergency management activities in the 269  
location of the spill, release, discharge, or contamination, for 270  
the necessary and reasonable, additional or extraordinary costs 271  
it incurs in investigating, mitigating, minimizing, removing, or 272  
abating the spill, release, discharge, or contamination, in the 273  
course of its emergency action, but, to the extent criteria and 274  
methods for response actions prescribed under 40 C.F.R. 300, as 275  
amended, may be applied to the type of material involved and the 276  
conditions of the spill, release, discharge, or contamination, 277

that person is liable for those costs only if the political 278  
subdivision, countywide agency, or regional authority employed 279  
those criteria and methods in its emergency action. 280

The officers of the municipal corporation, county, 281  
township, countywide emergency management agency, or regional 282  
authority for emergency management performing the emergency 283  
action shall keep a detailed record of its costs for 284  
investigating, mitigating, minimizing, removing, or abating the 285  
unauthorized spill, release, discharge, or contamination; 286  
promptly after the completion of those measures, shall certify 287  
those costs to the city director of law or village solicitor, as 288  
appropriate, of the municipal corporation, the prosecuting 289  
attorney of the county in the case of a county, township, or 290  
countywide emergency management agency, or the legal counsel 291  
retained thereby in the case of a regional authority for 292  
emergency management; and may request that the legal officer or 293  
counsel bring a civil action for recovery of costs against the 294  
person responsible for the unauthorized spill, release, or 295  
discharge or responsible for the operation of the illegal 296  
methamphetamine manufacturing laboratory that caused 297  
contamination of the environment. If the officers request that 298  
the legal officer or counsel bring such a civil action regarding 299  
emergency action taken in relation to the operation of an 300  
illegal methamphetamine manufacturing laboratory that has caused 301  
contamination of the environment, the legal officer or counsel 302  
also may pursue a forfeiture proceeding against the responsible 303  
person under Chapter 2981. of the Revised Code, or in any other 304  
manner authorized by law. 305

The legal officer or counsel shall submit a written, 306  
itemized claim for the total certified costs incurred by the 307  
municipal corporation, county, township, countywide agency, or 308

regional authority for the emergency action to the responsible 309  
party and a written demand that those costs be paid to the 310  
political subdivision, countywide agency, or regional authority. 311  
Not less than thirty days before bringing a civil action for 312  
recovery of those costs, the legal officer or counsel shall mail 313  
written notice to the responsible party informing the 314  
responsible party that, unless the total certified costs are 315  
paid to the political subdivision, countywide agency, or 316  
regional authority within thirty days after the date of mailing 317  
of the notice, the legal officer or counsel will bring a civil 318  
action for that amount. Except for emergency action taken in 319  
relation to the operation of an illegal methamphetamine 320  
manufacturing laboratory that has caused contamination of the 321  
environment, in making a determination of an award for 322  
reimbursement, the responsible party's status as a taxpayer to 323  
the governmental entity shall be taken into consideration. 324  
Nothing in this section prevents a political subdivision, 325  
countywide emergency management agency, or regional authority 326  
for emergency management from entering into a settlement of a 327  
claim against a responsible party that compromises the amount of 328  
the claim. Moneys recovered as described in this section shall 329  
be credited to the appropriate funds of the political 330  
subdivision, countywide agency, or regional authority from which 331  
moneys were expended in performing the emergency action. 332

(B) As used in this section: 333

(1) "Methamphetamine" means methamphetamine, any salt, 334  
isomer, or salt of an isomer of methamphetamine, or any 335  
compound, mixture, preparation, or substance containing 336  
methamphetamine or any salt, isomer, or salt of an isomer of 337  
methamphetamine. 338

(2) "Illegal methamphetamine manufacturing laboratory" 339  
means any laboratory or other premises that is used or was used 340  
for the manufacture or production of methamphetamine in 341  
violation of section 2925.04 of the Revised Code, whether or not 342  
there has been a prior conviction of that violation. 343

**Sec. 4745.01.** (A) "Standard renewal procedure," as used in 344  
Chapters 905., 907., 909., 911., 913., 915., 918., 921., 923., 345  
927., 942., 943., 953., 1321., 3710., 3713., 3719., 3742., 346  
3744., 3748., 3769., 3783., 3921., 3951., 4104., 4105., 4143., 347  
4169., 4561., 4703., 4707., 4709., 4713., 4715., 4717., 4723., 348  
4725., 4727., 4728., 4729., 4731., 4733., 4734., 4735., 4739., 349  
4741., 4747., 4749., 4752., 4753., 4755., 4757., 4758., 4759., 350  
4761., 4766., 4773., and 4775. of the Revised Code, means the 351  
license renewal procedures specified in this chapter. 352

(B) "Licensing agency," as used in this chapter, means any 353  
department, division, board, section of a board, or other state 354  
governmental unit subject to the standard renewal procedure, as 355  
defined in this section, and authorized by the Revised Code to 356  
issue a license to engage in a specific profession, occupation, 357  
or occupational activity, or to have charge of and operate 358  
certain specified equipment, machinery, or premises. 359

(C) "License," as used in this chapter, means a license, 360  
certificate, permit, card, or other authority issued or 361  
conferred by a licensing agency by authority of which the 362  
licensee has or claims the privilege to engage in the 363  
profession, occupation, or occupational activity, or to have 364  
control of and operate certain specific equipment, machinery, or 365  
premises, over which the licensing agency has jurisdiction. 366

(D) "Licensee," as used in this chapter, means either the 367  
person to whom the license is issued or renewed by a licensing 368

agency, or the person, partnership, or corporation at whose 369  
request the license is issued or renewed. 370

(E) "Renewal" and "renewed," as used in this chapter and 371  
in the chapters of the Revised Code specified in division (A) of 372  
this section, includes the continuing licensing procedure 373  
provided in Chapter 3748. of the Revised Code and rules adopted 374  
under it and in sections 1321.05 and 3921.33 of the Revised 375  
Code, and as applied to those continuing licenses any reference 376  
in this chapter to the date of expiration of any license shall 377  
be construed to mean the due date of the annual or other fee for 378  
the continuing license. 379

Sec. 5302.31. (A) As used in this section: 380

(1) "Structure" and "unit" have the meanings defined in 381  
section 3744.01 of the Revised Code. 382

(2) "Transfer agreement" means a contract for transfer of 383  
real property, including a structure or unit, between a 384  
transferor and a transferee. 385

(3) "Transfer," when used in connection with the transfer 386  
of real property, includes transfer by sale, land installment 387  
contract, lease with the option to purchase, exchange, or lease 388  
for a term of ninety-nine years and renewable forever. 389

(4) "Transferee" means a person involved in a transfer who 390  
acquires or proposes to acquire a transferor's interest in real 391  
property. 392

(5) "Transferor" means a person involved in a transfer who 393  
intends to transfer the person's interest in real property. 394

(B) (1) In addition to any disclosures required by section 395  
5302.30 of the Revised Code, a transferor of real property shall 396

make the following disclosures to the transferee or the transferee's agent: 397  
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(a) If the real property or a structure or unit to be transferred has been declared a public health hazard under section 3744.13 of the Revised Code and has not been certified under section 3744.18 of the Revised Code as being no longer a public health hazard, the transferor shall disclose the declaration. 399  
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(b) If the real property or a structure or unit to be transferred has never been declared a public health hazard under section 3744.13 of the Revised Code but the transferor has actual knowledge that an illegal methamphetamine manufacturing laboratory, as defined in section 3745.13 of the Revised Code, was or is located on the property or in a structure or unit, the transferor shall disclose the existence or former existence of the illegal methamphetamine manufacturing laboratory. 405  
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(2) The disclosure required by division (B)(1) of this section shall be made by delivering to the transferee or the transferee's agent a written, signed, and dated disclosure document. If the disclosure is of a declaration described in division (B)(1)(a) of this section, the document shall be accompanied by a copy of the declaration. 413  
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(C)(1) Subject to division (C)(2) of this section, if the transferor of real property that is subject to this section does not provide the disclosure required by division (B) of this section before entering into a transfer agreement with respect to the property, the transferee may rescind the transfer agreement in a written, signed, and dated document of rescission that is delivered to the transferor or the transferor's agent without incurring any legal liability to the transferor because 419  
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of the rescission, including a civil action for specific 427  
performance of the transfer agreement. On rescission of the 428  
transfer agreement, the transferee is entitled to the return of, 429  
and the transferor shall return, any deposits made by the 430  
transferee in connection with the proposed transfer. 431

(2) To rescind a transfer agreement under division (C) (1) 432  
of this section the transferee shall cause the document of 433  
rescission to be delivered to the transferor or the transferor's 434  
agent by the earlier of the following: 435

(a) Five o'clock p.m. of the third business day following 436  
the date on which the transferee or the transferee's agent 437  
receives the disclosure required by division (B) of this 438  
section; or 439

(b) Prior to closing on the date of the proposed closing 440  
of the transfer. 441

(D) (1) Except as provided in division (D) (2) of this 442  
section, if the transferor fails to provide the disclosure 443  
required by division (B) of this section prior to the closing of 444  
the transfer, the transferee has a cause of action to recover 445  
damages for all monetary loss incurred because of the failure, 446  
including the cost of remediation; damages for injury, death, or 447  
loss to person or property; and reasonable attorney's fees. 448

(2) A transferor is not liable under division (D) (1) of 449  
this section, if at the time of the closing of the transfer the 450  
transferor did not have actual knowledge that the real property 451  
or a structure or unit had been declared a public health hazard 452  
or that an illegal methamphetamine manufacturing laboratory was 453  
or had been located on the property or in a structure or unit. 454

(E) Any document delivered pursuant to this section shall 455

be delivered to the other party or the other party's agent by 456  
personal delivery, by ordinary mail, by certified mail, return 457  
receipt requested, or by facsimile transmission. 458

(F) The specification of information that must be 459  
disclosed in the disclosure required by division (B) of this 460  
section does not limit or abridge any obligation to disclose an 461  
item of information that is created by any other provision of 462  
the Revised Code or the common law of this state or that may 463  
exist in order to preclude fraud, either by misrepresentation, 464  
concealment, or nondisclosure in a transaction involving the 465  
transfer of real property. The disclosure requirements of this 466  
section do not bar the application of any legal or equitable 467  
defense that a transferor of real property may assert in a civil 468  
action commenced against the transferor by a transferee of that 469  
property. 470

(G) The right of rescission of a transfer agreement 471  
described in this section or the absence of that right does not 472  
affect any other legal causes of action or other remedies that a 473  
transferee of real property may possess against the transferor 474  
of that property. 475

**Section 2.** That existing sections 3745.13 and 4745.01 of 476  
the Revised Code are hereby repealed. 477

**Section 3.** The enactment of sections 3744.12, 3744.13, 478  
3744.15, 3744.17, 3744.18, and 5302.31 of the Revised Code takes 479  
effect fifteen months after the effective date of this act. 480