(124th General Assembly)
(Substitute House Bill Number 345)

AN ACT

To amend sections 1339.66, 1339.68, 1340.22, 1547.54, 1548.07, 1548.071, 1548.08, 1548.11, 2105.39, 2106.18, 2107.27, 2107.28, 2109.62, 2113.30, 2113.61, 2117.25, 4503.12, 4505.06, 4505.10, 4549.08, and 4549.41; to amend, for the purpose of adopting a new section number as indicated in parentheses, section 2106.17 (2131.12); and to enact sections 1548.072, 2107.06, 2131.13, 2305.121, and 3923.061 of the Revised Code relative to the valuation limit for termination of small trusts; transfer on death of a motor vehicle, watercraft, or outboard motor; reimbursement for payment of a decedent's debt; issuance of a certificate of transfer of real property; continuing a decedent's business after death; establishing an age requirement to witness a will; discretionary distributions by a fiduciary; lost, spoliated, or destroyed wills; statute of limitations for certain revocable trusts; interest on proceeds of sickness and accident insurance policies due to death; the prospective application of Am. Sub. H.B. 242 of the 124th General Assembly; and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1339.66, 1339.68, 1340.22, 1547.54, 1548.07, 1548.071, 1548.08, 1548.11, 2106.18, 2107.27, 2107.28, 2109.62, 2113.30, 2113.61, 2117.25, 4503.12, 4505.06, 4505.10, 4549.08, and 4549.41 be amended; section 2106.17 (2131.12) be amended, for the purpose of adopting a new section number as indicated in parentheses; and sections 1548.072, 2107.06, 2131.13, 2305.121, and 3923.061 of the Revised Code be enacted to read as follows:

Sec. 1339.66. (A)(1) Upon the filing of a motion by a trustee with the court that has jurisdiction over the trust, upon the provision of reasonable notice to all beneficiaries who are known and in being and who have vested or contingent interests in the trust, and after holding a hearing, the court may terminate the trust, in whole or in part, if it determines that all of the following apply:

(a) It is no longer economically feasible to continue the trust~~;~~.

(b) The termination of the trust is for the benefit of the beneficiaries~~;~~.

(c) The termination of the trust is equitable and practical~~;~~.

(d) The current value of the trust is less than ~~fifty~~ one hundred thousand dollars.

(2) The existence of a spendthrift or similar provision in a trust instrument or will does not preclude the termination of a trust pursuant to this section.

(B) If property is to be distributed from an estate being probated to a trust and the termination of the trust pursuant to this section does not clearly defeat the intent of the testator, the probate court has jurisdiction to order the outright distribution of the property or to make the property custodial property under sections 1339.31 to 1339.39 of the Revised Code. A probate court may so order whether the application for the order is made by an inter vivos trustee named in the will of the decedent or by a testamentary trustee.

Sec. 1339.68. (A) As used in this section:

(1) "Disclaimant" means any person, any guardian or personal representative of a person or estate of a person, or any attorney-in-fact or agent of a person having a general or specific authority to act granted in a written instrument, who is any of the following:

(a) With respect to testamentary instruments and intestate succession, an heir, next of kin, devisee, legatee, donee, person succeeding to a disclaimed interest, surviving joint tenant, surviving tenant by the entireties, surviving tenant of a tenancy with a right of survivorship, beneficiary under a testamentary instrument, or person designated to take pursuant to a power of appointment exercised by a testamentary instrument;

(b) With respect to nontestamentary instruments, a grantee, donee, person succeeding to a disclaimed interest, surviving joint tenant, surviving tenant by the entireties, surviving tenant of a tenancy with a right of survivorship, beneficiary under a nontestamentary instrument, or person designated to take pursuant to a power of appointment exercised by a nontestamentary instrument;

(c) With respect to fiduciary rights, privileges, powers, and immunities, a fiduciary under a testamentary or nontestamentary instrument. This section

does not authorize a fiduciary to disclaim the rights of beneficiaries unless the instrument creating the fiduciary relationship authorizes such a disclaimer.

(d) Any person entitled to take an interest in property upon the death of a person or upon the occurrence of any other event.

(2) "Property" means all forms of property, real and personal, tangible and intangible.

(B)(1) A disclaimant, other than a fiduciary under an instrument who is not authorized by the instrument to disclaim the interest of a beneficiary, may disclaim, in whole or in part, the succession to any property by executing and by delivering, filing, or recording a written disclaimer instrument in the manner provided in this section.

(2) A disclaimant who is a fiduciary under an instrument may disclaim, in whole or in part, any right, power, privilege, or immunity, by executing and by delivering, filing, or recording a written disclaimer instrument in the manner provided in this section.

(3) The written instrument of disclaimer shall be signed and acknowledged by the disclaimant and shall contain all of the following:

(a) A reference to the donative instrument;

(b) A description of the property, part of property, or interest disclaimed, and of any fiduciary right, power, privilege, or immunity disclaimed;

(c) A declaration of the disclaimer and its extent.

(4) The guardian of the estate of a minor or an incompetent, or the personal representative of a deceased person, with the consent of the probate division of the court of common pleas, may disclaim, in whole or in part, the succession to any property, or interest in property, that the ward, if an adult and competent, or the deceased, if living, might have disclaimed. The guardian or personal representative, or any interested person may file an application with the probate division of the court of common pleas that has jurisdiction of the estate, asking that the court order the guardian or personal representative to execute and deliver, file, or record the disclaimer on behalf of the ward or estate. The court shall order the guardian or personal representative to execute and deliver, file, or record the disclaimer if the court finds, upon hearing after notice to interested parties and such other persons as the court shall direct, that:

(a) It is in the best interests of those interested in the estate of the person and of those who will take the disclaimed interest;

(b) It would not materially, adversely affect the minor or incompetent, or the beneficiaries of the estate of the decedent, taking into consideration

other available resources and the age, probable life expectancy, physical and mental condition, and present and reasonably anticipated future needs of the minor or incompetent or the beneficiaries of the estate of the decedent.

A written instrument of disclaimer ordered by the court under this division shall be executed and be delivered, filed, or recorded within the time and in the manner in which the person could have disclaimed if the person were living, an adult, and competent.

(C) A partial disclaimer of property that is subject to a burdensome interest created by the donative instrument is not effective unless the disclaimed property constitutes a gift that is separate and distinct from undisclaimed gifts.

(D) The disclaimant shall deliver, file, or record the disclaimer, or cause the same to be done, not later than nine months after the latest of the following dates:

(1) The effective date of the donative instrument if both the taker and the taker's interest in the property are finally ascertained on that date;

(2) The date of the occurrence of the event upon which both the taker and the taker's interest in the property become finally ascertainable;

(3) The date on which the disclaimant attains twenty-one years of age or is no longer an incompetent, without tendering or repaying any benefit received while the disclaimant was under twenty-one years of age or an incompetent, and even if a guardian of a minor or incompetent had filed an application pursuant to division (B)(4) of this section and the probate division of the court of common pleas involved did not consent to the guardian executing a disclaimer.

(E) No disclaimer instrument is effective under this section if either of the following applies under the terms of the disclaimer instrument:

(1) The disclaimant has power to revoke the disclaimer~~;~~.

(2) The disclaimant may transfer, or direct to be transferred, to self the entire legal and equitable ownership of the property subject to the disclaimer instrument.

(F)(1) Subject to division (F)(2) of this section, if the interest disclaimed is created by a nontestamentary instrument, the disclaimer instrument shall be delivered personally or by certified mail to the trustee or other person who has legal title to, or possession of, the property disclaimed.

(2) If the interest disclaimed is created by a testamentary instrument, by intestate succession, ~~or~~ by a transfer on death deed pursuant to section 5302.22 of the Revised Code, or by a certificate of title to a motor vehicle, watercraft, or outboard motor that evidences ownership of the motor vehicle, watercraft, or outboard motor that is transferable on death pursuant

to section 2131.13 of the Revised Code, the disclaimer instrument shall be filed in the probate division of the court of common pleas in the county in which proceedings for the administration of the decedent's estate have been commenced, and an executed copy of the disclaimer instrument shall be delivered personally or by certified mail to the personal representative of the decedent's estate.

(3) If no proceedings for the administration of the decedent's estate have been commenced, the disclaimer instrument shall be filed in the probate division of the court of common pleas in the county in which proceedings for the administration of the decedent's estate might be commenced according to law. The disclaimer instrument shall be filed and indexed, and fees charged, in the same manner as provided by law for an application to be appointed as personal representative to administer the decedent's estate. The disclaimer is effective whether or not proceedings thereafter are commenced to administer the decedent's estate. If proceedings thereafter are commenced for the administration of the decedent's estate, they shall be filed under, or consolidated with, the case number assigned to the disclaimer instrument.

(4) If an interest in real estate is disclaimed, an executed copy of the disclaimer instrument also shall be recorded in the office of the recorder of the county in which the real estate is located. The disclaimer instrument shall include a description of the real estate with sufficient certainty to identify it, and shall contain a reference to the record of the instrument that created the interest disclaimed. If title to the real estate is registered under Chapters 5309. and 5310. of the Revised Code, the disclaimer interest shall be entered as a memorial on the last certificate of title. A spouse of a disclaimant has no dower or other interest in the real estate disclaimed.

(G) Unless the donative instrument expressly provides that, if there is a disclaimer, there shall not be any acceleration of remainders or other interests, the property, part of property, or interest in property disclaimed, and any future interest that is to take effect in possession or enjoyment at or after the termination of the interest disclaimed, shall descend, be distributed, or otherwise be disposed of, and shall be accelerated, in the following manner:

(1) If intestate or testate succession is disclaimed, as if the disclaimant had predeceased the decedent;

(2) If the disclaimant is one designated to take pursuant to a power of appointment exercised by a testamentary instrument, as if the disclaimant had predeceased the donee of the power;

(3) If the donative instrument is a nontestamentary instrument, as if the disclaimant had died before the effective date of the nontestamentary

trument;

(4) If the disclaimer is of a fiduciary right, power, privilege, or immunity, as if the right, power, privilege, or immunity was never in the donative instrument.

(H) A disclaimer pursuant to this section is effective as of, and relates back for all purposes to, the date upon which the taker and the taker's interest have been finally ascertained.

(I) A disclaimant who has a present and future interest in property, and disclaims the disclaimant's present interest in whole or in part, is considered to have disclaimed the disclaimant's future interest to the same extent, unless a contrary intention appears in the disclaimer instrument or the donative instrument. A disclaimant is not precluded from receiving, as an alternative taker, a beneficial interest in the property disclaimed, unless a contrary intention appears in the disclaimer instrument or in the donative instrument.

(J) The disclaimant's right to disclaim under this section is barred if, before the expiration of the period within which the disclaimant may disclaim the interest, the disclaimant does any of the following:

(1) Assigns, conveys, encumbers, pledges, or transfers, or contracts to assign, convey, encumber, pledge, or transfer, the property or any interest in it;

(2) Waives in writing the disclaimant's right to disclaim and executes and delivers, files, or records the waiver in the manner provided in this section for a disclaimer instrument;

(3) Accepts the property or an interest in it;

(4) Permits or suffers a sale or other disposition of the property pursuant to judicial action against the disclaimant.

(K) A fiduciary's application for appointment or assumption of duties as a fiduciary does not waive or bar the disclaimant's right to disclaim a right, power, privilege, or immunity.

(L) The right to disclaim under this section exists irrespective of any limitation on the interest of the disclaimant in the nature of a spendthrift provision or similar restriction.

(M) A disclaimer instrument or written waiver of the right to disclaim that has been executed and delivered, filed, or recorded as required by this section is final and binding upon all persons.

(N) The right to disclaim and the procedures for disclaimer established by this section are in addition to, and do not exclude or abridge, any other rights or procedures existing under any other section of the Revised Code or at common law to assign, convey, release, refuse to accept, renounce, waive, or disclaim property.

(O)(1) No person is liable for distributing or disposing of property in a manner inconsistent with the terms of a valid disclaimer if the distribution or disposition is otherwise proper and the person has no actual knowledge of the disclaimer.

(2) No person is liable for distributing or disposing of property in reliance upon the terms of a disclaimer that is invalid because the right of disclaimer has been waived or barred if the distribution or disposition is otherwise proper and the person has no actual knowledge of the facts that constitute a waiver or bar to the right to disclaim.

(P)(1) A disclaimant may disclaim pursuant to this section any interest in property that is in existence on September 27, 1976, if either the interest in the property or the taker of the interest in the property is not finally ascertained on that date.

(2) No disclaimer executed pursuant to this section destroys or diminishes an interest in property that exists on September 27, 1976, in any person other than the disclaimant.

Sec. 1340.22. (A) Unless the governing instrument conferring the powers specifically refers to this section and states that this section does not apply and except as provided in divisions (B), (C), and (D) of this section, any of the following powers conferred upon a fiduciary by the governing instrument cannot be exercised by the fiduciary:

(1) The power to make any discretionary distribution of either principal or income to or for the benefit of the fiduciary in the fiduciary's individual capacity;

(2) The power to make any discretionary distribution of either principal or income to satisfy any of the fiduciary's legal obligations in the fiduciary's individual capacity for support or other purposes;

(3) The power to make any discretionary distribution of either principal or income to or for the benefit of one or more beneficiaries to the extent that the fiduciary would or could receive a similar distribution in the fiduciary's individual capacity under any governing instrument from the beneficiary or beneficiaries acting as a fiduciary;

(4) The power to make any discretionary distribution of either principal or income to or for the benefit of one or more beneficiaries who possess both the right to remove the fiduciary and the right to appoint a successor fiduciary <u>that may include but is not limited to the beneficiary, any of the beneficiaries, or any related or subordinate person, within the meaning of section 672(c) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 672(c), with respect to the beneficiary or any of the beneficiaries</u>, if the successor fiduciary has been appointed by the exercise of both of those

rights by the beneficiary or beneficiaries.

(B)(1) If division (A)(1), (3), or (4) of this section prohibits a fiduciary from exercising any power conferred by the governing instrument, the fiduciary, notwithstanding division (A)(1), (3), or (4) of this section, may exercise the power to the extent set forth in the governing instrument, provided that the exercise of that power, in all events, shall be limited to an ascertainable standard.

(2) Any power conferred upon a fiduciary that permits the fiduciary to make discretionary distributions of either principal or income and that is expressed in terms of a beneficiary's health, education, support, comfort, care, comfort and support, support in reasonable comfort, support in accustomed manner of living, maintenance, maintenance in health and reasonable comfort, or any combination of those factors, is a power conferred upon the fiduciary, the exercise of which is reasonably measurable in terms of, and limited by, an ascertainable standard related to the health, education, support, and maintenance of the beneficiary.

(C) Any fiduciary who is authorized to exercise one or more powers set forth in a governing instrument may exercise any of those powers that the fiduciary is not prohibited from exercising because of the operation of division (A) of this section even though one or more other fiduciaries under the governing instrument is prohibited from exercising the power because of the operation of division (A) of this section.

(D) Any power conferred upon a fiduciary that the fiduciary cannot exercise because of the operation of division (A) of this section may be exercised by a special fiduciary appointed by a court of competent jurisdiction. Upon the application of any party in interest, the appropriate probate court or general division of the appropriate court of common pleas may appoint a special fiduciary. Upon the appointment of a special fiduciary under this division, the special fiduciary is qualified to exercise any power set forth in the governing instrument during the period of time that the court designates.

(E) This section does not apply to any of the following:

(1) Any purely discretionary power to distribute either principal or income to or for the benefit of a beneficiary, other than a beneficiary who is also a fiduciary, that is exercisable in a fiduciary capacity in the sole and absolute discretion of the fiduciary and without any other direction or limitation as to its exercise or use set forth in the governing instrument;

(2) Any power of appointment or withdrawal that specifically is granted in the governing instrument to a beneficiary and that is exercisable in an individual capacity but not in a fiduciary capacity;

(3) Any trust during the time that the trust is revocable or amendable by its settlor;

(4) Any power held by a decedent's or settlor's spouse who is the trustee under a decedent's trust for which a marital deduction for estate tax purposes has been allowed, except a trust or portion of a trust regarding which a special election for qualified terminable interest property has been made as provided in section 2652(a)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 2652(a)(3);

(5)(a) Subject to divisions (E)(5)(b) and (c) of this section, any irrevocable trust created under a governing instrument executed before the expiration of three years after the effective date of this amendment, if all of the parties in interest elect affirmatively not to be subject to the application of this section through a written instrument delivered to the fiduciary.

(b) In the case of a testamentary trust, the election described in division (E)(5)(a) of this section shall be filed with the probate court in which the will was admitted to probate.

(c) All of the parties in interest shall make the election described in division (E)(5)(a) of this section on or before the later of the expiration of three years after the effective date of this amendment or three years after the date on which the trust becomes irrevocable.

(d) As used in division (E)(5) of this section, "party in interest" does not include a contingent remainder beneficiary and means any of the following:

(i) Each fiduciary then serving;

(ii) Each current beneficiary then in existence or, if that beneficiary has not attained the age of majority or otherwise is incapacitated, the beneficiary's legal representative under applicable law or the attorney in fact of the current beneficiary under a durable power of attorney that is sufficient to grant the authority under division (E)(5) of this section;

(iii) Each remainder beneficiary then in existence or, if that remainder beneficiary has not attained the age of majority or otherwise is incapacitated, the remainder beneficiary's legal representative under applicable law or the attorney in fact of the remainder beneficiary under a durable power of attorney that is sufficient to grant the authority under division (E)(5) of this section.

Sec. 1547.54. (A)(1) The owner of every watercraft requiring registration under this chapter shall file an application for a triennial registration certificate with the chief of the division of watercraft on forms that shall be provided by the chief or by an electronic means approved by the chief. The application shall be signed by the following:

(a) If the watercraft is owned by two persons under joint ownership with

right of survivorship established under section ~~2106.17~~ 2131.12 of the Revised Code, by both of those persons as owners of the watercraft. The signatures may be done by electronic signature if the owners themselves are renewing the registration and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures ~~must~~ shall be done manually.

(b) If the watercraft is owned by a minor, by the minor and a parent or legal guardian. The signatures may be done by electronic signature if the parent or legal guardian and the minor themselves are renewing the registration and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures ~~must~~ shall be done manually.

(c) In all other cases, by the owner of the watercraft. The signature may be done by electronic signature if the owner him or herself is renewing the registration and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures ~~must~~ shall be done manually.

(2) An application for a triennial registration of a watercraft filed under division (A)(1) of this section shall be accompanied by the following fee:

(a) For canoes, kayaks, rowboats, and inflatable watercraft, twelve dollars;

(b) For class A watercraft, including motorized canoes, thirty dollars;

(c) For class 1 watercraft, forty-five dollars;

(d) For class 2 watercraft, sixty dollars;

(e) For class 3 watercraft, seventy-five dollars;

(f) For class 4 watercraft, ninety dollars.

(3) For the purpose of registration, any watercraft operated by means of power, sail, or any other mechanical or electrical means of propulsion, except motorized canoes, shall be registered by length as prescribed in this section.

(4) If an application for registration is filed by two persons as owners under division (A)(1)(a) of this section, the person who is listed first on the title shall serve as and perform the duties of the "owner" and shall be considered the person "in whose name the watercraft is registered" for purposes of divisions (B) to (Q) of this section and for purposes of all other sections in this chapter.

(B) All registration certificates are valid for three years and are renewable on a triennial basis unless sooner terminated or discontinued in accordance with this chapter. The renewal date shall be printed on the

registration certificate. A registration certificate may be renewed by the owner in the manner prescribed by the chief. All fees shall be charged according to a proration of the time remaining in the registration cycle to the nearest year.

(C) In addition to the fees set forth in this section, the chief, or any authorized agent, shall charge an additional fee of three dollars for any registration certificate the chief or authorized agent issues. When the registration certificate is issued by an authorized agent, the additional fee of three dollars shall be retained by the issuing agent. When the registration certificate is issued by the chief, the additional fee of three dollars shall be deposited to the credit of the waterways safety fund established in section 1547.75 of the Revised Code.

(D) Upon receipt of the application in approved form, the chief shall enter the same upon the records of the office of the division, assign a number to the watercraft if a number is required under section 1547.53 of the Revised Code, and issue to the applicant a registration certificate. If a number is assigned by the chief, it shall be set forth on the certificate. The registration certificate shall be on the watercraft for which it is issued and available at all times for inspection whenever the watercraft is in operation, except that livery operators may retain the registration certificate at the livery where it shall remain available for inspection at all times.

(E) No person shall issue or be issued a registration certificate for a watercraft that is required to be issued a certificate of title under Chapter 1548. of the Revised Code except upon presentation of a certificate of title for the watercraft as provided in that chapter, proof of current documentation by the United States coast guard, a renewal registration form provided by the division of watercraft, or a certificate of registration issued under this section that has expired if there is no change in the ownership or description of the watercraft.

(F) Whenever the ownership of a watercraft changes, a new application form together with the prescribed fee shall be filed with the chief or the chief's agent and a new registration certificate shall be issued. The application shall be signed manually by the person or persons specified in division (A)(1)(a) to (c) of this section and shall be accompanied by a two-dollar transfer fee. Any remaining time on the registration shall be transferred. An authorized agent of the chief shall charge an additional fee of three dollars, which shall be retained by the issuing agent. If the certificate is issued by the chief, an additional fee of three dollars for each certificate issued shall be collected.

(G) If an agency of the United States has in force an overall system of

identification numbering for watercraft or certain types of watercraft within the United States, the numbering system employed by the division shall be in conformity with that system.

(H) The chief may assign any registration certificates to any authorized agent for the assignment ~~thereof~~ of the registration certificates. If a person accepts that authorization, the person may be assigned a block of numbers and certificates ~~therefor~~ that upon assignment, in conformity with this chapter and Chapter 1548. of the Revised Code and with rules of the division, shall be valid as if assigned directly by the division. Any person so designated as an agent by the chief shall post with the division security as may be required by the director of natural resources. The chief may issue an order temporarily or permanently restricting or suspending an agent's authorization without a hearing if the chief finds that the agent has violated this chapter or Chapter 1548. of the Revised Code, rules adopted under them, or any agreements prescribed by the chief.

(I) All records of the division made or kept pursuant to this section shall be public records. Those records shall be available for inspection at reasonable hours and in a manner compatible with normal operations of the division.

(J) The owner shall furnish the division notice within fifteen days of the following:

(1) The transfer, other than through the creation of a security interest in any watercraft, of all or any part of the owner's interest or, if the watercraft is owned by two persons under joint ownership with right of survivorship established under section ~~2106.17~~ 2131.12 of the Revised Code, of all or any part of the joint interest of either of the two persons. The transfer shall not terminate the registration certificate.

(2) Any change in the address appearing on the certificate and, as a part of the notification, shall furnish the chief with the owner's new address;

(3) The destruction or abandonment of the watercraft.

(K) The chief may issue duplicate registration certificates or duplicate tags to owners of currently registered watercraft, the fee for which shall be four dollars.

(L) If the chief finds that a registration certificate previously issued to an owner is in error to a degree that would impair its basic purpose and use, the chief may issue a corrected certificate to the owner without charge.

(M) No authorized agent shall issue and no person shall receive or accept from an authorized agent a registration certificate assigned to the authorized agent under division (H) of this section unless the exact month, day, and year of issue are plainly written ~~thereon~~ on the certificate by the

agent. Certificates issued with incorrect dates of issue are void from the time they are issued.

(N) The chief, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing the renewal of watercraft registrations by electronic means.

(O) As used in this section:

(1) "Disabled veteran" means a person who is included in either of the following categories:

(a) Because of a service-connected disability, has been or is awarded funds for the purchase of a motor vehicle under the "Disabled Veterans' and Servicemen's Automobile Assistance Act of 1970," 84 Stat. 1998, 38 U.S.C. 1901, and amendments thereto;

(b) Has a service-connected disability rated at one hundred per cent by the veterans administration.

(2) "Prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military forces of the United States who was captured, separated, and incarcerated by an enemy of the United States at any time, and any regularly appointed, enrolled, or enlisted member of the military forces of Great Britain, France, Australia, Belgium, Brazil, Canada, China, Denmark, Greece, the Netherlands, New Zealand, Norway, Poland, South Africa, or the republics formerly associated with the Union of Soviet Socialist Republics or Yugoslavia who was a citizen of the United States at the time of the appointment, enrollment, or enlistment, and was captured, separated, and incarcerated by an enemy of this country during World War II.

(P) Any disabled veteran, congressional medal of honor awardee, or prisoner of war may apply to the chief for a certificate of registration, or for a renewal of the certificate of registration, without the payment of any fee required by this section. The application for a certificate of registration shall be accompanied by evidence of disability or by documentary evidence in support of a congressional medal of honor that the chief requires by rule. The application for a certificate of registration by any person who has been a prisoner of war shall be accompanied by written evidence in the form of a record of separation, a letter from one of the armed forces of a country listed in division (O)(2) of this section, or other evidence that the chief may require by rule, that the person was honorably discharged or is currently residing in this state on active duty with one of the branches of the armed forces of the United States, or was a prisoner of war and was honorably discharged or received an equivalent discharge or release from one of the armed forces of a country listed in division (O)(2) of this section.

(Q) Annually by the fifteenth day of January, the director of natural resources shall determine the amount of fees that would have been collected in the prior calendar year for each certificate of registration issued or renewed pursuant to division (P) of this section and shall certify the total amount of foregone revenue to the director of budget and management for reimbursement. The director of budget and management shall transfer the amount certified from the general revenue fund to the waterways safety fund created pursuant to section 1547.75 of the Revised Code.

Sec. 1548.07. (A) An application for a certificate of title shall be sworn to before a notary public or other officer empowered to administer oaths by the lawful owner or purchaser of the watercraft or outboard motor and shall contain the following information in the form and together with any other information that the chief of the division of watercraft may require:

(1) Name, address, and social security number or employer's tax identification number of the applicant;

(2) Statement of how the watercraft or outboard motor was acquired;

(3) Name and address of the previous owner;

(4) A statement of all liens, mortgages, or other encumbrances on the watercraft or outboard motor, including a description of the nature and amount of each lien, mortgage, or encumbrance, and the name and address of each holder ~~thereof~~ of the lien, mortgage, or encumbrance;

(5) If there are no outstanding liens, mortgages, or other encumbrances, a statement of that fact;

(6) A description of the watercraft, including the make, year, length, series or model, if any, body type, hull identification number or ~~hull identification number~~ serial number, and make, manufacturer's serial number, and horsepower of any inboard motor or motors; or a description of the outboard motor, including the make, year, series or model, if any, manufacturer's serial number, and horsepower;

~~(G)~~(7) The purchase price, trade-in allowed, and amount of sales or use tax paid under Chapter 5739. or 5741. of the Revised Code.

(B) If the application is made by two persons regarding a watercraft or outboard motor in which they wish to establish joint ownership with right of survivorship, they may do so as provided in section ~~2106.17~~ 2131.12 of the Revised Code.

(C) If the applicant wishes to designate a watercraft or outboard motor in beneficiary form, the applicant may do so as provided in section 2131.13 of the Revised Code.

(D) If the watercraft or outboard motor contains a permanent identification number placed ~~thereon~~ on the watercraft or outboard motor by

the manufacturer, this number shall be used as the serial number or hull identification number. If there is no manufacturer's identification number, or if the manufacturer's identification number has been removed or obliterated, the chief, upon receipt of a prescribed application and proof of ownership, may assign an identification number for the watercraft or outboard motor, and this number shall be permanently affixed or imprinted by the applicant, at the place and in the manner designated by the chief, upon the watercraft or outboard motor for which it is assigned.

Sec. 1548.071. Any two persons may establish in accordance with section ~~2106.17~~ 2131.12 of the Revised Code joint ownership with right of survivorship in a watercraft or outboard motor for which a certificate of title is required under this chapter and that one or both of them owns. Two persons who establish joint ownership with right of survivorship in a watercraft or outboard motor in accordance with section ~~2106.17~~ 2131.12 of the Revised Code may terminate the joint ownership with right of survivorship by applying for a title in accordance with ~~Chapter 1548. of the Revised Code~~ this chapter.

Sec. 1548.072. Any person who owns a watercraft or outboard motor for which a certificate of title is required under this chapter may establish ownership of the watercraft or outboard motor that is transferable on death by designating the watercraft or outboard motor in beneficiary form in accordance with section 2131.13 of the Revised Code. Any person who establishes ownership of a watercraft or outboard motor that is transferable on death in accordance with section 2131.13 of the Revised Code may terminate that type of ownership or change the designation of the transfer-on-death beneficiary or beneficiaries by applying for a certificate of title in accordance with this chapter.

Sec. 1548.08. When the clerk of a court of common pleas issues a physical certificate of title for a watercraft or outboard motor, the clerk shall issue it over the clerk's official seal. All physical certificates of title to watercraft or outboard motors shall contain the information required in the application for them as prescribed by section 1548.07 of the Revised Code, as well as spaces for the dates of notation and cancellation of each lien, mortgage, or encumbrance, over the signature of the clerk. If any certificate of title is issued for a watercraft or outboard motor in which two persons are establishing joint ownership with right of survivorship under section ~~2106.17~~ 2131.12 of the Revised Code, the certificate, in addition to the information required by this section, shall show that the two persons have established joint ownership with right of survivorship in the watercraft or outboard motor. If the certificate of title is issued for a watercraft or

outboard motor that is designated in beneficiary form under section 2131.13 of the Revised Code, in addition to the information required by this section, the certificate shall show that the present owner of the watercraft or outboard motor has designated a specified transfer-on-death beneficiary or beneficiaries who will take ownership of the watercraft or outboard motor at the death of the present owner in accordance with section 2131.13 of the Revised Code.

An assignment of certificate of title before a notary public or other officer empowered to administer oaths shall appear on the reverse side of each physical certificate of title in the form to be prescribed by the chief of the division of watercraft. The assignment form shall include a warranty that the signer is the owner of the watercraft or outboard motor and that there are no mortgages, liens, or encumbrances on the watercraft or outboard motor except ~~as~~ those that are noted on the face of the certificate of title.

Sec. 1548.11. (A) In the event of the transfer of ownership of a watercraft or outboard motor by operation of law, as upon inheritance, devise, bequest, order in bankruptcy, insolvency, replevin, or execution of sale, or whenever the engine of a watercraft is replaced by another engine, ~~or whenever~~ a watercraft or outboard motor is sold to satisfy storage or repair charges, or repossession is had upon default in performance of the terms of a security agreement as provided in Chapter 1309. of the Revised Code, a clerk of a court of common pleas, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or, when that is not possible, upon presentation of satisfactory proof to the clerk of ownership and rights of possession to the watercraft or outboard motor, and upon payment of the fee prescribed in section 1548.10 of the Revised Code and presentation of an application for certificate of title, may issue to the applicant a certificate of title to the watercraft or outboard motor. Only an affidavit by the person or agent of the person to whom possession of the watercraft or outboard motor has passed, setting forth the facts entitling the person to possession and ownership, together with a copy of the journal entry, court order, or instrument upon which the claim of possession and ownership is founded, is satisfactory proof of ownership and right of possession. If the applicant cannot produce such proof of ownership, the applicant may apply directly to the chief of the division of watercraft and submit such evidence as the applicant has, and the chief, if the chief finds the evidence sufficient, may authorize the clerk to issue a certificate of title. If, from the records in the office of the clerk, there appears to be any lien on the watercraft or outboard motor, the certificate of title shall contain a statement of the lien unless the application is accompanied by proper

evidence of its extinction.

(B) Upon the death of one of the persons who have established joint ownership with right of survivorship under section ~~2106.17~~ 2131.12 of the Revised Code in a watercraft or outboard motor and the presentation to the clerk of the title and the certificate of death of the deceased person, the clerk shall enter into the records the transfer of the watercraft or outboard motor to the surviving person, and the title to the watercraft or outboard motor immediately passes to the surviving person. The transfer does not affect any liens on the watercraft or outboard motor.

(C) The clerk shall transfer a decedent's interest in one watercraft, one outboard motor, or one of each to the decedent's surviving spouse as provided in section 2106.19 of the Revised Code.

(D) Upon the death of an owner of a watercraft or outboard motor designated in beneficiary form under section 2131.13 of the Revised Code, upon application of the transfer-on-death beneficiary or beneficiaries designated pursuant to that section, and upon presentation to the clerk of the certificate of title and the certificate of death of the deceased owner, the clerk shall transfer the watercraft or outboard motor and issue a certificate of title to the transfer-on-death beneficiary or beneficiaries. The transfer does not affect any liens upon any watercraft or outboard motor so transferred.

Sec. 2106.18. (A) Upon the death of a married resident who owned at least one automobile at the time of death, the interest of the deceased spouse in up to two automobiles that are not transferred to the surviving spouse due to joint ownership with right of survivorship established under section ~~2106.17~~ 2131.12 of the Revised Code, that are not transferred to a transfer-on-death beneficiary or beneficiaries designated under section 2131.13 of the Revised Code, and that are not otherwise specifically disposed of by testamentary disposition~~,~~ may be selected by the surviving spouse. This interest shall immediately pass to the surviving spouse upon transfer of the title or titles in accordance with section 4505.10 of the Revised Code. The sum total of the values of the automobiles selected by a surviving spouse under this division, as specified in the affidavit that the surviving spouse executes pursuant to division (B) of section 4505.10 of the Revised Code, shall not exceed forty thousand dollars. Each automobile that passes to a surviving spouse under this division shall not be considered an estate asset and shall not be included in the estate inventory.

(B) The executor or administrator, with the approval of the probate court, may transfer title to an automobile owned by the decedent to any of the following:

(1) The surviving spouse, when the automobile is purchased by the

surviving spouse pursuant to section 2106.16 of the Revised Code;

(2) A distributee;

(3) A purchaser.

(C) The executor or administrator may transfer title to an automobile owned by the decedent without the approval of the probate court to any of the following:

(1) A legatee entitled to the automobile under the terms of the will;

(2) A distributee if the distribution of the automobile is made without court order pursuant to section 2113.55 of the Revised Code;

(3) A purchaser if the sale of the automobile is made pursuant to section 2113.39 of the Revised Code.

(D) As used in division (A) of this section, "automobile" includes a truck if the truck was used as a method of conveyance by the deceased spouse or the deceased spouse's family when the deceased spouse was alive.

Sec. 2107.06. No person under eighteen years of age shall witness a will executed pursuant to section 2107.03 of the Revised Code or an agreement to make a will or to make a devise or bequest by will pursuant to section 2107.04 of the Revised Code.

Sec. 2107.27. (A) When application is made to the probate court to admit to probate a will that has been lost, spoliated, or destroyed, the party seeking to prove the will shall give a written notice by certified mail to the surviving spouse~~, to the next of kin~~ of the testator, ~~and~~ to all persons ~~whose interest it may be to resist the probate~~ who would be entitled to inherit from the testator under Chapter 2105. of the Revised Code if the testator had died intestate, to all legatees and devisees that are named in the will, and to all legatees and devisees that are named in the most recent will prior to the lost, spoliated, or destroyed will that is known to the applicant.

(B) In ~~such~~ the cases described in division (A) of this section, the ~~court~~ proponents and opponents of the will shall cause the witnesses to the will, and any other witnesses that ~~a person interested in having~~ have relevant and material knowledge about the will ~~admitted to probate desires~~, to ~~have~~ appear~~, to come~~ before the court to testify. ~~The witnesses shall be examined by the probate judge, and their testimony shall be reduced to writing and then filed in the records of the probate court pertaining to the testator's estate. When~~ If any witnesses reside out of its jurisdiction, or reside within its jurisdiction but are infirm or unable to attend, the probate court may order their testimony to be taken and reduced to writing by some competent person~~, which~~. The testimony shall be filed in ~~such~~ the records of the probate court pertaining to the testator's estate.

(C) If upon such proof~~,~~ the court ~~is satisfied that the will was executed~~

~~in the manner provided by the law in force at the time of its execution, that its contents are substantially proved, that it was unrevoked at the death of the testator, and has been lost, spoliated, or destroyed since his death, since he became incapable of making a will by reason of insanity, or before the death of the testator if his lack of knowledge of the loss, spoliation, or destruction can be proved by clear and convincing testimony~~ finds that the requirements of section 2107.26 of the Revised Code have been met, the probate court shall find and establish the contents of the will as near as can be ascertained ~~and cause them and the testimony taken in the case to be recorded in the probate court~~. The

~~The~~ contents of the will shall be as effectual for all purposes as if the original will had been admitted to probate and record.

Sec. 2107.28. If a will is lost, spoliated, destroyed, mislaid, or stolen, after it has been admitted to probate but before it has been recorded, upon notice being given~~,~~ to the persons as provided by section 2107.27 of the Revised Code, ~~to persons whose interest it may be to resist the probate and record of such will~~ the probate court may hear testimony~~, and if~~. If the court is satisfied that the contents of the will have been substantially proved, the court may record ~~such~~ the will as thus proven~~, which~~. The record shall have all the ~~effect~~ effects of a record of the original will.

Sec. 2109.62. (A)(1) Upon the filing of a motion by a trustee with the court that has jurisdiction over the trust, upon the provision of reasonable notice to all beneficiaries who are known and in being and who have vested or contingent interests in the trust, and after holding a hearing, the court may terminate the trust, in whole or in part, if it determines that all of the following apply:

(a) It is no longer economically feasible to continue the trust~~;~~.

(b) The termination of the trust is for the benefit of the beneficiaries~~;~~.

(c) The termination of the trust is equitable and practical~~;~~.

(d) The current value of the trust is less than ~~fifty~~ one hundred thousand dollars.

(2) The existence of a spendthrift or similar provision in a trust instrument or will does not preclude the termination of a trust pursuant to this section.

(B) If property is to be distributed from an estate being probated to a trust and the termination of the trust pursuant to this section does not clearly defeat the intent of the testator, the probate court has jurisdiction to order the outright distribution of the property or to make the property custodial property under sections 1339.31 to 1339.39 of the Revised Code. A probate court may so order whether the application for the order is made by an inter

vivos trustee named in the will of the decedent or by a testamentary trustee.

Sec. 2113.30. (A) Except as otherwise directed by the decedent in ~~his~~ the decedent's last will and testament, an executor or administrator ~~may~~, without personal liability for losses incurred, may continue the decedent's business during ~~one month~~ four months next following the date of the appointment of ~~such~~ that executor or administrator, unless the probate court directs otherwise, and for ~~such~~ any further time ~~as~~ that the court may authorize ~~on~~ upon a hearing and after notice to the surviving spouse and distributees. In either case, no debts incurred or contracts entered into shall involve the estate beyond the assets used in ~~such~~ that business immediately prior to the death of the decedent without first obtaining the approval of the court ~~first obtained~~. During the time the business is continued, the executor or administrator shall file monthly reports in the court, setting forth the receipts and expenses of the business for the preceding month and ~~such~~ any other pertinent information ~~as~~ that the court may require. The executor or administrator may not bind the estate without court approval beyond the period during which the business is continued.

(B) As used in this section, "decedent's business" means a business that is owned by the decedent as a sole proprietor at the time of the decedent's death. "Decedent's business" does not include a business that is owned in whole or in part by the decedent as a shareholder of a corporation, a member of a limited liability company, or a partner of a partnership, or under any other form of ownership other than a sole proprietorship.

Sec. 2113.61. (A)(1) When real property passes by the laws of intestate succession or under a will, the administrator or executor shall file in probate court, at any time after the filing of an inventory that includes the real property but prior to the filing of the administrator's or executor's final account, an application requesting the court to issue a certificate of transfer as to the real property. Real property sold by an executor or administrator or land registered under Chapters 5309. and 5310. of the Revised Code is excepted from the application requirement. Cases in which an order has been made under section 2113.03 of the Revised Code relieving an estate from administration and in which the order directing transfer of real property to the person entitled to it may be substituted for the certificate of transfer also are excepted from the application requirement.

(2) In accordance with division (C)(3)(b) of section 2113.031 of the Revised Code, an application for a certificate of transfer of an interest in real property included in the assets of the decedent's estate shall accompany an application for a summary release from administration under that section. This section applies to the application for and the issuance of the requested

certificate of transfer except to the extent that the probate court determines that the nature of any of the provisions of this section is inconsistent with the nature of a grant of a summary release from administration.

(B) Subject to division (A)(2) of this section, the application for a certificate of transfer shall contain all of the following:

(1) The name, place of residence at death, and date of death of the decedent;

(2) A statement whether the decedent died testate or intestate;

(3) The fact and date of the filing and probate of the will, if applicable, and the fact and date of the appointment of the administrator or executor;

(4) A description of each parcel of real property situated in this state that is owned by the decedent at the time of death;

(5) Insofar as they can be ascertained, the names, ages, places of residence, and relationship to the decedent of the persons to whom each parcel of real property described in division (B)(4) of this section passed by descent or devise;

(6) A statement that all the known debts of the decedent's estate have been paid or secured to be paid, or that sufficient other assets are in hand to complete the payment of those debts;

(7) Other pertinent information that the court requires.

(C) Subject to division (A)(2) of this section, within five days following the filing of an application for a certificate of transfer that complies with division (B) of this section, the court shall issue a certificate of transfer for record in each county in this state in which real property so passing is situated, that shall recite all of the following:

(1) The name and date of death of the decedent;

(2) Whether the decedent died testate or intestate and, if testate, the volume and page of the record of the will;

(3) The volume and page of the probate court record of the administration of the estate;

(4) The names and places of residence of the devisees, the interests passing to them, the names and places of residence of the persons inheriting intestate, and the interests inherited by them, in each parcel of real property described in division (B)(4) of this section;

(5) A description of each parcel of real property described in division (B)(4) of this section;

(6) Other information that in the opinion of the court should be included.

(D) If an executor or administrator has failed to file an application for a certificate of transfer before being discharged, the application may be filed

by an heir or devisee, or a successor in interest, in the probate court in which the testator's will was probated or, in the case of intestate estates, in the probate court in which administration was had. If no administration was had on an estate and if no administration is contemplated, except in the case of the grant of or contemplated application for the grant of an order of a summary release from administration under section 2113.031 of the Revised Code, an application for a certificate of transfer may be filed by an heir or devisee, or a successor in interest, in the probate court of the county in which the decedent was a resident at the time of death.

A foreign executor or administrator, when no ancillary administration proceedings have been had or are being had in this state, may file in accordance with this section an application for a certificate of transfer in the probate court of any county of this state in which real property of the decedent is located.

When a person who has entered into a written contract for the sale and conveyance of an interest in real property dies before its completion, the interest of the decedent in the contract and the record title to the real property described in the contract may be transferred to the persons, legatees, devisees, or heirs at law entitled to the interest of the decedent in the real property, in the same manner as provided in this section and sections 2113.62 and 2113.63 of the Revised Code for the transfer of real property. The application for the certificate of transfer and the certificate itself also shall recite that the real property described in the application or certificate is subject to a written contract for its sale and conveyance.

Sec. 2117.25. (A) Every executor or administrator shall proceed with diligence to pay the debts of the decedent~~,~~ and shall apply the assets in the following order:

~~(A)~~(1) Costs and expenses of administration;

~~(B)~~(2) An amount, not exceeding two thousand dollars, for funeral expenses that are included in the bill of a funeral director, funeral expenses other than those in the bill of a funeral director that are approved by the probate court, and an amount, not exceeding two thousand dollars, for burial and cemetery expenses, including that portion of the funeral director's bill allocated to cemetery expenses that have been paid to the cemetery by the funeral director.

For purposes of this division, burial and cemetery expenses shall be limited to the following:

~~(1)~~(a) The purchase of a place of interment;

~~(2)~~(b) Monuments or other markers;

~~(3)~~(c) The outer burial container;

~~(4)~~(d) The cost of opening and closing the place of interment;

~~(5)~~(e) The urn.

~~(C)~~(3) The allowance for support made to the surviving spouse, minor children, or both under section 2106.13 of the Revised Code;

~~(D)~~(4) Debts entitled to a preference under the laws of the United States;

~~(E)~~(5) Expenses of the last sickness of the decedent;

~~(F)~~(6) If the total bill of a funeral director for funeral expenses exceeds two thousand dollars, then, in addition to the amount described in division ~~(B)~~(A)(2) of this section, an amount, not exceeding one thousand dollars, for funeral expenses that are included in the bill and that exceed two thousand dollars;

~~(G)~~(7) Personal property taxes and obligations for which the decedent was personally liable to the state or any of its subdivisions;

~~(H)~~(8) Debts for manual labor performed for the decedent within twelve months preceding the decedent's death, not exceeding three hundred dollars to any one person;

~~(I)~~(9) Other debts for which claims have been presented and finally allowed.

(B) The part of the bill of a funeral director that exceeds the total of three thousand dollars as described in divisions ~~(B)~~(A)(2) and ~~(F)~~(6) of this section, and the part of a claim included in division ~~(H)~~(A)(8) of this section that exceeds three hundred dollars shall be included as a debt under division ~~(I)~~(A)(9) of this section, depending upon the time when the claim for the additional amount is presented.

(C) Any natural person or fiduciary who pays a claim of any creditor described in division (A) of this section shall be subrogated to the rights of that creditor proportionate to the amount of the payment and shall be entitled to reimbursement for that amount in accordance with the priority of payments set forth in that division.

(D)(1) Chapters 2113. to 2125. of the Revised Code, relating to the manner in which and the time within which claims shall be presented, shall apply to claims set forth in divisions ~~(B)~~(A)(2), ~~(F)~~(6), and ~~(H)~~(8) of this section. Claims for an expense of administration or for the allowance for support need not be presented. The executor or administrator shall pay debts included in divisions ~~(D)~~(A)(4) and ~~(G)~~(7) of this section, of which the executor or administrator has knowledge, regardless of presentation.

(2) The giving of written notice to an executor or administrator of a motion or application to revive an action pending against the decedent at the date of death shall be equivalent to the presentation of a claim to the

executor or administrator for the purpose of determining the order of payment of any judgment rendered or decree entered in such an action.

(E) No payments shall be made to creditors of one class until all those of the preceding class are fully paid or provided for. If the assets are insufficient to pay all the claims of one class, the creditors of that class shall be paid ratably.

(F) If it appears at any time that the assets have been exhausted in paying prior or preferred charges, allowances, or claims, ~~such~~ those payments shall be a bar to an action on any claim not entitled to ~~such~~ that priority or preference.

Sec. ~~2106.17~~ 2131.12. (A) As used in this section:

(1) "Motor vehicle" has the same meaning as in section 4505.01 of the Revised Code.

(2) "Joint ownership with right of survivorship" means a form of ownership of a motor vehicle, watercraft, or outboard motor that is established pursuant to this section and pursuant to which the entire interest in the motor vehicle, watercraft, or outboard motor is held by two persons for their joint lives and thereafter by the survivor of them.

(3) "Watercraft" has the same meaning as in division (A) of section 1548.01 of the Revised Code.

(B)(1) Any two persons may establish in accordance with this section joint ownership with right of survivorship in a motor vehicle or in a watercraft or outboard motor for which a certificate of title is required under Chapter 1548. of the Revised Code.

(2) If two persons wish to establish joint ownership with right of survivorship in a motor vehicle or in a watercraft or outboard motor that is required to be titled under Chapter 1548. of the Revised Code, they may make a joint application for a certificate of title under section 4505.06 or 1548.07 of the Revised Code, as applicable.

(C) If two persons have established in a certificate of title joint ownership with right of survivorship in a motor vehicle or a watercraft or outboard motor that is required to be titled under Chapter 1548. of the Revised Code, and if one of those persons dies, the interest of the deceased person in the motor vehicle, watercraft, or outboard motor shall pass to the survivor of them upon transfer of title to the motor vehicle or watercraft or outboard motor in accordance with section 4505.10 or 1548.11 of the Revised Code. The motor vehicle, watercraft, or outboard motor shall not be considered an estate asset and shall not be included and stated in the estate inventory.

Sec. 2131.13. (A) As used in this section:

(1) "Designate or designation in beneficiary form" means to designate, or the designation of, a motor vehicle, watercraft, or outboard motor in a certificate of title that indicates the present owner of the motor vehicle, watercraft, or outboard motor and the intention of the present owner with respect to the transfer of ownership on the present owner's death by designating one or more persons as the beneficiary or beneficiaries who will become the owner or owners of the motor vehicle, watercraft, or outboard motor upon the death of the present owner.

(2) "Motor vehicle" has the same meaning as in section 4505.01 of the Revised Code.

(3) "Person" means an individual, a corporation, an organization, or other legal entity.

(4) "Transfer-on-death beneficiary or beneficiaries" means a person or persons specified in a certificate of title of a motor vehicle, watercraft, or outboard motor who will become the owner or owners of the motor vehicle, watercraft, or outboard motor upon the death of the present owner of the motor vehicle, watercraft, or outboard motor.

(5) "Watercraft" has the same meaning as in section 1548.01 of the Revised Code.

(B) An individual whose certificate of title of a motor vehicle, watercraft, or outboard motor shows sole ownership by that individual may make an application for a certificate of title under section 1548.07 or 4505.06 of the Revised Code to designate that motor vehicle, watercraft, or outboard motor in beneficiary form pursuant to this section.

(C)(1) A motor vehicle, watercraft, or outboard motor is designated in beneficiary form if the certificate of title of the motor vehicle, watercraft, or outboard motor includes the name or names of the transfer-on-death beneficiary or beneficiaries.

(2) The designation of a motor vehicle, watercraft, or outboard motor in beneficiary form is not required to be supported by consideration, and the certificate of title in which the designation is made is not required to be delivered to the transfer-on-death beneficiary or beneficiaries in order for the designation in beneficiary form to be effective.

(D) The designation of a motor vehicle, watercraft, or outboard motor in beneficiary form may be shown in the certificate of title by the words "transfer-on-death" or the abbreviation "TOD" after the name of the owner of a motor vehicle, watercraft, or outboard motor and before the name or names of the transfer-on-death beneficiary or beneficiaries.

tercraft, or outboard motor until the death of the owner of the motor vehicle, watercraft, or outboard motor. The owner of a motor vehicle, watercraft, or outboard motor may cancel or change the designation of a transfer-on-death beneficiary or beneficiaries on a certificate of title at any time without the consent of the transfer-on-death beneficiary or beneficiaries by making an application for a certificate of title under section 1548.07 or 4505.06 of the Revised Code.

(F)(1) Upon the death of the owner of a motor vehicle, watercraft, or outboard motor designated in beneficiary form, the ownership of the motor vehicle, watercraft, or outboard motor shall pass to the transfer-on-death beneficiary or beneficiaries who survive the owner upon transfer of title to the motor vehicle, watercraft, or outboard motor in accordance with section 1548.11 or 4505.10 of the Revised Code. The transfer-on-death beneficiary or beneficiaries who survive the owner may apply for a certificate of title to the motor vehicle, watercraft, or outboard motor upon submitting proof of the death of the owner of the motor vehicle, watercraft, or outboard motor.

(2) If no transfer-on-death beneficiary or beneficiaries survive the owner of a motor vehicle, watercraft, or outboard motor, the motor vehicle, watercraft, or outboard motor shall be included in the probate estate of the deceased owner.

(G)(1) Any transfer of a motor vehicle, watercraft, or outboard motor to a transfer-on-death beneficiary or beneficiaries that results from a designation of the motor vehicle, watercraft, or outboard motor in beneficiary form is not testamentary.

(2) This section does not limit the rights of any creditor of the owner of a motor vehicle, watercraft, or outboard motor against any transfer-on-death beneficiary or beneficiaries or other transferees of the motor vehicle, watercraft, or outboard motor under other laws of this state.

(H)(1) This section shall be known and may be cited as the "Transfer-on-Death of Motor Vehicle, Watercraft, or Outboard Motor Statute."

(2) Divisions (A) to (H) of this section shall be liberally construed and applied to promote their underlying purposes and policy.

(3) Unless displaced by particular provisions of divisions (A) to (H) of this section, the principles of law and equity supplement the provisions of those divisions.

Sec. 2305.121. (A) Any of the following actions pertaining to a revocable trust that is made irrevocable by the death of the grantor of the trust shall be commenced within two years after the date of the death of the grantor of the trust:

(1) An action to contest the validity of the trust;

(2) An action to contest the validity of any amendment to the trust that was made during the lifetime of the grantor of the trust;

(3) An action to contest the revocation of the trust during the lifetime of the grantor of the trust;

(4) An action to contest the validity of any transfer made to the trust during the lifetime of the grantor of the trust.

(B) Upon the death of the grantor of a revocable trust that was made irrevocable by the death of the grantor, the trustee, without liability, may proceed to distribute the trust property in accordance with the terms of the trust unless either of the following applies:

(1) The trustee has actual knowledge of a pending action to contest the validity of the trust, any amendment to the trust, the revocation of the trust, or any transfer made to the trust during the lifetime of the grantor of the trust.

(2) The trustee receives written notification from a potential contestant of a potential action to contest the validity of the trust, any amendment to the trust, the revocation of the trust, or any transfer made to the trust during the lifetime of the grantor of the trust, and the action is actually filed within ninety days after the written notification was given to the trustee.

(C) If a distribution of trust property is made pursuant to division (B) of this section, a beneficiary of the trust shall return any distribution to the extent that it exceeds the distribution to which the beneficiary is entitled if the trust, an amendment to the trust, or a transfer made to the trust later is determined to be invalid.

(D) This section applies only to revocable trusts that are made irrevocable by the death of the grantor of the trust if the grantor dies on or after the effective date of this section.

Sec. 3923.061. (A) On and after January 1, 2003, any insurance company authorized to do business in this state shall pay interest, in accordance with division (B) of this section and subject to division (C) of this section, on any proceeds that become due pursuant to the terms of a policy of sickness and accident insurance due to the death of the insured by sickness or accident.

(B) The interest payable pursuant to division (A) of this section shall be computed from the date of the death of the insured to the date of the payment of the proceeds and shall be at whichever of the following rates is greater:

(1) The annual short-term applicable federal rate for purposes of section 1274(d) of the Internal Revenue Code, as defined in section 5747.01 of the

Revised Code, in effect for the month in which the insured died;

(2) The current rate of interest on proceeds left on deposit with the company under an interest settlement option contained in the policy of sickness and accident insurance.

(C) Division (A) or (B) of this section does not require the payment of interest unless the insured was a resident of this state on the date of the insured's death and unless the beneficiary under the policy of sickness and accident insurance elects in writing to receive, or a written election has been made for the beneficiary to receive, the proceeds of the policy by means of a lump sum payment.

Sec. 4503.12. Upon the transfer of ownership of a motor vehicle, the registration of the motor vehicle expires, and the original owner immediately shall remove the license plates from the motor vehicle, except that:

(A) If a statutory merger or consolidation results in the transfer of ownership of a motor vehicle from a constituent corporation to the surviving corporation, or if the incorporation of a proprietorship or partnership results in the transfer of ownership of a motor vehicle from the proprietorship or partnership to the corporation, the registration shall be continued upon the filing by the surviving or new corporation, within thirty days of such transfer, of an application for an amended certificate of registration, unless such registration is prohibited by division (D) of section 2935.27, division (A) of section 2937.221, division (B) of section 4507.168, or division (B)(1) of section 4521.10 of the Revised Code. The application shall be accompanied by a service fee of two dollars and seventy-five cents commencing on July 1, 2001, three dollars and twenty-five cents commencing on January 1, 2003, and three dollars and fifty cents commencing on January 1, 2004, a transfer fee of one dollar, and the original certificate of registration. Upon a proper filing, the registrar of motor vehicles shall issue an amended certificate of registration in the name of the new owner.

(B) If the death of the owner of a motor vehicle results in the transfer of ownership of the motor vehicle to the surviving spouse of the owner or if a motor vehicle is owned by two persons under joint ownership with right of survivorship established under section ~~2106.17~~ 2131.12 of the Revised Code and one of those persons dies, the registration shall be continued upon the filing by the ~~surviving spouse~~ survivor of an application for an amended certificate of registration, unless such registration is prohibited by division (D) of section 2935.27, division (A) of section 2937.221, division (A) of section 4503.13, division (B) of section 4507.168, or division (B)(1) of

ection 4521.10 of the Revised Code. The application shall be accompanied by a service fee of two dollars and seventy-five cents commencing on July 1, 2001, three dollars and twenty-five cents commencing on January 1, 2003, and three dollars and fifty cents commencing on January 1, 2004, a transfer fee of one dollar, the original certificate of registration, and, in relation to a motor vehicle that is owned by two persons under joint ownership with right of survivorship established under section ~~2106.17~~ 2131.12 of the Revised Code, by a copy of the certificate of title that specifies that the vehicle is owned under joint ownership with right of survivorship. Upon a proper filing, the registrar shall issue an amended certificate of registration in the name of the ~~surviving spouse~~ survivor.

(C) If the death of the owner of a motor vehicle results in the transfer of ownership of the motor vehicle to a transfer-on-death beneficiary or beneficiaries designated under section 2131.13 of the Revised Code, the registration shall be continued upon the filing by the transfer-on-death beneficiary or beneficiaries of an application for an amended certificate of registration, unless that registration is prohibited by division (D) of section 2935.27, division (A) of section 2937.221, division (A) of section 4503.13, division (B) of section 4507.168, or division (B)(1) of section 4521.10 of the Revised Code. The application shall be accompanied by a service fee of two dollars and seventy-five cents commencing on July 1, 2001, three dollars and twenty-five cents commencing on January 1, 2003, and three dollars and fifty cents commencing on January 1, 2004, a transfer fee of one dollar, the original certificate of registration, and a copy of the certificate of title that specifies that the owner of the motor vehicle has designated the motor vehicle in beneficiary form under section 2131.13 of the Revised Code. Upon a proper filing, the registrar shall issue an amended certificate of registration in the name of the transfer-on-death beneficiary or beneficiaries.

(D) If the original owner of a motor vehicle that has been transferred makes application for the registration of another motor vehicle at any time during the remainder of the registration period for which the transferred motor vehicle was registered, the owner, unless such registration is prohibited by division (D) of section 2935.27, division (A) of section 2937.221, division (A) of section 4503.13, division (E) of section 4503.234, division (B) of section 4507.168, or division (B)(1) of section 4521.10 of the Revised Code, may file an application for transfer of the registration and, where applicable, the license plates, accompanied by a service fee of two dollars and seventy-five cents commencing on July 1, 2001, three dollars and twenty-five cents commencing on January 1, 2003, and three dollars and fifty cents commencing on January 1, 2004, a transfer fee of one dollar, and

the original certificate of registration. The transfer of the registration and, where applicable, the license plates from the motor vehicle for which they originally were issued to a succeeding motor vehicle purchased by the same person in whose name the original registration and license plates were issued shall be done within a period not to exceed thirty days. During that thirty-day period, the license plates from the motor vehicle for which they originally were issued may be displayed on the succeeding motor vehicle, and the succeeding motor vehicle may be operated on the public roads and highways in this state.

At the time of application for transfer, the registrar shall compute and collect the amount of tax due on the succeeding motor vehicle, based upon the amount that would be due on a new registration as of the date on which the transfer is made less a credit for the unused portion of the original registration beginning on that date. If the credit exceeds the amount of tax due on the new registration, no refund shall be made. In computing the amount of tax due and credits to be allowed under this division, the provisions of division (B)(1)(a) and (b) of section 4503.11 of the Revised Code shall apply. As to passenger cars, noncommercial vehicles, motor homes, and motorcycles, transfers within or between these classes of motor vehicles only shall be allowed. If the succeeding motor vehicle is of a different class than the motor vehicle for which the registration originally was issued, new license plates also shall be issued upon the surrender of the license plates originally issued and payment of the fees provided in divisions (C) and (D) of section 4503.10 of the Revised Code.

~~(D)~~(E) The owner of a commercial car having a gross vehicle weight or combined gross vehicle weight of more than ten thousand pounds may transfer the registration of that commercial car to another commercial car the owner owns without transferring ownership of the first commercial car, unless registration of the second commercial car is prohibited by division (D) of section 2935.27, division (A) of section 2937.221, division (A) of section 4503.13, division (B) of section 4507.168, or division (B)(1) of section 4521.10 of the Revised Code. At any time during the remainder of the registration period for which the first commercial car was registered, the owner may file an application for the transfer of the registration and, where applicable, the license plates, accompanied by a service fee of two dollars and seventy-five cents commencing on July 1, 2001, three dollars and twenty-five cents commencing on January 1, 2003, and three dollars and fifty cents commencing on January 1, 2004, a transfer fee of one dollar, and the certificate of registration of the first commercial car. The amount of any tax due or credit to be allowed for a transfer of registration under this

ion shall be computed in accordance with division ~~(C)~~(D) of this section.

No commercial car to which a registration is transferred under this division shall be operated on a public road or highway in this state until after the transfer of registration is completed in accordance with this division.

~~(E)~~(F) Upon application to the registrar or a deputy registrar, a person who owns or leases a motor vehicle may transfer special license plates assigned to that vehicle to any other vehicle that the person owns or leases or that is owned or leased by the person's spouse. The application shall be accompanied by a service fee of two dollars and seventy-five cents commencing on July 1, 2001, three dollars and twenty-five cents commencing on January 1, 2003, and three dollars and fifty cents commencing on January 1, 2004, a transfer fee of one dollar, and the original certificate of registration. As appropriate, the application also shall be accompanied by a power of attorney for the registration of a leased vehicle and a written statement releasing the special plates to the applicant. Upon a proper filing, the registrar or deputy registrar shall assign the special license plates to the motor vehicle owned or leased by the applicant and issue a new certificate of registration for that motor vehicle.

As used in division ~~(E)~~(F) of this section, "special license plates" means either of the following:

(1) Any license plates for which the person to whom the license plates are issued must pay an additional fee in excess of the fees prescribed in section 4503.04 of the Revised Code, Chapter 4504. of the Revised Code, and the service fee prescribed in division (D) or (G) of section 4503.10 of the Revised Code;

(2) License plates issued under section 4503.44 of the Revised Code.

Sec. 4505.06. (A)(1) Application for a certificate of title shall be made in a form prescribed by the registrar of motor vehicles and shall be sworn to before a notary public or other officer empowered to administer oaths. The application shall be filed with the clerk of any court of common pleas. An application for a certificate of title may be filed electronically by any electronic means approved by the registrar in any county with the clerk of the court of common pleas of that county. Any payments required by this chapter shall be considered as accompanying any electronically transmitted application when payment actually is received by the clerk. Payment of any fee or taxes may be made by electronic transfer of funds.

(2) The application for a certificate of title shall be accompanied by the fee prescribed in section 4505.09 of the Revised Code. The fee shall be retained by the clerk who issues the certificate of title and shall be distributed in accordance with that section. If a clerk of a court of common

pleas, other than the clerk of the court of common pleas of an applicant's county of residence, issues a certificate of title to the applicant, the clerk shall transmit data related to the transaction to the automated title processing system.

(3) If a certificate of title previously has been issued for a motor vehicle in this state, the application for a certificate of title also shall be accompanied by that certificate of title duly assigned, unless otherwise provided in this chapter. If a certificate of title previously has not been issued for the motor vehicle in this state, the application, unless otherwise provided in this chapter, shall be accompanied by a manufacturer's or importer's certificate or by a certificate of title of another state from which the motor vehicle was brought into this state. If the application refers to a motor vehicle last previously registered in another state, the application also shall be accompanied by the physical inspection certificate required by section 4505.061 of the Revised Code. If the application is made by two persons regarding a motor vehicle in which they wish to establish joint ownership with right of survivorship, they may do so as provided in section ~~2106.17~~ 2131.12 of the Revised Code. If the applicant requests a designation of the motor vehicle in beneficiary form so that upon the death of the owner of the motor vehicle, ownership of the motor vehicle will pass to a designated transfer-on-death beneficiary or beneficiaries, the applicant may do so as provided in section 2131.13 of the Revised Code. A person who establishes ownership of a motor vehicle that is transferable on death in accordance with section 2131.13 of the Revised Code may terminate that type of ownership or change the designation of the transfer-on-death beneficiary or beneficiaries by applying for a certificate of title pursuant to this section. The clerk shall retain the evidence of title presented by the applicant and on which the certificate of title is issued, except that, if an application for a certificate of title is filed electronically by an electronic motor vehicle dealer on behalf of the purchaser of a motor vehicle, the clerk shall retain the completed electronic record to which the dealer converted the certificate of title application and other required documents. The electronic motor vehicle dealer shall forward the actual application and all other documents relating to the sale of the motor vehicle to any clerk within thirty days after the certificate of title is issued. The registrar, after consultation with the attorney general, shall adopt rules that govern the location at which, and the manner in which, are stored the actual application and all other documents relating to the sale of a motor vehicle when an electronic motor vehicle dealer files the application for a certificate of title electronically on behalf of the purchaser.

The clerk shall use reasonable diligence in ascertaining whether or not the facts in the application for a certificate of title are true by checking the application and documents accompanying it or the electronic record to which a dealer converted the application and accompanying documents with the records of motor vehicles in the clerk's office. If the clerk is satisfied that the applicant is the owner of the motor vehicle and that the application is in the proper form, the clerk, within five business days after the application is filed, shall issue a physical certificate of title over the clerk's signature and sealed with the clerk's seal unless the applicant specifically requests the clerk not to issue a physical certificate of title and instead to issue an electronic certificate of title. For purposes of the transfer of a certificate of title, if the clerk is satisfied that the secured party has duly discharged a lien notation but has not canceled the lien notation with a clerk, the clerk may cancel the lien notation on the automated title processing system and notify the clerk of the county of origin.

(4) In the case of the sale of a motor vehicle to a general buyer or user by a dealer, by a motor vehicle leasing dealer selling the motor vehicle to the lessee or, in a case in which the leasing dealer subleased the motor vehicle, the sublessee, at the end of the lease agreement or sublease agreement, or by a manufactured home broker, the certificate of title shall be obtained in the name of the buyer by the dealer, leasing dealer, or manufactured home broker, as the case may be, upon application signed by the buyer. The certificate of title shall be issued, or the process of entering the certificate of title application information into the automated title processing system if a physical certificate of title is not to be issued shall be completed, within five business days after the application for title is filed with the clerk. If the buyer of the motor vehicle previously leased the motor vehicle and is buying the motor vehicle at the end of the lease pursuant to that lease, the certificate of title shall be obtained in the name of the buyer by the motor vehicle leasing dealer who previously leased the motor vehicle to the buyer or by the motor vehicle leasing dealer who subleased the motor vehicle to the buyer under a sublease agreement.

In all other cases, except as provided in section 4505.032 and division (D)(2) of section 4505.11 of the Revised Code, such certificates shall be obtained by the buyer.

(5)(a)(i) If the certificate of title is being obtained in the name of the buyer by a motor vehicle dealer or motor vehicle leasing dealer and there is a security interest to be noted on the certificate of title, the dealer or leasing dealer shall submit the application for the certificate of title and payment of the applicable tax to a clerk within seven business days after the later of the

delivery of the motor vehicle to the buyer or the date the dealer or leasing dealer obtains the manufacturer's or importer's certificate, or certificate of title issued in the name of the dealer or leasing dealer, for the motor vehicle. Submission of the application for the certificate of title and payment of the applicable tax within the required seven business days may be indicated by postmark or receipt by a clerk within that period.

(ii) Upon receipt of the certificate of title with the security interest noted on its face, the dealer or leasing dealer shall forward the certificate of title to the secured party at the location noted in the financing documents or otherwise specified by the secured party.

(iii) A motor vehicle dealer or motor vehicle leasing dealer is liable to a secured party for a late fee of ten dollars per day for each certificate of title application and payment of the applicable tax that is submitted to a clerk more than seven business days but less than twenty-one days after the later of the delivery of the motor vehicle to the buyer or the date the dealer or leasing dealer obtains the manufacturer's or importer's certificate, or certificate of title issued in the name of the dealer or leasing dealer, for the motor vehicle and, from then on, twenty-five dollars per day until the application and applicable tax are submitted to a clerk.

(b) In all cases of transfer of a motor vehicle, the application for certificate of title shall be filed within thirty days after the assignment or delivery of the motor vehicle. If an application for a certificate of title is not filed within the period specified in division (A)(5)(b) of this section, the clerk shall collect a fee of five dollars for the issuance of the certificate, except that no such fee shall be required from a motor vehicle salvage dealer, as defined in division (A) of section 4738.01 of the Revised Code, who immediately surrenders the certificate of title for cancellation. The fee shall be in addition to all other fees established by this chapter, and shall be retained by the clerk. The registrar shall provide, on the certificate of title form prescribed by section 4505.07 of the Revised Code, language necessary to give evidence of the date on which the assignment or delivery of the motor vehicle was made.

(6) As used in division (A) of this section, "lease agreement," "lessee," and "sublease agreement" have the same meanings as in section 4505.04 of the Revised Code.

(B) The clerk, except as provided in this section, shall refuse to accept for filing any application for a certificate of title and shall refuse to issue a certificate of title unless the dealer or manufactured home broker or the applicant, in cases in which the certificate shall be obtained by the buyer, submits with the application payment of the tax levied by or pursuant to

apters 5739. and 5741. of the Revised Code based on the purchaser's county of residence. Upon payment of the tax in accordance with division (E) of this section, the clerk shall issue a receipt prescribed by the registrar and agreed upon by the tax commissioner showing payment of the tax or a receipt issued by the commissioner showing the payment of the tax. When submitting payment of the tax to the clerk, a dealer shall retain any discount to which the dealer is entitled under section 5739.12 of the Revised Code.

For receiving and disbursing such taxes paid to the clerk by a resident of the clerk's county, the clerk may retain a poundage fee of one and one one-hundredth per cent, ~~which~~ and the clerk shall ~~be paid~~ pay the poundage fee into the certificate of title administration fund created by section 325.33 of the Revised Code. The clerk shall not retain a poundage fee from payments of taxes by persons who do not reside in the clerk's county.

A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to applicants who reside in the first clerk's county. The registrar, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those taxes because of certificates of title issued by the clerks of other counties to applicants who reside in the first clerk's county.

In the case of casual sales of motor vehicles, as defined in section 4517.01 of the Revised Code, the price for the purpose of determining the tax shall be the purchase price on the assigned certificate of title executed by the seller and filed with the clerk by the buyer on a form to be prescribed by the registrar, which shall be prima-facie evidence of the amount for the determination of the tax.

(C)(1) If the transferor indicates on the certificate of title that the odometer reflects mileage in excess of the designed mechanical limit of the odometer, the clerk shall enter the phrase "exceeds mechanical limits" following the mileage designation. If the transferor indicates on the certificate of title that the odometer reading is not the actual mileage, the clerk shall enter the phrase "nonactual: warning - odometer discrepancy" following the mileage designation. The clerk shall use reasonable care in transferring the information supplied by the transferor, but is not liable for any errors or omissions of the clerk or those of the clerk's deputies in the performance of the clerk's duties created by this chapter.

The registrar shall prescribe an affidavit in which the transferor shall swear to the true selling price and, except as provided in this division, the

true odometer reading of the motor vehicle. The registrar may prescribe an affidavit in which the seller and buyer provide information pertaining to the odometer reading of the motor vehicle in addition to that required by this section, as such information may be required by the United States secretary of transportation by rule prescribed under authority of subchapter IV of the "Motor Vehicle Information and Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981.

(2) Division (C)(1) of this section does not require the giving of information concerning the odometer and odometer reading of a motor vehicle when ownership of a motor vehicle is being transferred as a result of a bequest, under the laws of intestate succession, to a ~~surviving spouse~~ survivor pursuant to section ~~2106.17,~~ 2106.18, 2131.12, or 4505.10 of the Revised Code, to a transfer-on-death beneficiary or beneficiaries pursuant to section 2131.13 of the Reviseed Code, or in connection with the creation of a security interest.

(D) When the transfer to the applicant was made in some other state or in interstate commerce, the clerk, except as provided in this section, shall refuse to issue any certificate of title unless the tax imposed by or pursuant to Chapter 5741. of the Revised Code based on the purchaser's county of residence has been paid as evidenced by a receipt issued by the tax commissioner, or unless the applicant submits with the application payment of the tax. Upon payment of the tax in accordance with division (E) of this section, the clerk shall issue a receipt prescribed by the registrar and agreed upon by the tax commissioner, showing payment of the tax.

For receiving and disbursing such taxes paid to the clerk by a resident of the clerk's county, the clerk may retain a poundage fee of one and one one-hundredth per cent. The clerk shall not retain a poundage fee from payments of taxes by persons who do not reside in the clerk's county.

A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to applicants who reside in the first clerk's county. The registrar, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those taxes because of certificates of title issued by the clerks of other counties to applicants who reside in the first clerk's county.

When the vendor is not regularly engaged in the business of selling motor vehicles, the vendor shall not be required to purchase a vendor's license or make reports concerning those sales.

(E) The clerk shall accept any payment of a tax in cash, or by cashier's check, certified check, draft, money order, or teller check issued by any insured financial institution payable to the clerk and submitted with an application for a certificate of title under division (B) or (D) of this section. The clerk also may accept payment of the tax by corporate, business, or personal check, credit card, electronic transfer or wire transfer, debit card, or any other accepted form of payment made payable to the clerk. The clerk may require bonds, guarantees, or letters of credit to ensure the collection of corporate, business, or personal checks. Any service fee charged by a third party to a clerk for the use of any form of payment may be paid by the clerk from the certificate of title administration fund created in section 325.33 of the Revised Code, or may be assessed by the clerk upon the applicant as an additional fee. Upon collection, the additional fees shall be paid by the clerk into that certificate of title administration fund.

The clerk shall make a good faith effort to collect any payment of taxes due but not made because the payment was returned or dishonored, but the clerk is not personally liable for the payment of uncollected taxes or uncollected fees. The clerk shall notify the tax commissioner of any such payment of taxes that is due but not made and shall furnish ~~such~~ the information to the commissioner ~~as~~ that the commissioner requires. The clerk shall deduct the amount of taxes due but not paid from the clerk's periodic remittance of tax payments, in accordance with procedures agreed upon by the tax commissioner. The commissioner may collect taxes due by assessment in the manner provided in section 5739.13 of the Revised Code.

Any person who presents payment that is returned or dishonored for any reason is liable to the clerk for payment of a penalty over and above the amount of the taxes due. The clerk shall determine the amount of the penalty, ~~which~~ and the penalty shall be no greater than that amount necessary to compensate the clerk for banking charges, legal fees, or other expenses incurred by the clerk in collecting the returned or dishonored payment. The remedies and procedures provided in this section are in addition to any other available civil or criminal remedies. Subsequently collected penalties, poundage fees, and title fees, less any title fee due the state, from returned or dishonored payments collected by the clerk shall be paid into the certificate of title administration fund. Subsequently collected taxes, less poundage fees, shall be sent by the clerk to the treasurer of state at the next scheduled periodic remittance of tax payments, with information as the commissioner may require. The clerk may abate all or any part of any penalty assessed under this division.

(F) In the following cases, the clerk shall accept for filing an application

and shall issue a certificate of title without requiring payment or evidence of payment of the tax:

(1) When the purchaser is this state or any of its political subdivisions, a church, or an organization whose purchases are exempted by section 5739.02 of the Revised Code;

(2) When the transaction in this state is not a retail sale as defined by section 5739.01 of the Revised Code;

(3) When the purchase is outside this state or in interstate commerce and the purpose of the purchaser is not to use, store, or consume within the meaning of section 5741.01 of the Revised Code;

(4) When the purchaser is the federal government;

(5) When the motor vehicle was purchased outside this state for use outside this state;

(6) When the motor vehicle is purchased by a nonresident of this state for immediate removal from this state, and will be permanently titled and registered in another state, as provided by division (B)(23) of section 5739.02 of the Revised Code, and upon presentation of a copy of the affidavit provided by that section, and a copy of the exemption certificate provided by section 5739.03 of the Revised Code.

The clerk shall forward all payments of taxes, less poundage fees, to the treasurer of state in a manner to be prescribed by the tax commissioner and shall furnish information to the commissioner as the commissioner requires.

(G) An application, as prescribed by the registrar and agreed to by the tax commissioner, shall be filled out and sworn to by the buyer of a motor vehicle in a casual sale. The application shall contain the following notice in bold lettering: "WARNING TO TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by law to state the true selling price. A false statement is in violation of section 2921.13 of the Revised Code and is punishable by six months' imprisonment or a fine of up to one thousand dollars, or both. All transfers are audited by the department of taxation. The seller and buyer must provide any information requested by the department of taxation. The buyer may be assessed any additional tax found to be due."

(H) For sales of manufactured homes or mobile homes occurring on or after January 1, 2000, the clerk shall accept for filing, pursuant to Chapter 5739. of the Revised Code, an application for a certificate of title for a manufactured home or mobile home without requiring payment of any tax pursuant to section 5739.02, 5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt issued by the tax commissioner showing payment of the tax. For sales of manufactured homes or mobile homes occurring on

or after January 1, 2000, the applicant shall pay to the clerk an additional fee of five dollars for each certificate of title issued by the clerk for a manufactured or mobile home pursuant to division (H) of section 4505.11 of the Revised Code and for each certificate of title issued upon transfer of ownership of the home. The clerk shall credit the fee to the county certificate of title administration fund, and the fee shall be used to pay the expenses of archiving ~~such~~ those certificates pursuant to division (A) of section 4505.08 and division (H)(3) of section 4505.11 of the Revised Code. The tax commissioner shall administer any tax on a manufactured or mobile home pursuant to Chapters 5739. and 5741. of the Revised Code.

(I) Every clerk shall have the capability to transact by electronic means all procedures and transactions relating to the issuance of motor vehicle certificates of title that are described in the Revised Code as being accomplished by electronic means.

Sec. 4505.10. (A) In the event of the transfer of ownership of a motor vehicle by operation of law, as upon inheritance, devise, bequest, order in bankruptcy, insolvency, replevin, or execution sale, a motor vehicle is sold to satisfy storage or repair charges, or repossession is had upon default in performance of the terms of a security agreement as provided in Chapter 1309. of the Revised Code and the secured party has notified the debtor as required by division (B) of section 1309.611 of the Revised Code, a clerk of a court of common pleas, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or, when that is not possible, upon presentation of satisfactory proof to the clerk of ownership and rights of possession to the motor vehicle, and upon payment of the fee prescribed in section 4505.09 of the Revised Code and presentation of an application for certificate of title, may issue to the applicant a certificate of title to the motor vehicle. Only an affidavit by the person or agent of the person to whom possession of the motor vehicle has passed, setting forth the facts entitling the person to the possession and ownership, together with a copy of the journal entry, court order, or instrument upon which the claim of possession and ownership is founded, is satisfactory proof of ownership and right of possession. If the applicant cannot produce that proof of ownership, the applicant may apply directly to the registrar of motor vehicles and submit the evidence the applicant has, and the registrar, if the registrar finds the evidence sufficient, then may authorize a clerk to issue a certificate of title. If, from the records in the office of the clerk involved, there appears to be any lien on the motor vehicle, the certificate of title shall contain a statement of the lien unless the application is accompanied by proper evidence of its extinction.

(B) A clerk shall transfer a decedent's interest in one or two automobiles to the surviving spouse of the decedent, as provided in section 2106.18 of the Revised Code, upon receipt of the title or titles. An affidavit executed by the surviving spouse shall be submitted to the clerk with the title or titles. The affidavit shall give the date of death of the decedent, shall state that each automobile for which the decedent's interest is to be so transferred is not disposed of by testamentary disposition, and shall provide an approximate value for each automobile selected to be transferred by the surviving spouse. The affidavit shall also contain a description for each automobile for which the decedent's interest is to be so transferred. The transfer does not affect any liens upon any automobile for which the decedent's interest is so transferred.

(C) Upon the death of one of the persons who have established joint ownership with right of survivorship under section ~~2106.17~~ 2131.12 of the Revised Code in a motor vehicle, and upon presentation to a clerk of the title and the certificate of death of the decedent, the clerk shall transfer title to the motor vehicle to the survivor. The transfer does not affect any liens upon any motor vehicle so transferred.

(D) Upon the death of the owner of a motor vehicle designated in beneficiary form under section 2131.13 of the Revised Code, upon application for a certificate of title by the transfer-on-death beneficiary or beneficiaries designated pursuant to that section, and upon presentation to the clerk of the certificate of title and the certificate of death of the decedent, the clerk shall transfer the motor vehicle and issue a certificate of title to the transfer-on-death beneficiary or beneficiaries. The transfer does not affect any liens upon the motor vehicle so transferred.

Sec. 4549.08. No person shall operate or drive a motor vehicle upon the public roads and highways in this state if it displays a license plate or a distinctive number or identification mark that meets any of the following criteria:

(A) Is fictitious;

(B) Is a counterfeit or an unlawfully made copy of any distinctive number or identification mark;

(C) Belongs to another motor vehicle, provided that this section does not apply to a motor vehicle that is operated on the public roads and highways in this state when the motor vehicle displays license plates that originally were issued for a motor vehicle that previously was owned by the same person who owns the motor vehicle that is operated on the public roads and highways in this state, during the thirty-day period described in division ~~(C)~~(D) of section 4503.12 of the Revised Code.

A person who fails to comply with the transfer of registration provisions of section 4503.12 of the Revised Code and is charged with a violation of that section shall not be charged with a violation of this section.

Sec. 4549.41. As used in sections 4549.41 to 4549.51 of the Revised Code:

(A) "Person" includes an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, or cooperative or any other legal entity, whether acting individually or by their agents, officers, employees, or representatives.

(B) "Motor vehicle" means any vehicle driven or drawn by mechanical power for use on the public streets, roads, or highways.

(C) "Odometer" means an instrument for measuring and recording the total distance ~~which~~ that a motor vehicle travels while in operation, including any cable, line, or other part necessary to make the instrument function properly. Odometer does not include any auxiliary odometer designed to be reset by the operator of a motor vehicle for the purpose of recording mileage on trips.

(D) "Transfer" means to change ownership of a motor vehicle by purchase, by gift, or, except as otherwise provided in this division, by any other means. A "transfer" does not include a change of ownership as a result of a bequest, under the laws of intestate succession, as a result of a surviving spouse's actions pursuant to section 2106.18 or 4505.10 of the Revised Code, as a result of the operation of section ~~2106.17~~ 2131.12 or 2131.13 of the Revised Code, or in connection with the creation of a security interest.

(E) "Transferor" means the person involved in a transfer, who transfers ownership of a motor vehicle.

(F) "Transferee" means the person involved in a transfer, to whom the ownership of a motor vehicle is transferred.

(G) "Service" means to repair or replace an odometer ~~which~~ that is not properly functioning.

SECTION 2. That existing sections 1339.66, 1339.68, 1340.22, 1547.54, 1548.07, 1548.071, 1548.08, 1548.11, 2106.17, 2106.18, 2107.27, 2107.28, 2109.62, 2113.30, 2113.61, 2117.25, 4503.12, 4505.06, 4505.10, 4549.08, and 4549.41 of the Revised Code are hereby repealed.

SECTION 3. That section 2105.39 of the Revised Code, as enacted by Am. Sub. H.B. 242 of the 124th General Assembly, effective May 16, 2002, be amended to read as follows:

Sec. 2105.39. (A) Sections 2105.31 to 2105.39 of the Revised Code do not impair any act done in any proceeding, or any right that accrued, before ~~January 1~~ May 16, 2002. If a right is acquired, extinguished, or barred upon the expiration of a prescribed period of time that has commenced to run prior to ~~January 1~~ May 16, 2002, under any provision of the Revised Code, the provision of the applicable section of the Revised Code applies with respect to that right.

(B) Any rule of construction or presumption that is provided in sections 2105.31 to 2105.39 of the Revised Code applies to any governing instrument that is executed, or any multiple-party account that is opened, prior to ~~January 1~~ May 16, 2002, unless there is a clear indication of a contrary intent in the governing instrument or multiple-party account.

(C) If any provision of sections 2105.31 to 2105.39 of the Revised Code or the application of those sections to any persons or circumstance is held invalid, the invalidity does not affect other provisions or applications of sections 2105.31 to 2105.39 of the Revised Code that can be given effect without the invalid provision or application.

SECTION 4. That existing section 2105.39 of the Revised Code, as enacted by Am. Sub. H.B. 242 of the 124th General Assembly, effective May 16, 2002, is hereby repealed.

SECTION 5. That Section 3 of Am. Sub. H.B. 242 of the 124th General Assembly is hereby repealed.

SECTION 6. Sections 1 and 2 of this act shall take effect on the ninety-first day after the effective date of this act.

SECTION 7. Sections 3, 4, and 5 of this act shall take effect May 16, 2002.

SECTION 8. Section 1548.07 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 458 and Am. Sub. S.B. 182 of the 120th General Assembly. Section 4505.10 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 74 and Sub. S.B. 59 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that each composite is the resulting version of the section in effect prior to the

ive date of the section as presented in this act.

SECTION 9. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to clarify a potential unconstitutional ambiguity in the effective date of Am. Sub. H.B. 242 of the 124th General Assembly. Therefore, this act shall go into immediate effect.

_____

Speaker _____ *of the House of Representatives.*

_____

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

_____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

_____

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

_____

Secretary of State.

File No. _____ Effective Date _____